

## **BILL ANALYSIS**

C.S.H.B. 1364  
By: Wu  
Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerns have been raised over the age of a child at which a juvenile court may exercise jurisdiction over the child, given that children as young as 10 years old are included in this jurisdiction. Additionally, it has been suggested that raising the maximum age of certain offenders under this jurisdiction could help alleviate the backlog of adult criminal courts hearing low level and minor violations committed by 18-year-olds. C.S.H.B. 1364 seeks to address these concerns by raising the age of a child for purposes of certain juvenile court matters and criminal responsibility.

### **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. 1364 amends the Code of Criminal Procedure to raise from 10 years of age to 12 years of age the minimum 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.

C.S.H.B. 1364 amends the Education Code to raise from 10 years of age to 12 years of age the minimum age at which a student is considered a child for purposes of the criminal procedure applicable to a school offense.

C.S.H.B. 1364 amends the Family Code to revise the definition of "child" for purposes of certain conduct under the juvenile justice code as follows:

- raises the maximum age at which a person is considered a child from 17 years of age to 19 years of age if the person is 10 years of age or older and is alleged or found to have engaged in conduct that violates a penal law of the grade of felony of the second degree or higher as a result of acts committed before becoming 12 years of age;
- revises 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 12 years of age or older and under 19 years of age if the person is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed after becoming 12 years of age and before becoming 17 years of age.

The bill requires a child younger than 12 years of age to be released from court custody to a

parent, guardian, custodian of the child, or other responsible adult upon that person's promise to bring the child before the juvenile court as requested by the court unless the child poses an immediate threat to public safety or to the child's own safety.

C.S.H.B. 1364 requires a court to hold a hearing without a jury to determine whether to retain jurisdiction over a child younger than 12 years of age. The bill sets out conditions under which the hearing must be held and the matters that must be determined. The bill authorizes the court to proceed with a detention hearing or an adjudication hearing, as applicable, if the court retains jurisdiction over a child. The bill requires the court to immediately dismiss the child and the charges against the child if the court waives jurisdiction over the child and establishes that such a waiver is a waiver of jurisdiction over the child only for the dismissed charges.

C.S.H.B. 1364 amends the Human Resources Code to revise the definition of "child" for purposes of provisions relating to juvenile justice services and facilities as follows:

- raises from 18 years of age to 19 years of age the maximum age at which an individual who is 10 years of age or older is under the jurisdiction of juvenile court;
- removes the alternative definition for a child who is committed to the Texas Juvenile Justice Department.

C.S.H.B. 1364 amends the Penal Code to raise from younger than 10 years of age to younger than 12 years of age the age at which a person may not be prosecuted or convicted for a fine-only misdemeanor offense or a violation of a penal ordinance of a political subdivision. The bill raises from at least 10 years of age to at least 12 years of age the age at which a person younger than 15 years of age is presumed incapable of committing such an offense or violation.

C.S.H.B. 1364 repeals the following provisions:

- Article 45.058(j), Code of Criminal Procedure
- Sections 37.124(d) and 37.126(c), Education Code
- Section 42.01(f), Penal Code

### **EFFECTIVE DATE**

September 1, 2019.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1364 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 changes the definition of "child" for purposes of certain conduct under the juvenile justice code and for purposes of provisions relating to juvenile justice services and facilities.

The substitute includes a provision requiring a child younger than 12 years of age to be released from custody unless the child poses an immediate threat to public safety or to the child's own safety and a provision relating to a jurisdictional hearing for a child younger than 12 years of age.

The substitute does not include a provision defining "juvenile" for purposes of statutory provisions relating to residential facilities for certain delinquent children or a juvenile justice code provision relating to the authority of the juvenile court to waive its exclusive jurisdiction and transfer a person to the appropriate court.