

BILL ANALYSIS

H.B. 558
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, a child can be prosecuted in justice and municipal courts for purchasing, possessing, or consuming an alcoholic beverage, or for operating a motor vehicle while having any detectable amount of alcohol in the child's system, but a child cannot be prosecuted in those courts for appearing in a public place while intoxicated. Children taken into custody for public intoxication are referred to the juvenile court system, where local policies and procedures often preclude the filing of a petition. As a result, there are no consequences for the child who commits a public intoxication offense.

In recent years, justice and municipal courts have increasingly been given more authority over juveniles charged with crimes punishable by fine only, including the authority to employ juvenile case managers to assist the courts in supervising the orders in juvenile cases. As a result, the justice and municipal courts are able, as a part of their sentencing practices, to require assessment and attendance at alcohol and drug abuse programs and other rehabilitative programs. If a public intoxication offense is included in the jurisdiction of these courts, it would increase the likelihood that children committing these offenses would be subject to rehabilitative services.

H.B. 558 authorizes a public intoxication offense committed by a child to be filed in a justice or municipal court.

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

H.B. 558 amends the Code of Criminal Procedure to except a child, defined as a person who is 10 years of age or older and under 17 years of age or who is 17 years of age or older and under 18 years of age and who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age, from the provisions authorizing a peace officer or a magistrate to release in lieu of arresting or release from custody, respectively, an individual who commits an offense of public intoxication.

H.B. 558 removes language from the provision authorizing a child's release to the child's parent, guardian, custodian, or other responsible adult that excepts a child taken into custody for public intoxication. The bill removes language from the provisions authorizing the presentation or detainment of a child in a detention facility designated by the juvenile court that excepts a child taken into custody for public intoxication. The bill removes language from the provision authorizing a law enforcement officer to issue a field release citation in place of taking a child into custody for a traffic offense or an offense punishable by fine only that excepts a child taken into custody for public intoxication. The bill authorizes a law enforcement officer to issue a field release citation in place of taking a child into custody for public intoxication only if the officer

releases the child to the child's parent, guardian, custodian, or other responsible adult.

H.B. 558 amends the Family Code to remove language from the provision that establishes certain conduct of a child that does not constitute conduct indicating a need for supervision that excepts conduct constituting a public intoxication offense.

H.B. 558 removes language from the provisions requiring the transfer of a criminal proceeding in which a child is charged with a certain offense from the criminal court to a juvenile court that excepted child charged with a public intoxication offense. The bill removes language from the provisions requiring and authorizing a court in which there is a pending complaint against a child alleging a violation of a certain misdemeanor offense punishable by fine only to waive its original jurisdiction and refer the child to juvenile court if the child has been previously convicted of certain offenses that excepted a child alleged to have violated a public intoxication offense. The bill removes language, in a provision establishing the grounds on which a court is authorized to waive original jurisdiction and refer the child to juvenile court, that excepted public intoxication from the misdemeanor offenses punishable by fine only for which a child's subsequent conviction is grounds for such a referral to juvenile court. The bill removes language from the provision requiring a court in which there is a pending complaint alleging a child of violating a certain misdemeanor offense punishable by fine only to notify the juvenile court and furnish to the juvenile court a copy of the final disposition of any case for which the court does not waive its original jurisdiction, that excepted a public intoxication offense.

H.B. 558 amends the Penal Code to remove language from the misdemeanor offenses punishable by fine only the offenses for which a person may not be prosecuted or convicted if the person committed the offense when younger than 15 years of age, that excepted a public intoxication offense.

EFFECTIVE DATE

September 1, 2009.