

BILL ANALYSIS

H.B. 1078
By: Hochberg
Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Violence directed at individuals, churches, and community gathering places because of prejudice based on race, religion, sexual orientation, national origin and disability are far too common.

Current law defines and provides penalties for hate crime offenses committed by adults, however, the Family Code does not address this type of conduct for juveniles, yet approximately one third of all hate crime offenders are under 18 years old.

H.B.1078 allows for a finding of conduct constituting a hate crime in a juvenile proceeding. Additionally, H.B.1078 prevents a court from granting community supervision to a juvenile previously adjudicated for engaging in conduct constituting an affirmative finding of a hate crime.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Amends Section 13A(b), Article 42.12 of the Code of Criminal Procedure to require a court to not place a defendant on community supervision if that defendant has been previously adjudicated for engaging in delinquent conduct constituting an offense that resulted in an affirmative finding of a hate crime.

Additionally, amends Chapter 54 of the Family Code by adding Section 54.035 to create an offense of a hate crime through conduct that falls under Sections 28.02, 28.03, or 28.08 of the Penal Code. The court would be required to make an affirmative finding of fact and enter the affirmative finding in the judgment of the case if the judge or jury determines beyond a reasonable doubt that the child intentionally selected the person against whom the offense was committed or intentionally selected property damaged or affected as a result of the offense because of the child's bias or prejudice against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference.

Moreover, the court may require a child for whom an affirmative finding is made, to attend an education program to further the child's acceptance and understanding of others or psychological counseling sessions with an individual or organization. Additionally, the court may order the child to perform community service at a project designated by the court that primarily serves the interests of the person or group that was the target of the child's conduct.

Further, a clerk of the court in which an affirmative finding is requested shall report that request to the Texas Judicial Council, along with a statement as to whether the request was granted by the court and, if so, whether the affirmative finding was entered in the judgment of the case. The clerk would then be required to make this report not later than the 30th day after the date the judgment is entered in the case.

Amends Chapter 61 of the Human Resources Code by adding Section 61.0814 to allow the Texas Youth Commission to require community service as a condition of release for a juvenile who has been adjudicated of a hate crime. Moreover, the community service could be performed

at a project that primarily serves the interests of the person or group that was the target of the child's conduct.

Finally, Section 58.003 of the Family Code adds Subsection (k-1) to allow a prosecuting attorney to re-open the records of a person adjudicated as having engaged in conduct constituting a hate crime and for which is now being prosecuted as an adult for a hate crime.

This Act applies only to conduct occurring on or after the effective date.

EFFECTIVE DATE

September 1, 2007