

## **BILL ANALYSIS**

C.S.H.B. 824  
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Corrections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Violence directed at individuals, churches, and community gathering places due to prejudice based on race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference is far too common in Texas. Current law defines and provides penalties for hate crime offenses committed by adults. The same conduct by juveniles, however, is not currently addressed. According to the U.S. Department of Justice, approximately one-third of all hate crime offenders are under 18 years old.

C.S.H.B. 824 allows for a finding of conduct constituting a hate crime in a juvenile court proceeding. The bill requires the court to review any previous findings of an individual previously adjudicated as a juvenile for engaging in delinquent conduct constituting an offense that resulted in an affirmative finding of the commission of a hate crime before the court grants community supervision.

### **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**

C.S.H.B. 824 amends the Code of Criminal Procedure to require a court, before the court grants community supervision on its own motion or on the recommendation of a jury to a defendant convicted of an offense for which the court found to be committed as the result of bias or prejudice, to consider any previous adjudication of the defendant for engaging in delinquent conduct constituting an offense that resulted in an affirmative finding of the commission of a hate crime.

C.S.H.B. 824 amends the Family Code to require a juvenile court, in a proceeding for conduct that constitutes the commission of an offense against the person, arson, criminal mischief, or graffiti, to make an affirmative finding of fact and enter the affirmative finding in the judgment of the case if it is determined by the trier of fact beyond a reasonable doubt that the child committing the offense intentionally selected the person against whom the offense was committed or intentionally selected the 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. The bill authorizes the court to require a child for whom an affirmative finding of the commission of such a hate crime 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 as specified or approved by the court. The bill authorizes the court, if such an affirmative finding is made, to 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. The bill requires a clerk of the court in which an affirmative finding of the commission of a hate crime is requested, to 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 bill requires the clerk to make such a report not later than the 30th day after the date the judgment is entered in the case.

C.S.H.B. 824 authorizes a prosecuting attorney, on application to the juvenile court, to reopen at any time the files and records of a person adjudicated as having engaged in delinquent conduct for an offense for which an affirmative finding of the commission of a hate crime was made and for which the files and records were sealed by the court, for the purposes of establishing

evidence of the person's prior criminal record in a criminal case after a finding of guilty or for considering any of the person's previous adjudications for the commission of a hate crime in determining the person's eligibility for community supervision. The bill specifies that the authorization applies only to prosecution for an offense for which the prosecuting attorney seeks an affirmative finding that an offense was committed because of bias or prejudice.

C.S.H.B. 824 amends the Human Resources Code to authorize the Texas Youth Commission to require as a condition of release that a child for whom a court has made an affirmative finding of the commission of a hate crime perform community service at a project designated by the commission that primarily serves the interests of the person or group that was the target of the child's conduct.

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

#### **EFFECTIVE DATE**

September 1, 2009.

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

C.S.H.B 824 differs from the original by requiring a court to consider any previous findings for the defendant for engaging in delinquent conduct as a juvenile constituting in a hate crimes finding before the court grants community supervision on its own motion or on the recommendation of a jury to the defendant convicted of an offense which the court found to be committed as the result of bias or prejudice.

The substitute deletes the provision in the original that prohibits the court from granting community supervision to the adult defendant previously adjudicated as a juvenile for engaging in delinquent conduct constituting an offense that resulted in an affirmative finding of a hate crime