

MOTION

PUBLIC SAFETY

During the past two years, the Los Angeles City Council in conjunction with the Los Angeles Police Department (LAPD), the Los Angeles Unified School District (LAUSD), as well as the courts and various other regional government agencies and community groups, including Public Counsel, ACLU of Southern California and the Community Rights Campaign have been collaborating with the LAPD to revise existing LAPD procedures aimed at reducing the number of daytime curfew tickets written to students, particularly African American and Latino students.

According to the LAPD and the Los Angeles School Police statistics, police issued more than 47,000 tickets from 2004 to 2009 - 88% of them to African American and Latino students, who make up only 74% of Los Angeles students. With curfew fines often times costing more than \$240 and requiring students and their families to miss additional time from school and work to go to court to resolve them, in addition to schools losing Average Daily Attendance (ADA) state revenue from students missing school to attend court hearing, revising Los Angeles Municipal Code (LAMC) Section 45.04, which imposes a daytime curfew on youth under the age of 18, would substantially increase school attendance and prevent a considerable number of students from entering into the juvenile justice system.

Los Angeles Municipal Code Section 45.04 states that "it is unlawful for any minor ... to be present in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, places or amusement and eating places, vacant lots or any place open to the public during the hours of the day when the school ... is in session ..." As a result of the collaboration between the LAPD, City Council and the community, in April of this year, the LAPD issued an internal directive that directed LAPD ticket task forces to generally not cite students during the first hour of classes, directs police to help students get back to school rather than ticketing them, and makes other changes to ensure that students stay in school and acquire an education.

Given the fact that there are dozens of reasons why students are late or truant, ranging from emotional and mental health problems, school environment, academic challenges, special education needs, economic pressures, substance abuse, physical or emotional abuse in the home, and lack of adequate transportation, revising and/or ending LAMC Section 45.04 would further remove financial hardships on families and help students obtain the education and guidance necessary to become productive residents of Los Angeles. In light of the most recent research confirming that students who appear in juvenile court are almost four times as likely to drop out of school - which is associated with a number of negative outcomes, including unemployment and increased criminal involvement - minimizing court involvement of youth by instead connecting them to resources will substantially benefit the students, the community and the City.

I THEREFORE MOVE that the Los Angeles Police Department, with the assistance of the City Attorney, be instructed to report to the City Council on amending, as underlined and struck through on the following pages, Los Angeles Municipal Code (LAMC) Section 45.04 within the next 60 days.

PRESENTED BY: Tony Cardenas
TONY CARDENAS
Councilmember, 6th District

SECONDED BY: Bernard C. Parks

SEP 16 2011

OFFICIAL

SEC. 45.04. DAYTIME CURFEW RESTRICTIONS FOR MINORS.

(Title and Section Amended by Ord. No. 180,173, Eff. 10/5/08.)

(a) **Curfew.** It is unlawful for any minor under the age of 18, who is subject to compulsory education or to compulsory continuation education, alone or in concert with others, to be present in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, places or amusement and eating places, vacant lots or any place open to the public during the hours of the day when the school, which the minor would normally attend, is in session, on days when that school is in session. This section does not apply to public sidewalks immediately adjacent to school grounds, school entrances to school grounds, or school grounds. This section is intended to apply only to minors who are intentionally avoiding school, or are loitering in public places at times when they are required to be in school.

(b) **Exceptions.** The provisions of this section shall not apply when:

(1) The minor is accompanied by his or her parent, guardian, other adult person authorized by the parent or guardian having the care or custody of the minor; or

(2) The minor is on an emergency errand directed by his or her parent, guardian or other adult person having the care or custody of the minor; or

(3) The minor is attending or going directly to or returning directly home from a public meeting or a school sporting event, dance or activity; or

~~(3)~~(4) The minor is going directly to or coming directly from their place of gainful employment; or

~~(4)~~(5) The minor is going directly to or coming directly from a medical appointment; or

~~(5)~~(6) The minor has permission to leave campus for lunch and has in his or her possession a valid, school-issued off-campus permit; or

~~(6)~~(7) The presence of the minor in one or more of the places identified in Subsection (a) is connected with or required with respect to a business, trade, profession or occupation in which the minor is lawfully engaged; or

~~(7)~~(8) The minor is involved in an emergency such as a fire, natural disaster, automobile accident, a situation requiring immediate action to prevent serious bodily injury or loss of life, or any unforeseen combination of circumstances or the resulting state, which calls for immediate action; or

~~(8)~~(9) The minor is in a motor vehicle involved in interstate travel; or

~~(9)~~(10) The minor is authorized to be absent from his or her school pursuant to the provisions of California Education Code Section 48205, or any other applicable state or federal law.

(11) The minor is traveling on his or her way to school regardless of whether the minor is tardy for school. If the minor is cited within a 3 block radius of the school within the first 60 minutes of school, this establishes a rebuttable presumption that the minor is traveling on his or her way to school.

(c) **Enforcement.** Before taking any action to enforce the provisions of this section, police officers shall ask the apparent offenders age and reason for being in the public place during curfew hours. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred, that the minor is required to be in school, and that, based on any responses and other circumstances, no exceptions to this section apply. The officer shall articulate the justification, identify the time when the officer first encountered the minor, and provide the minor's stated age in the description portion of the citation. The failure to assess whether one of the exceptions enumerated in subsection (b) applies or to complete the narrative portion is grounds for dismissal of the citation.

~~(d) **Violation.** Each violation of the provisions of this section shall constitute a separate offense and shall be an infraction unless the minor requests that a petition be filed under Section 601 and 602 of the Welfare and Institutions Code.~~

~~—(e) **Penalties for Violation.** Any person convicted of willfully violating this ordinance is guilty of an infraction punishable by a fine not exceeding \$250.00 and/or perform community service for a total time not to exceed 20 hours over a period not to exceed 30 days, during times other than his or her hours of school attendance or employment.~~

(d) **Penalties for Violation.** A violation of this section is an infraction. Notwithstanding any other section, a violation of this section shall not be punishable by a fine. For any citation issued under this section, the citation shall be dismissed, if prior to the scheduled court appearance date, the minor submits proof of participation in a community or school resource-based program, including but not limited to a tutoring, mentoring, credit recovery, or after-school program, or a Teen or Peer Court, if one is available. Any citation issued under this section shall specify the steps a minor may take to obtain a dismissal of the citation.

(e) **Data Collection.** The Los Angeles Police Department shall publish bi-annual statistics regarding the number of minors cited under this section, along with the location and time of the citation and the age, ethnicity, race and gender of the minors cited.

(f) **Severability of Provisions.** If any severable provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect other provisions or applications of the ordinance which can be given effect notwithstanding such invalidity.