

BILL ANALYSIS

Senate Research Center
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H.B. 1688
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Jurisprudence
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In juvenile delinquency practice, a degree of uncertainty surrounds the juvenile post-trial procedures involving motions for a new trial.

Following the trial in a juvenile delinquency matter, many times the attorney will seek relief by filing a motion for a new trial in the trial court. Although the Family Code directs that the Texas Rules of Civil Procedure govern the proceedings under the Juvenile Justice Code, more often than not, an attorney will file the motion for a new trial under Rule 21 of the Texas Rules of Appellate Procedure, which govern a motion for a new trial in a criminal case. The trial court is left in the position of ruling on the motion as filed or not ruling on it because it was not filed according to the Rules of Civil Procedure. The rules for motions for a new trial as set out under Rule 21 more clearly reflect the kinds of issues to be raised in a juvenile delinquency matter, as the adjudication and disposition are more similar to a criminal trial than to a civil trial.

This bill clarifies provisions of the Family Code regarding a motion for a new trial in juvenile matters to include a reference to Rule 21. The bill intends to give practitioners more clarity regarding the timelines, form, and issues to be raised in a motion for a new trial in a juvenile delinquency matter and to make that process in a juvenile delinquency case more efficient for trial courts and juvenile respondents. The bill could result in more expedited resolutions to juvenile delinquency matters.

H.B. 1688 amends current law relating to the rules governing a motion for new trial in juvenile cases.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.17(a), Family Code, to provide that, except as provided by Section 56.01(b-1) and except for the burden of proof to be borne by the state in adjudicating a child to be delinquent or in need of supervision under Section 54.03(f) (relating to whether the child has engaged in certain conduct) or otherwise when in conflict with a provision of this title, the Texas Rules of Civil Procedure govern proceedings under this title.

SECTION 2. Amends Section 56.01, Family Code, by amending Subsections (a) and (b) and adding Subsection (b-1), as follows:

(a) Provides that, except as provided by Subsection (b-1), an appeal from an order of a juvenile court is to a court of appeals and the case is authorized to be carried to the Texas Supreme Court by writ of error or upon certificate, as in civil cases generally.

(b) Makes no changes to this subsection.

(b-1) Provides that a motion for new trial seeking to vacate an adjudication is timely if the motion is filed not later than the 30th day after the date on which the disposition order is signed and governed by Rule 21 (New Trials in Criminal Cases), Texas Rules of Appellate Procedure. Makes nonsubstantive changes.

SECTION 3. Makes application of Section 56.01, Family Code, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2009.