

## **BILL ANALYSIS**

C.S.H.B. 2291

By: Farias  
Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Given the apparent and urgent need to address its shortcomings, we are charged to find a better way to protect the core principles of the Texas Juvenile Justice System by dissuading juvenile criminal activity, protecting the rights of victims of crime, holding juvenile offenders responsible for their actions, and rehabilitation of the juvenile so that he or she becomes a more productive member of society.

C.S.H.B.2291 grants the victims of non-violent property crimes committed by juveniles the opportunity to request mediation compels the offender to discuss and acknowledge the harm and consequences of his/her crime. A completed mediation leaves the juvenile accountable and responsible for the terms of the restitution, and there is compelling evidence that such programs reduce the rate of recidivism of participants.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Juvenile Probation Commission in SECTION 2, Section 53.09 (a)(2) and (b) of the Family Code of this bill.

### **ANALYSIS**

Amends Subchapter A, Chapter 102, of the Code of Criminal Procedure by adding Article 102.0175 to allow the commissioners court of a county with a population of 100,000 or more to create a fund to finance a victim-offender mediation program by requiring a defendant convicted of an offense by a county or statutory county court to pay a fee of \$5.00 or less as a court cost. A convicted person is defined here as a sentenced defendant, a defendant under community supervision or a person whose final disposition was deferred by the court.

The clerks shall collect the costs and pay them to the county official serving as treasurer for deposit into the fund. The funds may only be used for the victim-offender mediation, and the fund must be administered or directed by the commissioners court.

Amends Chapter 53, of the Family Code by adding Section 53.09, to provide for the establishment of guidelines by rule of the Texas Juvenile Probation Commission for victim-offender mediation programs, which are to be administered by juvenile boards of counties with population of 100,000 or more.

Each board is responsible for implementing and administering the program according to those guidelines. The juvenile court must notify the victim, if eligible, of his/her eligibility to request mediation. If the child willingly participates and successfully completes the terms of the agreement, he/she is not subject to an adjudication hearing. The agreement is binding and enforceable by the court. If the child and the victim cannot reach an agreement, or the child does not successfully complete the terms of an agreement, the child is subject to an adjudication hearing. Additionally, the bill amends the Family Code to add as a victim's right the right to request a victim-offender mediation, if eligible.

Amends Section 102.061 of the Government Code as reenacted, and Section 102.081 of the Government Code by providing for the collection of a \$5.00 fee as a court cost, by counties with a population of at least 100,000.

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The bill further requires the Texas Juvenile Probation Commission to establish guidelines for these programs no later than December 1, 2007. The new law would only apply to conduct referring to violations of which the totality of their elements occur after January 1, 2008.

#### **EFFECTIVE DATE**

September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B.2291 modifies the original H.B.2291 by amending the Family Code to provide for an optional funding mechanism by which a county can fund a victim-offender mediation program. C.S.H.B.2291 adds the newly proposed section of the Family Code providing for Victim-Offender Mediation as Section 53.09, rather than as Section 54.035 as did the original. C.S.H.B.2291 would be restricted to juvenile boards and courts in counties with a population of at least 100,000 instead of all Texas counties. C.S.H.B.2291 also changes the set of children to which this bill would apply from those who have committed a crime resulting in financial loss in which no one has suffered physical injury or harm to those alleged to have committed a nonviolent property offense, as defined by the Texas Juvenile Probation Commission. C.S.H.B.2291 also modifies the original by describing the child to be subject to an adjudication hearing under Section 54.03, rather than a disposition hearing under Section 54.04 of the Family Code. C.S.H.B.2291 amends the Government Code to allow for the collection by eligible counties of a fee of \$5 or less for juvenile victim-offender mediation. C.S.H.B.2291 removes the provision in the original which authorized the monitoring of the success of restitution collection by juvenile probation departments. Finally, C.S.H.B.2291 also restricts the applicability of Article 102.0175 of the Code of Criminal Procedure, which would be added by the substitute, to those offenses of which all elements were committed after the effective date of the bill.