

BILL ANALYSIS

C.S.H.B. 16
By: Moody
Youth Health & Safety, Select
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There is a recognized need to divert youth from confinement in Texas Juvenile Justice Department (TJJD) facilities in favor of local placements utilizing community resources. Research has shown better outcomes for justice-involved youths in such placements rather than in state facilities that are overburdened and understaffed. C.S.H.B. 16 seeks to address these concerns by increasing court involvement and enhancing court discretion at key intercept points in the juvenile justice process while requiring courts to consider certain mitigating evidence related to the hallmark features of youth and the diminished culpability of children in court proceedings. The bill establishes stricter standards for detention and creates a presumption for diversion into community-based rehabilitative resources, all subject to specified timelines, procedures, and standards. It also requires TJJD to develop and adopt a diversion and intervention strategic plan and to create a Task Force on Community-based Diversion and Intervention to engage a network of stakeholders to provide services. And finally, the bill creates a county reinvestment fund in each county for community-based interventions and establishes an incentive fund out of general revenue to supplement local funds.

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. 16 sets out and revises provisions relating to the following:

- judicial proceedings under the juvenile justice code;
- a community-based diversion and intervention plan;
- community reinvestment funds;
- incentive funding for community-based diversion and intervention; and
- a credit toward a child's minimum length of stay.

Judicial Proceedings Under the Juvenile Justice Code

C.S.H.B. 16 amends the Family Code to require a court, at the conclusion of a detention hearing that occurs on or after the bill's effective date for a juvenile proceeding, to refer the child to the Department of Family and Protective Services (DFPS) for early youth intervention services if the court does not release the child from detention due solely to a finding that suitable supervision, care, or protection for the child is not being provided by a parent, guardian, custodian, or other person or that the child has no such person able to return them to the court

when required. The bill requires DFPS, on receipt of such a referral, to conduct an early youth intervention services review not later than 72 hours, excluding weekends and holidays, after the conclusion of the detention hearing and to submit the review to the court. The bill requires a court that refers a child to DFPS, as soon as practicable after receiving the early youth intervention services review, to consider the review and, if appropriate, to release the child not later than the 10th working day after the date of the hearing's conclusion.

C.S.H.B. 16 establishes that in a hearing that occurs on or after the bill's effective date to consider the discretionary transfer of a child to the appropriate criminal court for criminal proceedings a presumption exists that it is in the best interest of the child and of justice that the juvenile court retain jurisdiction over the child and that the burden is on the state to overcome this presumption. The bill requires the statement of reasons that must be provided by a juvenile court that chooses to waive its jurisdiction to include sufficient specificity to permit meaningful review, provide case-specific findings of fact that do not rely solely on the nature or seriousness of the offense, and refer to relevant mitigating evidence. The bill defines "mitigating evidence" in a juvenile justice proceeding as evidence or information presented at a proceeding under the juvenile justice code that is used to assess the growth, culpability, and maturity of a child and that takes into consideration the diminished culpability of juveniles, as compared to that of adults, the hallmark features of youth, and the greater capacity of juveniles for change, as compared to that of adults.

C.S.H.B. 16 requires the court in a disposition hearing that occurs on or after the bill's effective date to consider mitigating evidence of a child's circumstances in making a finding, with respect to a child who is found to have engaged in delinquent conduct that constitutes a felony offense, that the child is in need of rehabilitation or the protection of the public or that the child requires that disposition be made. The bill authorizes the court to consider mitigating evidence of a child's circumstances in making a special commitment finding that the child has behavioral health or other special needs that cannot be met with the resources available in the community and must therefore be committed to the Texas Juvenile Justice Department (TJJD). The bill requires a juvenile court to make such a special commitment finding before it may modify a disposition based on a finding that the child engaged in delinquent conduct violating a felony-grade state penal law or federal law in order to commit the child to TJJD.

C.S.H.B. 16 authorizes TJJD to reduce to less than nine months the duration of the period in which a child at sanction level six must participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work, but only if the reason for the reduction is documented. This bill provision expressly does not apply to a child currently committed to a post-adjudication secure correctional facility under the law in effect before the bill's effective date, and the bill provides for the continuation of the former law for purposes of a child so committed.

C.S.H.B. 16 raises from 10 years of age to 13 years of age the maximum age at which a child who engages in conduct for which the child may be found by a court to be an at-risk child, regardless of whether the conduct constitutes a state or federal felony, is eligible for early youth intervention services. The bill replaces the authorization for DFPS to provide such services to a child found by a court to be an at-risk child with a requirement for DFPS to do so. The bill removes the condition on the requirement for DFPS to provide the services, with respect to a child referred to DFPS as at-risk by an applicable entity, that a contract to provide such services be available in the county.

Community-Based Diversion and Intervention Plan; Task Force

C.S.H.B. 16 amends the Human Resources Code to establish provisions regarding community-based diversion and intervention plans. The bill requires TJJD to develop, and the Texas Juvenile Justice Board to adopt, a strategic diversion and intervention plan to establish a network of community-based programs and services, within defined geographic regions of

Texas, to rehabilitate and keep children closer to home instead of placing children in post-adjudication secure correctional facilities. The plan must do the following:

- develop or update an inventory of community-based programs and services provided by local juvenile justice organizations and community-based organizations that serve juveniles;
- create an intercept map that does the following:
 - plots resources and gaps across each intercept point within the juvenile justice system;
 - identifies local behavioral health services to support diversion from the justice system;
 - introduces community system leaders and staff to evidence-based practices and emerging best practices related to each intercept point; and
 - includes customized, local maps and action plans to address plotted gaps;
- describe barriers to securing rehabilitative and programmatic mental health and therapeutic treatment service providers in rural, multicounty, and regional jurisdictions;
- identify ways in which research-validated initial risk assessments may be utilized to connect resources with risk and protective factors identified in the assessments to create individualized diversion plans;
- highlight state and national models for community-based collaborations and cross-system partnerships for assessments and referrals of juveniles in need of mental health and substance use treatment, aftercare, and recovery services;
- develop a model memorandum of understanding and provider contract for community-based programs and services;
- describe and track the dispositional impact of the variability of diversionary community-based programs and services on court decisions to detain children in post-adjudication secure correctional facilities;
- identify effective strategies for leveraging community resources and strengths to divert children from placement in such facilities;
- include a description of various community-based programs and services that promote and incorporate trauma-informed services, equity- and culturally responsive services, gender-specific services, family involvement, wraparound services, and services that promote rehabilitative juvenile services through a therapeutic perspective; and
- examine any other issue pertaining to juvenile justice service providers and community-based infrastructure in Texas.

The bill requires TJJD, not later than December 1, 2024, to submit a copy of the plan to each member of the legislature.

C.S.H.B. 16 requires the TJJD board to appoint a task force, in collaboration with TJJD's regionalization division, to consult with TJJD in developing the plan. The bill sets out the composition of the task force as follows:

- representatives designated by the advisory council on juvenile services;
- regional representatives;
- a juvenile court prosecutor, including a juvenile court prosecutor serving on the Juvenile Law Council of the Juvenile Law Section of the State Bar of Texas;
- a juvenile defense attorney, including a defense attorney serving on the Juvenile Law Council of the Juvenile Law Section of the State Bar of Texas;
- a juvenile court judge;
- subject matter experts designated by TJJD;
- a representative designated by DFPS;
- a representative designated by the Office of Court Administration of the Texas Judicial System;
- a youth advocate from a nonprofit or nongovernmental organization with experience in juvenile justice;
- a member of the public who has personal experience with or has been personally impacted by the juvenile justice system;

- a public or private program or service provider;
- an academic researcher from an accredited institution of higher education who specializes in juvenile justice issues;
- a staff member designated by an interested member of the legislature; and
- any other individual the board considers necessary, including experts who may serve in an advisory capacity.

Community Reinvestment Funds

C.S.H.B. 16 requires each county to establish a community reinvestment fund and requires the county's juvenile board or juvenile probation department to partner with research-based service providers in the community to use money in the fund to provide services as an alternative to juvenile detention for youth in the community, including by providing mentoring, behavioral and mental health services, financial or housing assistance, job training, educational services, and after-school activities. The fund may be funded by surplus TJJD funds, the county, or gifts, grants, and donations.

Incentive Funding for Community-Based Diversion and Intervention

C.S.H.B. 16 authorizes the legislature to establish a special account in the general revenue fund to supplement local funds and encourage efficiencies in the formation of a network of community-based programs and services within the regions of Texas and to generate savings by decreasing the population of post-adjudication secure correctional facilities. The bill requires TJJD to use the money in the account to initiate and support the implementation of the strategic community-based diversion and intervention plan and to develop discretionary grant funding protocols based on documented, data-driven, and research-based practices. The bill makes a region eligible to receive funding from TJJD for such programs and services only if the region meets the performance standards established by TJJD and adopted in contracts for community-based programs and services. Funding is authorized in addition to reimbursements allocated by TJJD for the regionalization plan.

C.S.H.B. 16 requires TJJD to prepare a report for submission to each member of the legislature not later than December 1, 2024, that does the following:

- outlines the amount of funds distributed as incentive for the specific strategies, programs, and services implemented as part of the strategic community-based diversion and intervention plan;
- demonstrates that certain regions or geographic areas are implementing the strategies implemented as part of that plan;
- defines efficiencies of scale in measurable terms;
- proposes a payment schedule for distributing incentive funds; and
- establishes a method for the documentation and reporting of incentive fund distributions.

Credit Toward Child's Minimum Length of Stay

C.S.H.B. 16 requires TJJD, with respect to a child's commitment in a TJJD facility, to give credit toward the minimum length of stay established for the child for time spent in a pre-adjudication secure detention facility after commitment but before the child's transfer to TJJD.

Repealed Provisions

C.S.H.B. 16 repeals the following provisions of the Family Code:

- Section 54.04(z); and
- Section 264.302(c).

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

C.S.H.B. 16 differs from the introduced in minor or nonsubstantive ways by conforming to certain bill drafting conventions.