

BILL ANALYSIS

C.S.H.B. 967
By: Dutton
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised about the minimum age of criminal responsibility in Texas, which is currently only one of three states that considers 17-year-olds as adults for purposes of the criminal justice system even though they are not entitled to many of the privileges of adulthood, including the ability to vote, enlist in the military, or serve on a jury. It has been suggested that young offenders are overwhelmingly arrested for minor offenses and that youth adjudicated in the juvenile justice system experience better outcomes than those placed in the adult system because the juvenile system offers educational and mental health programs that are not available in the adult system. Additionally, research indicates youth in adult jails and prisons are more likely to experience physical and sexual abuse and are 34 percent more likely to reoffend than those in the juvenile justice system. C.S.H.B. 967 seeks to address these issues and raise the age of criminal responsibility in Texas from 17 to 18.

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. 967 amends the Family Code to raise the age at which a person is considered a child under the juvenile justice code from under 17 to under 18. 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 or older and under 18 to 18 or older and under 20.

C.S.H.B. 967 amends the Penal Code to raise from 17 to 18 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. 967 amends the Penal Code to raise from 17 to 18 the minimum age of an actor who was a member of a criminal street gang at the time the actor committed criminal solicitation of a minor that renders that offense the same category as the solicited offense. The bill raises from 17 to 18 the minimum age at which an actor is considered to commit an offense of 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. 967 amends the Transportation Code to raise from under 17 to under 18 the age of a person who holds a restricted motorcycle license that triggers the prohibition against the person operating a motorcycle while using a wireless communication device or during certain nighttime hours within the 12-month period following the issuance of the original license, with certain exceptions. The bill raises from younger than 17 to younger than 18 the age at which an actor is considered to commit certain offenses involving motor vehicle operation by a minor.

Article 3: Criminal Procedures

C.S.H.B. 967 amends the Code of Criminal Procedure to extend the applicability of statutory provisions governing a plea by a minor and appearance of a parent to any 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 conviction of an offense committed before the individual's 17th birthday to before the individual's 18th birthday and raises from 17 to 18 the minimum age of the individual under the conditions triggering that prohibition.

C.S.H.B. 967 raises from younger than 17 to younger than 18 the 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 to younger than 18 the 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 to younger than 18 the 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. 967 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. 967 raises from 17 to 18 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 statutory provisions relating to juvenile exemptions from registration under the program.

C.S.H.B. 967 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. 967 amends the Family Code to raise from 17 to 18 the minimum age of a person who commits an offense that subjects the person to sex offender registration that authorizes a court to decline to enter a judgment on a mediated settlement agreement in a suit affecting the parent-child relationship 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.

C.S.H.B. 967 amends the Transportation Code to raise from younger than 17 to younger than 18 the 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. 967 amends the Family Code to reflect the raised maximum age of a child under the juvenile justice code by raising by one year 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 transfer or discharge of a child placed on determinate sentence probation;
- 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 court orders the state is entitled to appeal.

C.S.H.B. 967 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 from a child who 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 loses that eligibility when the child becomes 18 years of age.

C.S.H.B. 967 amends the Human Resources Code to raise from 18 to 20 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 and specifies that the person is under the jurisdiction of the juvenile court. The bill raises from younger than 18 to younger than 20 the age at which an individual under a juvenile court's jurisdiction is considered a child for purposes of statutory provisions relating to juvenile justice services and facilities 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. 967 amends the Business & Commerce Code to raise from younger than 17 to younger than 18 the age of a person considered a child for purposes of confidential criminal record information under statutory provisions relating to the operations of a business entity engaged in publication of certain criminal or juvenile record information.

C.S.H.B. 967 amends the Family Code to raise from 17 to 18 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. 967 amends the Government Code to raise from younger than 17 to younger than 18 the 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. The bill 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. 967 amends the Local Government Code to raise from under 17 to under 18 the 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. 967 amends the Transportation Code to extend the prohibition against the Department of Public Safety 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 fine payment 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. 967, effective September 1, 2021, requires the Texas Juvenile Justice Board, not later than December 1, 2021, to appoint an advisory committee to monitor and evaluate the implementation of the bill's provisions. The bill sets out requirements relating to the board's committee appointments and the designation of the committee's presiding officer. The bill requires the advisory committee to assist TJJD in monitoring and evaluating the implementation of the bill's provisions and to offer recommendations to meet identified needs and problems.

C.S.H.B. 967 establishes that advisory committee members serve without compensation and are not entitled to reimbursement for expenses and 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, 2024.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2023.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 967 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, as a reflection of the bill's raising the maximum age of a child under the juvenile justice code, changes the birthday of a child that triggers the applicability of certain procedures governing the transfer or discharge of a child placed on determinate sentence probation from the 19th birthday to the 20th birthday, whereas the original changed the birthday to an applicable birthday ranging from the 18th to the 20th birthday, based on when the conduct for which the person was placed on probation occurred.

The substitute changes the following dates in the original:

- the date on which provisions relating to the advisory committee expire and the committee is abolished from June 1, 2023, to June 1, 2024; and
- the effective date of the bill's provisions, other than those relating to the advisory committee, from September 1, 2022, to September 1, 2023.