

BILL ANALYSIS

C.S.H.B. 344
By: Dutton
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been reported that research indicates young people adjudicated in the juvenile justice system experience better outcomes than those placed in the adult criminal system and that the juvenile system offers educational and mental health treatment programs that are not available in the adult system. It has also been noted that the recidivism rate is significantly lower among juvenile inmates than the rate for 17-year-olds placed into the adult prison system. C.S.H.B. 344 seeks to raise the age of criminal responsibility for juveniles in Texas.

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

Article 1: Age of Criminal Responsibility

C.S.H.B. 344 amends the Family Code to raise the maximum age at which a person is considered a child under the juvenile justice code from under 17 years of age to under 18 years of age. For a person alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming of age and who is under the jurisdiction of a juvenile court, the bill changes the age range at which a person is considered a child from 17 years of age or older and under 18 years of age to 18 years of age or older and under 20 years of age.

C.S.H.B. 344 amends the Penal Code to raise from 17 years of age to 18 years of age the minimum age at which a person who commits an offense may be prosecuted or convicted, with certain exceptions.

Article 2: Offenses With Age as an Element

C.S.H.B. 344 amends the Penal Code to raise from 17 years of age to 18 years of age the minimum age at which an actor is considered to commit the offenses of criminal solicitation of a minor by a member of a criminal street gang, continuous sexual abuse of a young child or children, online solicitation of a minor, and certain offenses committed in a gang-free zone.

C.S.H.B. 344 amends the Transportation Code to raise from under 17 years of age to under 18 years of age the maximum age of a person who holds a restricted motorcycle license or moped

license that triggers the prohibition against the person operating a motorcycle or moped while using a wireless communication device or during certain night time hours within the 12-month period following the issuance of the original motorcycle or moped license, unless certain conditions are met. The bill raises from younger than 17 years of age to younger than 18 years of age the maximum age at which an actor is considered to commit the offenses of operation of a motor vehicle by a minor in violation of a traffic law and operation of a motor vehicle by a minor without a license.

Article 3: Criminal Procedures

C.S.H.B. 344 amends the Code of Criminal Procedure to limit the applicability of statutory provisions governing a plea by a minor and appearance of a parent to a defendant younger than 18 years of age who has not had the disabilities of minority removed. The bill changes the first date on which a person may apply, under certain conditions, to a court for an expunction of certain conviction records from the person's 17th birthday to the person's 18th birthday. The bill extends the prohibition against the issuance of a *capias pro fine* for an individual convicted for an offense committed before the individual's 17th birthday unless certain conditions are met to an individual convicted for an offense committed before the individual's 18th birthday and raises from 17 years of age to 18 years of age the minimum age of the individual under those conditions.

C.S.H.B. 344 raises from younger than 17 years of age to younger than 18 years of age the maximum age at which a juvenile defendant is eligible for performing community service in satisfaction of a fine or costs assessed for a Class C misdemeanor. The bill raises from younger than 17 years of age to younger than 18 years of age the maximum age at which a person is considered a child for purposes of statutory provisions relating to a child taken into custody for an offense over which a justice or municipal court has jurisdiction. The bill raises from younger than 17 years of age to younger than 18 years of age the maximum age of a person taken into custody by a peace officer for violation of a juvenile curfew ordinance that triggers the requirement for the peace officer to take certain action.

C.S.H.B. 344 extends the applicability of court procedures for an individual who may not be taken into secured custody for offenses alleged to have occurred before the individual's 17th birthday to an individual who may not be taken into secured custody for offenses alleged to have occurred before the individual's 18th birthday.

C.S.H.B. 344 raises from 17 years of age to 18 years of age the minimum age at which a person who commits a certain sexual offense is considered to have committed a sexually violent offense under the sex offender registration program and reflects that raised age in related statutory provisions governing motions and hearings generally, exemption orders generally, and motions, hearings, and orders concerning a person already registered.

C.S.H.B. 344 amends the Education Code to extend the prohibition against the issuance of a warrant for the arrest of a person for a Class C misdemeanor under the Education Code committed when the person was younger than 17 years of age to a person who committed such an offense when the person was younger than 18 years of age.

C.S.H.B. 344 amends the Family Code to raise from 17 years of age to 18 years of age the minimum age of a person who commits an offense that subjects the person to sex offender registration on which a court's authority to decline to enter a judgement on a mediated settlement agreement in a suit affecting the parent-child relationship is based if the court finds that the agreement would permit such a person to reside in the same household as the child or otherwise have unsupervised access to the child and that the agreement is not in the child's best interest.

C.S.H.B. 344 amends the Transportation Code to raise from younger than 17 years of age to younger than 18 years of age the maximum age of a person whose community service for a

possession of a fictitious driver's license or personal identification certificate offense is required to be performed as if ordered by a juvenile court as a condition of probation.

Article 4: Juvenile Court Procedures

C.S.H.B. 344 amends the Family Code to reflect the raised maximum age of a child under the juvenile justice code by raising by one year or two years, as applicable, certain age requirements relating to the following:

- a juvenile court's jurisdiction;
- the place and conditions of a child's detention;
- the deferral of adjudication proceedings and dismissal of certain cases on completion of a trafficked persons program;
- the disposition of a child or orders affecting a child's parent following a juvenile justice proceeding;
- the disposition of a child's violation of a community supervision or probation condition when the violation is not timely discovered;
- the transfer of a child committed to the Texas Juvenile Justice Department (TJJD);
- a child receiving mental health services;
- the treatment of a child's records; and
- the discharge of a child from the custody of a probation department or other applicable entity.

The bill includes an order denying the transfer of a child from a juvenile court to criminal court for prosecution as an adult among the juvenile court orders the state is entitled to appeal.

C.S.H.B. 344 changes the birthday of a child that triggers the applicability of statutory provisions governing the transfer or discharge of a child placed on determinate sentence probation by establishing that a person's applicable birthday is:

- the person's 18th birthday if the conduct for which the person was placed on probation occurred before September 1, 2011;
- the person's 19th birthday if the conduct for which the person was placed on probation occurred on or after September 1, 2011, but before September 1, 2020; or
- the person's 20th birthday if the conduct for which the person was placed on probation occurred on or after September 1, 2020.

C.S.H.B. 344 removes the requirement for a hearing regarding the transfer or discharge of a child who is placed on determinate sentence probation to be held before the child's 18th birthday if the offense for which the child was placed on probation occurred before September 1, 2011.

C.S.H.B. 344 amends the Health and Safety Code to extend the authorization for a child with mental illness who receives continuity of care services during parole from TJJD to continue to receive the services from the Texas Correctional Office on Offenders with Medical or Mental Impairments until the child completes the parole, even if the child is no longer eligible to receive services from a local mental health authority when the child becomes 17 years of age, to a child who is no longer eligible to receive such services when the child becomes 18 years of age.

C.S.H.B. 344 amends the Human Resources Code to raise from younger than 18 years of age to younger than 20 years of age the maximum age at which a person who has been found to have engaged in delinquent conduct is considered a juvenile for purposes of statutory provisions relating to residential facilities for certain delinquent children. The bill changes the type of court that makes that finding from a court of competent jurisdiction to a juvenile court and specifies

that the person is under the jurisdiction of the juvenile court. The bill raises the maximum age at which an individual is considered a child for purposes of statutory provisions relating to juvenile justice services and facilities from younger than 18 years of age to younger than 20 years of age for an individual who is under the jurisdiction of a juvenile court and removes an alternative definition of a child for those purposes that is based on a child's commitment to TJJD. The bill reflects that raised maximum age of a child and the raised maximum age of a child under the juvenile justice code by raising by one year certain age requirements relating to the following:

- the duties of a juvenile board;
- the limitation on the placement of a child in a TJJD facility based on the child's age;
- the detainment of a child who escapes custody or violates a release condition;
- the referral of a child serving a determinate sentence for transfer;
- the evaluation of whether a child serving a determinate sentence needs additional services;
- counseling for a child required to register as a sex offender; and
- termination of control by TJJD of a person committed to TJJD custody.

Article 5: Miscellaneous Laws Relating to Age of Criminal Responsibility

C.S.H.B. 344 amends the Business & Commerce Code to raise from younger than 17 years of age to younger than 18 years of age the maximum age of a person when the person engaged or allegedly engaged in conduct that resulted in the person's involvement in the criminal justice system in order for information about the person's involvement to be considered confidential criminal record information of a child for purposes of the regulation of the operations of a business entity engaged in publication of certain criminal or juvenile record information.

C.S.H.B. 344 amends the Family Code to raise from 17 years of age to 18 years of age the minimum age of a child excluded from a truancy court's authority to refer a child who fails to obey a truancy court order or who is in direct contempt of court to the applicable juvenile probation department as a request for truancy intervention.

C.S.H.B. 344 amends the Government Code to raise from younger than 17 years of age to younger than 18 years of age the maximum age at which a person who commits conduct that constitutes a misdemeanor punishable by confinement or a felony is considered to have committed a juvenile offense for purposes of statutory provisions relating to the Texas Indigent Defense Commission.

C.S.H.B. 344 expands the information that must be included in the annual report sent by the chief jailer of each municipal lockup and the sheriff and commissioners court of each county to the Commission on Jail Standards concerning persons under 17 years of age securely detained in the lockup or county jail, respectively, to include information about persons under 18 years of age so detained.

C.S.H.B. 344 amends the Local Government Code to raise from under 17 years of age to under 18 years of age the maximum age of a person whose movements or actions may be regulated by a county juvenile curfew adopted by a county commissioners court.

C.S.H.B. 344 amends the Transportation Code to extend the prohibition against the Department of Public Safety (DPS) issuing a driver's license to, with certain exceptions, a person who has been reported by a court for failure to appear or default in payment of a fine for certain fine-only misdemeanors if the person was under 17 years of age at the time of the offense to a person who was under 18 years of age at the time of the offense.

Article 6: Advisory Committee

C.S.H.B. 344, effective September 1, 2019, requires the Texas Juvenile Justice Board, not later than December 1, 2019, to appoint an advisory committee to monitor and evaluate implementation of the bill's provisions and sets out requirements relating to the board's appointments to the committee and the designation by the board of the committee's presiding officer.

C.S.H.B. 344 requires the advisory committee to assist TJJD in evaluating and monitoring the implementation of the bill's provisions, including determining the needs and problems of county juvenile boards and probation departments, and to offer recommendations to meet identified needs and problems.

C.S.H.B. 344 establishes that members of the advisory committee serve without compensation and are not entitled to reimbursement for expenses. The bill exempts the advisory committee from statutory provisions governing state agency advisory committees. The bill's provisions relating to the committee expire and the committee is abolished on June 1, 2021.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2020.

Except as otherwise provided, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 344 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute raises certain age requirements of a child for purposes of provisions relating to the following:

- the operation of a motorcycle or moped while using a wireless communication device or during certain night time hours within a specified period following the issuance of the original motorcycle or moped license;
- children taken into custody for violation of a juvenile curfew ordinance or order;
- a certain mediated settlement agreement in a suit affecting the parent-child relationship with regard to a person who commits an offense that subjects the person to sex offender registration;
- the limitation on the placement of a child in a TJJD facility based on the child's age; and
- a person whose movements or actions may be regulated by a county juvenile curfew adopted by a county commissioners court.

The substitute includes a provision that entitles the state to appeal a juvenile court order denying the transfer of a child from a juvenile court to criminal court for prosecution as an adult and a provision that removes the alternative definition of "child" for purposes of provisions relating to juvenile justice services and facilities.

The substitute includes an additional effective date.

The substitute does not include a provision that raises the maximum age for an individual who is committed to TJJD for purposes of provisions relating to certain juvenile justice services and post-adjudication secure correctional facilities or a provision that relates to DPS revocation of the driver's license of a person under certain circumstances.

The substitute changes the date on which provisions relating to the advisory committee expire and the committee is abolished from June 1, 2022, to June 1, 2021.