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H.B. No. 561

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the repeal of the authority of political subdivisions
3 to adopt or enforce juvenile curfews.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article 45.045(c), Code of Criminal Procedure,
6 is amended to read as follows:

7 (c) This article does not limit the authority of a court to
8 order a child taken into custody under Article 45.058 [~~or 45.059~~].

9 SECTION 2. Article 45.060(a), Code of Criminal Procedure,
10 is amended to read as follows:

11 (a) Except as provided by Article [~~Articles~~] 45.058 [~~and~~
12 ~~45.059~~], an individual may not be taken into secured custody for
13 offenses alleged to have occurred before the individual's 17th
14 birthday.

15 SECTION 3. Section 51.02(15), Family Code, is amended to
16 read as follows:

17 (15) "Status offender" means a child who is accused,
18 adjudicated, or convicted for conduct that would not, under state
19 law, be a crime if committed by an adult, including:

20 (A) running away from home under Section
21 51.03(b)(2);

22 (B) a fineable only offense under Section
23 51.03(b)(1) transferred to the juvenile court under Section
24 51.08(b), but only if the conduct constituting the offense would

1 not have been criminal if engaged in by an adult;

2 (C) a violation of standards of student conduct
3 as described by Section 51.03(b)(4);

4 (D) [~~a violation of a juvenile curfew ordinance~~
5 ~~or order,~~

6 [~~(E)~~] a violation of a provision of the Alcoholic
7 Beverage Code applicable to minors only; or

8 (E) [~~(F)~~] a violation of any other fineable only
9 offense under Section 8.07(a)(4) or (5), Penal Code, but only if the
10 conduct constituting the offense would not have been criminal if
11 engaged in by an adult.

12 SECTION 4. Section 38.003(a), Government Code, is amended
13 to read as follows:

14 (a) The judge of a county, justice, or municipal court, in
15 accordance with Section 38.002, may award money from a judicial
16 donation trust fund established under Section 38.001 to eligible
17 children or families who appear before the court for a truancy [~~or~~
18 ~~curfew~~] violation or in another misdemeanor offense proceeding
19 before the court.

20 SECTION 5. Section 71.0352, Government Code, is amended to
21 read as follows:

22 Sec. 71.0352. JUVENILE DATA: JUSTICE, MUNICIPAL, AND
23 TRUANCY COURTS. As a component of the official monthly report
24 submitted to the Office of Court Administration of the Texas
25 Judicial System:

26 (1) a justice court, municipal court, or truancy court
27 shall report the number of cases filed for:

1 (A) truant conduct under Section 65.003(a),
2 Family Code; and

3 (B) the offense of parent contributing to
4 nonattendance under Section 25.093, Education Code; and

5 [~~(C) a violation of a local daytime curfew
6 ordinance adopted under Section 341.905 or 351.903, Local
7 Government Code; and~~]

8 (2) in cases in which a child fails to obey an order of
9 a justice court, municipal court, or truancy court under
10 circumstances that would constitute contempt of court, the justice
11 court, municipal court, or truancy court shall report the number of
12 incidents in which the child is:

13 (A) referred to the appropriate juvenile court
14 for delinquent conduct as provided by Article 45.050(c)(1), Code of
15 Criminal Procedure, or Section 65.251, Family Code; or

16 (B) held in contempt, fined, or denied driving
17 privileges as provided by Article 45.050(c)(2), Code of Criminal
18 Procedure, or Section 65.251, Family Code.

19 SECTION 6. Chapter 370, Local Government Code, is amended
20 by adding Section 370.007 to read as follows:

21 Sec. 370.007. JUVENILE CURFEWS PROHIBITED. (a)
22 Notwithstanding any other law, a political subdivision may not
23 adopt or enforce an order, ordinance, or other measure that imposes
24 a curfew to regulate the movements or actions of persons younger
25 than 18 years of age.

26 (b) This section does not apply to a curfew implemented
27 under Chapter 418, Government Code, for purposes of emergency

1 management.

2 SECTION 7. Section 8.07(e), Penal Code, is amended to read
3 as follows:

4 (e) A person who is at least 10 years of age but younger than
5 15 years of age is presumed incapable of committing an offense
6 described by Subsection (a)(4) or (5) [~~other than an offense under~~
7 ~~a juvenile curfew ordinance or order~~]. This presumption may be
8 refuted if the prosecution proves to the court by a preponderance of
9 the evidence that the actor had sufficient capacity to understand
10 that the conduct engaged in was wrong at the time the conduct was
11 engaged in. The prosecution is not required to prove that the actor
12 at the time of engaging in the conduct knew that the act was a
13 criminal offense or knew the legal consequences of the offense.

14 SECTION 8. The following provisions are repealed:

- 15 (1) Article 45.059, Code of Criminal Procedure;
16 (2) Section 341.905, Local Government Code;
17 (3) Section 351.903, Local Government Code; and
18 (4) Section 370.002, Local Government Code.

19 SECTION 9. A violation of a juvenile curfew ordinance or
20 order may not be prosecuted or adjudicated after the effective date
21 of this Act. If on the effective date of this Act a criminal or
22 civil action is pending for a violation of a juvenile curfew
23 ordinance or order, the action is dismissed on that date. However,
24 a final conviction or adjudication for a violation of a juvenile
25 curfew ordinance or order that exists on the effective date of this
26 Act is unaffected by this Act.

27 SECTION 10. This Act takes effect September 1, 2021.