

BILL ANALYSIS

Senate Research Center

H.B. 2319
By: Dutton (West, Royce)
Criminal Justice
5/18/2003
Engrossed

This analysis utilizes the House Committee Report, which is the most recent version available to the Senate Research Center. A list of adopted floor amendments is attached at the end of the analysis.

BACKGROUND AND PURPOSE

Juvenile justice practitioners, juvenile court judges and university faculty members assisted in making recommendations for juvenile justice legislation. In particular, this group made recommendations about the rights and responsibilities of parents in the juvenile justice system and the need for more guidance regarding enforcement proceedings that affect parents. This area of concern and a number of other proposed amendments reflect the changing needs of a juvenile justice system that has increased in size, sophistication and complexity since the reforms of the 74th Legislature.

C.S.H.B.2319 includes a number of substantive amendments to the Family Code, Code of Criminal Procedure and other statutes dealing primarily with provisions related to parental rights in juvenile proceedings, procedural requirements for enforcement of juvenile court orders, sex offender registration, children in justice and municipal courts, determinate sentence cases, and confidentiality of youth records. There are a number of other substantive amendments covering a wide range of topics and additional clarifying and technical amendments that have come to light since the last legislative session.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Juvenile Probation Commission in SECTION 47 (Section 141.042 Human Resources Code) of this bill

SECTION BY SECTION ANALYSIS

SECTION 1. *Amends Section 51.02(16), Family Code, Penal Code, Section 8.07(a); and Transportation Code, Section 729.001(a) to provide that the juvenile court has jurisdiction over two new traffic offenses that are punishable by confinement in jail if committed by an adult (Driving While License Invalid and Duty on Striking Fixture or Highway Landscaping).*

SECTION 2. *Amends Sections 51.041(a), Family Code, which gives the State a right to appeal determinate sentence cases, and stay the proceedings, just as the State has a right to do in criminal cases as provided by Code of Criminal Procedure, Article 44.01. Requires appointment of counsel for appeal representation if the court finds the parents are indigent. Requires the child to be released from detention during the pendency of the appeal. Preserves the juvenile court's jurisdiction without regard to age when an appellate court reverses and remands appealed cases.*

SECTION 3. *Amends Section 51.08(d), Family Code, and Article 45.056, Code of Criminal Procedure, which authorizes employment of juvenile case managers to provide services in all cases involving children in justice and municipal court, not just truancy cases.*

SECTION 4. *Amends Section 51.10(j), (k) & (l), Family Code which authorizes public access to a list of attorneys eligible for appointment in each level of a juvenile case. Authorizes the juvenile court to establish a payment schedule for a parent or other person responsible for a child's support to reimburse, in full or in part, the costs of appointed counsel.*

SECTION 5. *Amends Section 51.102, Family Code, which reduces the number of juvenile case levels from five to three that must be included in appointment of counsel plans to indicate the level of attorneys' qualifications and experience.*

SECTION 6. *Amends Section 51.13(d), Family Code and Section 12.42(f), Penal Code which provides that the mandatory life provisions of Penal Code Section 12.42(c)(2) for the second conviction of certain sex offenses cannot be based on a prior juvenile adjudication.*

SECTION 7. *Amends Section 51.17(d) & (e), Family Code, which authorizes the appointment of interpreters in juvenile proceedings for parents and guardians who are deaf or who cannot speak or understand English.*

SECTION 8. *Amends Section 52.01(a), (c) & 52.02(a), Family Code, which authorizes a law enforcement officer to take a child into custody if the officer has probable cause to believe the child has violated a probation condition and to bring the child to juvenile court intake.*

SECTION 9. *Amends Section 52.01(a), (c) & 52.02(a), Family Code, which authorizes a law enforcement officer to take a child into custody if the officer has probable cause to believe the child has violated a probation condition and to bring the child to juvenile court intake.*

SECTION 10. *Amends Sections 52.01(c); 52.03(d); 52.04(d); 53.01 (a) & (c); 53.03(d), Family Code by conforming amendments to substitute "board" for "court."*

SECTION 11. *Amends Sections 52.01(c); 52.03(d); 52.04(d); 53.01 (a) & (c); 53.03(d), Family Code by conforming amendments to substitute "board" for "court."*

SECTION 12. *Amends Sections 52.01(c); 52.03(d); 52.04(d); 53.01 (a) & (c); 53.03(d), Family Code by conforming amendments to substitute "board" for "court."*

SECTION 13. *Amends Section 53.03(I) & (j), Family Code which authorizes the juvenile court to place a child on deferred prosecution up until the point jeopardy attaches and limits to one year the total time a child may be on deferred prosecution.*

SECTION 14. *Amends Section 54.01 (b), (m), (o), (q) & (r), Family Code which authorizes judicial orders for parents, guardians or custodians who are in attendance at detention hearings related to their assistance in gaining children's compliance with the conditions of release. Clarifies that detention hearing requirements apply to cases involving alleged violations of conditions of probation.*

SECTION 15. *Amends Section 54.03(i), Family Code which corrects a citation reference to the Texas Rules of Appellate Procedure.*

SECTION 16. *Amends Section 54.032(a) and (f), Family Code which conforms teen court provisions to those in Code of Criminal Procedure, Article 45.052, that govern the proceedings in justice and municipal courts.*

SECTION 17. *Amends Section 54.041(a), Family Code which authorizes the court to order parents or other persons responsible for a child's support to pay, to the extent they are able, all or part of the costs of treatment programs while the child is on probation.*

SECTION 18. *Amends Section 54.042(c) and (d), Family Code which limits to one year the period of possible license suspension or denial for juveniles.*

SECTION 19. *Amends Section 54.05(k), Family Code which clarifies that for commitment to the Texas Youth Commission for a violation of a condition of a Class A or B misdemeanor probation there must have been at least one adjudication for a felony or Class A or B misdemeanor offense before the adjudication that resulted in the child's current probation. Further adds Section 54.05(l), Family Code which authorizes a post-expiration date order extending a probation period if the motion for revocation or modification of probation has been filed before the expiration date and the extension order occurs within a year of the expiration date.*

SECTION 20. *Amends Section 54.051(e), and adds Subsections (e-1), (e-2), (e-3), (g), (h), and (i), Family Code which clarifies that statutory restrictions imposed by the Code of Criminal Procedure for so-called 3g offenses, for setting minimum periods of probation and for imposing sentence following probation revocation are not applicable to an 18 year old who is transferred from juvenile probation to criminal court for continuation of determinate sentence probation. Authorizes the criminal court to re-examine the need for sex offender registration in transferred cases when the juvenile court would have been authorized to do so before the transfer. Authorizes transfer of determinate sentence probation in cases where the adjudication takes place after the person's 18th birthday.*

SECTION 21. *Amends Section 54.07, Family Code, by deleting a provision related to enforcement of child support, restitution and probation fees through civil contempt proceedings and a provision related to rendering judgment against defaulting persons. Adds reference to a proposed new Chapter 61 for the procedural requirements for enforcement of all court orders except for child support orders (provided for in Section 54.06). Prohibits punishment of a child for contempt of court for violating conditions of probation, deferred prosecution or release from detention. Authorizes direct contempt proceedings against a child for conduct occurring in the presence of the court, limited to up to 10 days detention and/or 40 hours community service. Authorizes civil or coercive contempt proceedings in appropriate cases to enforce orders.*

SECTION 22. *Amends Section 54.11, by adding subsections (l), (m) and (n), Family Code, which requires detention, separate from other children if practicable, of determinate sentence youth pending a juvenile court hearing regarding their transfer to prison. Authorizes their detention in adult jail facilities, without bond, if they are 17 years of age or older. Requires sheriffs to take custody of youth ordered detained in an adult jail.*

SECTION 23. *Amends Section 56.03, Family Code, which gives the State a right to appeal determinate sentence cases, and stay the proceedings, just as the State has a right to do in criminal cases as provided by Code of Criminal Procedure, Article 44.01. Requires appointment of counsel for appeal representation if the court finds the parents are indigent. Requires the child to be released from detention during the pendency of the appeal. Preserves the juvenile court's jurisdiction without regard to age when an appellate court reverses and remands appealed cases.*

SECTION 24. *Amends Section 58.003(n), Family Code which corrects a citation to the Sex Offender Registration Program.*

SECTION 25. *Amends Section 58.005(a), Family Code which clarifies that all*

children's records and personally identifiable information in a placement facility are confidential, not just the files and records that have a treatment purpose.

SECTION 26. *Amends Title 3, Family Code, by adding Chapter 61, Sections 61.001-61.057, Family Code, which establishes court procedures for ordering parents and other eligible persons to take some action or refrain from taking some action in a child's case and sets out the powers and procedures for enforcing the orders. These subchapters apply to all such court orders that are authorized in other sections of the Juvenile Justice Code, except for child support orders that are provided for in Section 54.06, of the Family Code.*

Amends Sections 61.003 and 61.004 to provide that the court may enter an order on its own motion after giving the parent or other eligible person notice and an opportunity to be heard on the matter. Both the parent and the person requesting the order may appeal from an adverse judgment as in any other civil case, but an appeal does not affect the juvenile proceedings in the case.

Amends Sections 61.051 and 61.052 to provide that a motion for enforcement e of an order must include all the violations of court orders that the movant believes to have occurred, state specifically the manner of the person's alleged noncompliance and the requested relief. The motion must be filed not later than six months after the child's 18th birthday. Notice of the hearing on the motion must be by personal service or certified mail, not later than the 10th day before the hearing date. An arrest warrant is issued for persons who fail to appear after personal service.

Amends Sections 61.053 and 61.054 to provide that persons have the right to counsel, and to appointed counsel if indigent, in enforcement hearings. The attorney has not less than 10 days to prepare for the hearing. Appointed counsel must meet the qualifications and be paid according to the standards set by the juvenile board for attorneys representing children in Class B misdemeanor cases. The court is authorized to order reimbursement to the county for the fees it has paid to appointed counsel.

Amends Sections 61.055 and 61.056 to provide that a record of the enforcement hearing proceedings must be made and all allegations in the notice must be proved beyond a reasonable doubt. The accused person has the right not to be called as a witness or to incriminate himself or herself. There is no right to a jury. It is an affirmative defense if the original court order was entered without adequate notice or an opportunity to be heard. If defenses were not raised in previous proceedings because the person was not then represented by counsel, they may be raised in this hearing. If the allegation is nonpayment of money ordered to be paid, it is an affirmative defense that the person was financially unable to pay. The inability to pay must be proven by a preponderance of the evidence.

Amends Section 61.057 to provide a single fine of up to five hundred dollars and a single jail sentence of up to six months from a single enforcement proceeding are authorized, but no more. In lieu of incarceration, the court may require future conduct in compliance with its previous orders or new conduct that is remedial of prior failures to comply. These burdens may be reduced, but not increased without a

new enforcement proceeding for violations. A probation officer may be assigned to assist compliance

Amends Chapter 61, Family Code, Sections 61.101-61.107, Subchapter C of this new chapter which deals with the rights of parents, including the rights of the child's guardian or custodian, in juvenile proceedings.

Amends Section 61.102 to provide that the parent, guardian or custodian of a child referred to juvenile court is entitled to be informed as soon as practicable about some of the facts of the offense, the next step in the juvenile process, visitation rules, the child's right to counsel and how to apply for appointed counsel, and what the parent can do to assist the child in the process. In-person notice of this information is preferred, but this information may be provided by telephone or in writing if the child is not detained or if in-person communication is not feasible. The information cannot be used as substantive evidence or as evidence to impeach the testimony of a State's witness.

Amends Section 61.103 to provide that a parent has a right to private, in-person communication with a child for reasonable periods of time when the child is in the juvenile processing office, a detention facility, a Texas Youth Commission ("TYC") facility or other placement facility. The visits may be regulated to prevent disruption of scheduled activities and to maintain the safety and security of the facility.

Amends Section 61.104 to provide that a form must accompany petitions and motions that are served on parents, guardians or custodians inviting them to make a written statement about the needs of the child and family and any other matter relevant to disposition of the case. The statement is transmitted to the court in the same manner as other reports.

Amends Section 61.105 to provide that after all the evidence has been received in a case, a parent, guardian, or custodian must be given the opportunity to make an oral statement to the court about the child or about the disposition of the case. The statement is not under oath and is not subject to cross-examination.

Amends Sections 61.106 and 61.107 to provide that a failure to comply with the provisions of this subchapter may not be used as a ground for appeal or collateral challenge nor may liability be imposed for it on any juvenile justice or law enforcement official or agency.

SECTION 27. *Amends Section 261.405 (b) and (c), Family Code to conform with terminology used elsewhere in the chapter by adding "exploitation" when reference is made to reports of abuse or neglect.*

SECTION 28. *Amends Article 44.47(b), Code of Criminal Procedure, which authorizes appeal of certification issues in conjunction with an appeal of a deferred adjudication from the criminal court in the same way such issues can be appealed in conjunction with an appeal of a conviction.*

SECTION 29. *Amends Article 45.045, Code of Criminal Procedure, which authorizes local trial courts to use *capias pro fine* warrants to enforce outstanding judgments against adults when the judgments were incurred before age 17. The court must first consider the specifics of the case and utilize other resources, including juvenile contempt.*

SECTION 30. *Amends Article 45.050, Code of Criminal Procedure, which requires the justice or municipal court to provide a child notice and the opportunity to be heard before holding the child in contempt of court for failing to obey an order. Clarifies that a person age 17 or older may be held in contempt for violating an order that was entered before the person became age 17, whether the violation occurred before or after age 17.*

SECTION 31. *Amends Article 45.056, Code of Criminal Procedure, which authorizes employment of juvenile case managers to provide services in all cases involving children in justice and municipal court, not just truancy cases.*

SECTION 32. *Amends Article 45.057(a), (b), (e), (h), and adds subsection (i), (j),(k) and (l), Code of Criminal Procedure, which makes it a Class C misdemeanor for a parent to fail to appear with a child in traffic offense cases and for a child, parent or guardian to fail to keep the court advised of a change of residence of more than 30 days. Provision is made for adequate notice of both obligations. "Parent" is defined as a person standing in parental relation. Eliminates the requirement that the court first find that the parent actually contributed to or encouraged the child's misconduct before ordering the parent to do something to help the child comply with court orders.*

SECTION 33. *Amends Subchapter B, Chapter 45, Code of Criminal Procedure, by adding Article 45.060, which authorizes justice or municipal courts to issue to persons age 17 or older a notice, by personal service or mail, of continuing obligation to appear and answer allegations made prior to the person becoming age 17. Failure to appear after receiving this notice is a Class C misdemeanor. The court must have used all available procedures to secure the person's attendance before issuing this notice.*

SECTION 34. *Amends Article 62.13(b), (j), (n), (q) and adds (s), Code of Criminal Procedure, which provides provisions related to the hearing to determine the need for sex offender registration for juveniles.*

(b) Clarifies that the hearing may be held during the dispositional phase of the juvenile proceeding and can occur even if the person is age 18 or older. (j) Clarifies that any appropriate therapy for the sex offense may be employed during a registration deferral period, not just specialized sex offender treatment. Provides that when the treatment is completed in these cases registration is excused, unless the State moves for a hearing on the matter.

(n) Authorizes a single motion to excuse registration or for restricted public access after a person has registered, even if a previous motion to excuse was denied in the case.

(q) Requires that a court order excusing registration or restricting public access after the person has already registered be sent to law enforcement agencies and public and private agencies and organizations which have registration information that is available to the public. Requires that the court send these orders only when the person proves these entities have registration information and when the person pays a \$20 fee for each order.

(s) Extends the opportunity for hearing under this article to include persons who are residents of Texas, but who are required to register because of an out-of-state adjudication of delinquent conduct. It applies only to registration information derived from the registration in Texas.

SECTION 35. *Amends Chapter 62, Code of Criminal Procedure, by adding Article*

62.14, which requires that the Department of Public Safety ("DPS") remove all information about a person in the sex offender registry when it verifies, after notification by a local law enforcement authority, the juvenile court, the person or the person's representative, that the person is no longer required to register. Requires a local law enforcement authority to determine whether the duty to register has expired in an individual case and, if it has (or when it does), to remove all information about the person from its registry and notify DPS of the expiration. Upon receipt of notice from DPS that it has removed the information from its registry, all local law enforcement authorities that have provided information about an expired registration must do likewise with information about the person in their local registries. Upon receipt of notice from DPS that it has removed the information from its registry, all public and private agencies and organizations that have received registry information about the person must do likewise with information they have about the person that is accessible to the public.

SECTION 36. *Amends Section 25.093, Education Code, which corrects a reference and replaces "truancy" with "non-attendance" and "truancy-related" with "school attendance-related."*

SECTION 37. *Amends Section 25.094(d), Education Code, which corrects a reference and replaces "truancy" with "non-attendance" and "truancy-related" with "school attendance-related."*

SECTION 38. *Amends Section 25.0952, Education Code, which corrects a reference and replaces "truancy" with "non-attendance" and "truancy-related" with "school attendance-related."*

SECTION 39. *Amends Section, 29.087(d) and (f), Education Code, which exempts the Texas Youth Commission ("TYC") youth who are ordered by TYC to participate in high school equivalency examination preparation courses from the eligibility criteria that would otherwise apply to the youth once they are placed outside of TYC institutions.*

SECTION 40. *Amends Subchapter E, Chapter 30, Education Code by adding Section 30.104, which requires a school district to grant a student credit for courses the student successfully completes in TYC educational programs. Authorizes TYC to grant a diploma or a certificate of course work completion under the same terms and conditions as public schools.*

SECTION 41. *Amends Subchapter C, Chapter 71, Government Code, by adding Section 71.0352, which requires justice and municipal courts to report to the Office of Court Administration data related to the volume of school attendance and truancy cases throughout the state, the number of justice, municipal and juvenile courts adjudicating such cases and the measures used most frequently by the courts to handle chronic truants.*

SECTION 42. *Amends Section 411.151(a), Government Code which requires expunction of a person's DNA record from the database if the person provides DPS with a certified copy of a sealing order in the case.*

SECTION 43. *Amends Section 552.028(c), Government Code to withhold from youth who are confined in public and private juvenile correctional and detention facilities the right to have unquestioned access to public records, just as is the case with adults who are confined in jails and prisons.*

SECTION 44. *Amends Section 61.073, Human Resources Code, which provides that, subject to specified exceptions, all files and records pertaining to TYC youth are confidential, including all personally identifiable information.*

SECTION 45. *Amends Subchapter E, Chapter 61, Human Resources Code, by adding Section 61.0731, which authorizes TYC to disclose information concerning a child to the child and the child's parents or guardian only if doing so would not harm the child's treatment nor decrease the likelihood of receiving information from similar sources in the future. Requires the consent of a TYC youth age 18 or older in order to release information to the youth's parents. Authorizes TYC to release information regarding a youth's location and name of committing court when there is a legitimate need for it.*

SECTION 46. *Amends Section 61.084(e), Human Resources Code, which deletes the requirement that youth who are sentenced to commitment for capital murder be transferred automatically at age 21 to the Institutional Division of the Texas Department of Criminal Justice ("TDCJ") to complete their sentences when they have not been released on parole earlier by the court. Instead, at age 21, these youth would be required to serve the remainder of their sentences on adult parole just as youth sentenced to commitment for other offenses are required to do. This amendment does not affect the authority of TYC to request a juvenile court hearing for transfer of these youth to the institutional division of TDCJ if their behavior warrants it.*

SECTION 47. *Amends Section 141.042(a),(d) and adds (h), of the Human Resources Code which provides amendments to the Texas Juvenile Probation Commission ("TJPC") Enabling Act add detention and correctional officers to the rulemaking authority of TJPC as it relates to the code of ethics and educational requirements; delete the requirement that TJPC adopt procedures for implementation of progressive sanctions programs and guidelines; require TJPC to inspect and monitor detention and correctional facilities biennially instead of annually; and require juvenile boards and probation departments to adhere to TJPC standards and data collection requirements even if they choose not to accept state funding.*

SECTION 48. *Amends Section 141.049(a), Human Resources Code, which provides that TJPC investigations into complaints relating to a juvenile board are for the purpose of determining whether there has been a violation of a TJPC standard.*

SECTION 49. *Amends Section 141.061(a), Human Resources Code, provides that probation officers hired on or after September 1, 1981 must meet the college degree and related requirements, but officers working prior to that date do not.*

SECTION 50. *Amends Section 8.07(a), Penal Code, which clarifies that the juvenile court has jurisdiction over two new traffic offenses that are punishable by confinement in jail if committed by an adult (Driving While License Invalid and Duty on Striking Fixture or Highway Landscaping).*

SECTION 51. *Amends Section 12.42(f), Penal Code, which provides that the mandatory life provisions of Penal Code, Section 12.42(c)(2) for the second conviction of certain sex offenses cannot be based on a prior juvenile adjudication.*

SECTION 52. *Amends Section 521.201, Transportation Code, which deletes a reference to a court report of default in payment of a fine under a repealed provision in Sec. 729.003.*

SECTION 53. *Amends Section 521.294, Transportation Code, which deletes a reference to a court report of default in payment of a fine under a repealed provision in Section 729.003.*

SECTION 54. *Amends Subchapter O, Chapter 521, Transportation Code, by adding Section 521.3451, which authorizes the Department of Public Safety to suspend or deny the*

issuance of a child's driver's license or instruction permit when it receives an order to that effect entered by the justice or municipal court and to reinstate the license or permit only upon notice from the justice or municipal court that the person has complied with the court's orders.

SECTION 55. *Amends Section 543.117, Transportation Code, which deletes a reference to Section 729.004 that is repealed.*

SECTION 56. *Amends Section 729.001(a) Transportation Code, which clarifies that the juvenile court has jurisdiction over two new traffic offenses that are punishable by confinement in jail if committed by an adult (Driving While License Invalid and Duty on Striking Fixture or Highway Landscaping).*

SECTION 57. *Amends Section 729.003, Transportation Code, which deletes "AND JURISDICTION" from the heading related to procedure in cases involving minors.*

SECTION 58. *Amends Section 729.003(d), Transportation Code, which deletes the number from this provision related to reports to the Department of Public Safety of persons charged with traffic offenses who do not appear in court and to denial of their driver's license renewal. Other provisions in this section are repealed.*

SECTION 59 *The following laws are repealed:*

(1) Family Code, Section 52.027, repeals provision related to children taken into custody for traffic offenses because it overlaps article 45.058, Code of Criminal Procedure, enacted in 2001.

Family Code, Section 54.023, repeals provision related to enforcement in justice and municipal court because its content was moved to Chapter 45 of the Code of Criminal Procedure in 2001.

Family Code, Section 54.06(d), repeals provision related to enforcement of judgments for support to conform with amendments made in Section 54.07 (see SECTION 21 above) and new Chapter 61 (see SECTION 26 above)

(2) Transportation Code, Section 729.003(a), (b), (c), (e), and (g) and Section 729.004, repeals redundant and unnecessary provisions that are addressed elsewhere in Texas law.

(3) Human Resources Code, Section 61.084(d), repeals provision related to the transfer to the institutional division of the Texas Department of Criminal Justice of youth who receive a determinate sentence for capital murder. (see SECTION 46 above)

Human Resources Code, Section 141.042(f), repeals an unnecessary requirement for TJPC to monitor juvenile board alternative referral plans.

(4) Code of Criminal Procedure, Section 45.054, repeals redundant provision related to the employment of case managers to juvenile cases in justice and municipal court. (see SECTION 3 above)

Amends Section 61.084(e) and (d), Human Resources Code, which deletes the requirement that youth who are sentenced to commitment

for capital murder be transferred automatically at age 21 to the Institutional Division of the Texas Department of Criminal Justice ("TDCJ") to complete their sentences when they have not been released on parole earlier by the court. Instead, at age 21, these youth would be required to serve the remainder of their sentences on adult parole just as youth sentenced to commitment for other offenses are required to do. This amendment does not affect the authority of TYC to request a juvenile court hearing for transfer of these youth to the institutional division of TDCJ if their behavior warrants it.

Amends Section 141.042(a), (d) and (h), Human Resources Code which provides amendments to the Texas Juvenile Probation Commission ("TJPC") Enabling Act add detention and correctional officers to the rulemaking authority of TJPC as it relates to the code of ethics and educational requirements; delete the requirement that TJPC adopt procedures for implementation of progressive sanctions programs and guidelines; require TJPC to inspect and monitor detention and correctional facilities biennially instead of annually; and require juvenile boards and probation departments to adhere to TJPC standards and data collection requirements even if they choose not to accept state funding.

SECTION 60. *This Act takes effect September 1, 2003.*

Provides for the prospective application of the Act for conduct occurring on or after the effective date, except as provided in (d) and (e) below.

Provides for the continuing effectiveness of laws that were in effect at the time of conduct occurring before the effective date.

Provides for the prospective application of the Act with regard to appeal by the state under Section 56.01, Family Code, of an order by a juvenile court rendered on or after the effective date. Provides for the continuing effectiveness of laws that were in effect at the time the order was rendered with regard to an appeal of an order rendered before the effective date.

Provides for application of Sections 20, 34, and 51 to all cases without regard to whether the conduct or proceedings occurred before, on, or after the effective date.

Provides for Section 39 to take effect only if that amended section of the Education Code does not expire on September 1, 2003.

EFFECTIVE DATE

September 1, 2003.

LIST OF ADOPTED FLOOR AMENDMENTS

Amend CSHB 2319 as follows:

(1) On page 5, line 6, strike "(d) and (e)" and substitute "(d), (e), and (f)".

(2) On page 5, between lines 18 and 19, insert the following:

(f) Any requirement under this title that a document contain a person's signature, including the signature of a judge or a clerk of the court, is satisfied if the document contains the signature of the person as captured on an electronic device or as a digital signature. Article 2.26, Code of Criminal Procedure, applies in a proceeding held under this title.

Amend CSHB 2319 (Committee Printing) on page 55, lines 24-25, by striking "probation programs, facilities, and services and" and substituting "facilities and".

Amend CSHB 2319 (Committee Printing) as follows:

(1) On page 8, strike lines 25-27 and substitute the following:

(2) there is probable cause to believe the person:

(A) engaged in delinquent conduct or conduct indicating a need for supervision; or

(B) is a nonoffender who has been taken into custody and is being held solely for deportation out of the United States.

(2) On page 12, between lines 14 and 15, insert the following new SECTIONS to the bill, appropriately numbered, and renumber the subsequent SECTIONS of the bill accordingly:

SECTION _____. The heading to Section 54.011, Family Code, is amended to read as follows:

Sec. 54.011. DETENTION HEARINGS FOR STATUS OFFENDERS AND NONOFFENDERS; PENALTY.

SECTION _____. Section 54.011, Family Code, is amended by adding Subsection (f) to read as follows:

(f) Except as provided by Subsection (a), a nonoffender, including a person who has been taken into custody and is being held solely for deportation out of the United States, may not be detained for any period of time in a secure detention facility or secure correctional facility, regardless of whether the facility is publicly or privately operated. A nonoffender who is detained in violation of this subsection is entitled to immediate release from the facility and may bring a civil action for compensation for the illegal detention against any person responsible for the detention. A person commits an offense if the person knowingly detains or assists in detaining a nonoffender in a secure detention facility or secure correctional facility in violation of this subsection. An offense under this subsection is a Class B misdemeanor.

(3) On page 64, line 1, strike "(d) and (e)" and substitute "(d), (e), and (g)".

(4) On page 64, line 15, strike "Sections 20, 34, and 51 of this Act" and substitute "Section 54.051, Family Code, Article 62.13, Code of Criminal Procedure, and Section 12.42, Penal Code, as amended by this Act".

1

(5) On page 64, after line 21, insert the following:

(g) Section 54.011(f), Family Code, as added by this Act, applies only to a nonoffender who is detained in a secure detention facility or secure correctional facility on or after the effective date of this Act. A nonoffender who is detained in a secure detention facility or secure correctional facility before the effective date of this Act is not entitled to bring a civil action under Section 54.011(f), Family Code, as added by this Act.

