

BILL ANALYSIS

C.S.H.B. 1204
By: White
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that many young adolescents are in a developmental phase where impulse control and decision-making skills are still being mastered. The parties contend that while offenses committed by these youths should incur consequences, it is important that adults offer guidance and support as well. C.S.H.B. 1204 seeks to ensure that efforts are made to address the delinquencies of children outside of the juvenile justice system when possible.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory 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. 1204 amends the Family Code to require a person who is conducting a preliminary investigation of a child referred to a juvenile court to, as appropriate, refer the case to a community resource coordination group, a local-level interagency staffing group, or other community juvenile service provider for services under the bill's provisions if the person determines that the child is younger than 12 years of age, there is probable cause to believe the child engaged in delinquent conduct or conduct indicating a need for supervision, the child's case does not require referral to the prosecuting attorney, the child is eligible for deferred prosecution, and the child and the child's family are not currently receiving services under the bill's provisions and would benefit from receiving the services. The bill requires a community resource coordination group, a local-level interagency staffing group, or other community juvenile services provider, on receipt of such a referral, to evaluate the child's case and make recommendations to the applicable juvenile probation department for appropriate services for the child and the child's family.

C.S.H.B. 1204 requires the applicable probation officer to create and coordinate a service plan or system of care for the child or the child's family that incorporates the service recommendations for the child or the child's family so provided to the juvenile probation department. The bill requires the child and the child's parent, guardian, or custodian to consent to the services with knowledge that consent is voluntary. The bill limits the amount of time a probation officer may hold open the case of a child who receives a service plan or system of care under the bill's provisions to not more than three months to monitor adherence to the service plan or system of care. The bill authorizes the probation officer to adjust the service plan or system of care as necessary during the monitoring period and to refer the child to the prosecuting attorney if the child fails to successfully participate in required services during that period.

C.S.H.B. 1204 amends the Human Resources Code to require a juvenile board to establish policies that prioritize the diversion of children younger than 12 years of age from referral to a prosecuting attorney under the juvenile justice code and the limitation of detention of children younger than 12 years of age to circumstances of last resort.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1204 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 53.01, Family Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) If it is determined that the person is a child younger than 12 years of age and that there is probable cause, the person who is conducting the preliminary investigation shall refer the case to the appropriate community resource coordination group in accordance with Section 53.011.

SECTION 2. Chapter 53, Family Code, is amended by adding Section 53.011 to read as follows:

Sec. 53.011. PRELIMINARY PROCEEDINGS FOR CERTAIN CHILDREN. (a) In this section, "community resource coordination group" or "group" means a coordination group established under a memorandum of understanding adopted under Section 531.055, Government Code.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 53.01, Family Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The person who is conducting the preliminary investigation shall, as appropriate, refer the child's case to a community resource coordination group, a local-level interagency staffing group, or other community juvenile service provider for services under Section 53.011, if the person determines that:

- (1) the child is younger than 12 years of age;
- (2) there is probable cause to believe the child engaged in delinquent conduct or conduct indicating a need for supervision;
- (3) the child's case does not require referral to the prosecuting attorney under Subsection (d) or (f);
- (4) the child is eligible for deferred prosecution under Section 53.03; and
- (5) the child and the child's family are not currently receiving services under Section 53.011 and would benefit from receiving the services.

SECTION 2. Chapter 53, Family Code, is amended by adding Section 53.011 to read as follows:

Sec. 53.011. SERVICES PROVIDED TO CERTAIN CHILDREN AND FAMILIES. (a) In this section:
(1) "Community resource coordination group" has the meaning assigned by Section 531.421, Government Code.

(b) On receipt of a referral under Section 53.01(b-1), a community resource coordination group shall collaborate with the prosecuting attorney to determine whether it is appropriate for the community resource coordination group to coordinate services for the child and the child's family in lieu of adjudication. If the provision of services in lieu of adjudication is not determined to be appropriate, the prosecuting attorney shall proceed with the review process in accordance with Section 53.012.

(c) If the community resource coordination group and prosecuting attorney determine that it is in the child's best interest for the group to provide services to the child and the child's family in lieu of adjudication, the prosecuting attorney may not file a petition and the group shall:

(1) conduct a full assessment of the child, the child's needs, and the child's family;

(2) based on the results of the assessment, determine which services would meet the assessed needs of the child or the child's family;

(3) create a service plan or a system of care for the child or the child's family that incorporates the necessary services; and

(4) refer the child or the child's family to a local agency that has the ability to provide the services, if necessary.

(d) Following the creation of a service plan or a system of care for a child or a child's family under this section, the community resource coordination group shall monitor the child and the child's family for not less than three or more than six months, as appropriate. The group may adjust the service plan or system of care as necessary during the monitoring period.

(2) "Local-level interagency staffing group" means a group established under the memorandum of understanding described by Section 531.055, Government Code.

(b) On receipt of a referral under Section 53.01(b-1), a community resource coordination group, a local-level interagency staffing group, or other community juvenile services provider shall evaluate the child's case and make recommendations to the juvenile probation department for appropriate services for the child and the child's family.

(c) The probation officer shall

create and coordinate a service plan or system of care for the child or the child's family that incorporates the service recommendations for the child or the child's family provided to the juvenile probation department under Subsection (b). The child and the child's parent, guardian, or custodian must consent to the services with knowledge that consent is voluntary.

(d) For a child who receives a service plan or system of care under this section, the probation officer may hold the child's case open for not more than three months to monitor adherence to the service plan or system of care.

The probation officer may adjust the service plan or system of care as necessary during the monitoring period. The probation officer may refer the child to the prosecuting attorney if the child fails to successfully participate in required services during that

(e) If a child who is being monitored by a community resource coordination group under this section engages in additional delinquent conduct or conduct in need of supervision, the group shall coordinate with the prosecuting attorney to determine if:
(1) the community resource coordination group should continue monitoring the child in lieu of adjudication; or
(2) the prosecuting attorney should proceed with the review process in accordance with Section 53.012, and file a petition requesting adjudication, if appropriate.

No equivalent provision.

SECTION 3. The changes in law made by this Act apply only to a child who engages in conduct that occurs on or after the effective date of this Act. A child who engages in conduct that occurs before the effective date of this Act is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if any element of the conduct occurs before that date.

SECTION 4. This Act takes effect September 1, 2017.

period.

SECTION 3. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Section 152.00145 to read as follows:

Sec. 152.00145. DIVERSION AND DETENTION POLICY FOR CERTAIN JUVENILES. A juvenile board shall establish policies that prioritize:

- (1) the diversion of children younger than 12 years of age from referral to a prosecuting attorney under Chapter 53, Family Code; and
- (2) the limitation of detention of children younger than 12 years of age to circumstances of last resort.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.