

BILL ANALYSIS

H.B. 2687
By: Leach
Youth Health & Safety, Select
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In juvenile justice cases, the state handles children who have experienced trauma, who are subject to circumstances outside of their control, and whose brains have not finished developing in ways to evaluate logic, risk, and consequences. According to the National Governors Association, recent research on adolescent brain development shows that the human brain continues to develop and mature throughout adolescence, even into the 20s. Compared with adults, youth and young adults are more susceptible to negative peer influences and are more likely to overreact to situations. Further, in many instances, youths are dealing with serious traumas, and the juvenile justice system is often not the system best equipped to handle and address these children. Additionally, having a mark on their records due to offenses conducted during youth may permanently and negatively impact their futures and prevent them from being productive citizens of their communities or fulfilling their capacities. Addressing these children while they are still children could greatly increase their chances of becoming productive members of society that go on to lead long and happy lives.

Therefore, the presumption should be that children ages 10 through 12 would best be served through referral to the services that they need in their communities rather than in Texas Juvenile Justice Department facilities. H.B. 2687 seeks to raise the minimum age at which a person is considered a child under the juvenile justice code from 10 to 13, but provides for the applicability of the juvenile justice code to a child who commits certain violent or serious offenses. The bill provides for a juvenile court's waiver of jurisdiction and sets out requisite considerations for the court relating to the waiver.

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

H.B. 2687 amends the Family Code to raise the minimum age at which a person is considered a child under the juvenile justice code from 10 to 13 and to also include within that definition of "child" a person who is 10 years of age or older and under 13 years of age who is alleged or found to have engaged in conduct containing the elements of any of the following offenses:

- aggravated assault, sexual assault, or aggravated sexual assault;
- arson;
- murder, capital murder, or criminal attempt to commit murder or capital murder;
- indecency with a child;

- aggravated kidnapping;
- aggravated robbery;
- manslaughter;
- criminally negligent homicide; or
- continuous sexual abuse of a young child or disabled individual.

H.B. 2687 requires a juvenile court, before holding an adjudication hearing, to hold a hearing without a jury to determine whether to waive its exclusive original jurisdiction over a child under 13 years of age. The bill requires the court at such a hearing to consider whether less restrictive interventions by the child's parent, guardian, family, or school, or by child protective services or county family and youth services, are available and will be sufficient to ensure the safety of the public and the child, whether the court's intervention is warranted, and whether it is in the child's best interest for the court to intervene. The bill requires the court, as applicable, to state in the order the reasons for electing not to waive its jurisdiction over a child in such a hearing, or if the court elects to waive its jurisdiction over the child, to dismiss all charges against the child and refer the child to the person who conducted the preliminary investigation of the child for a referral for applicable services, as appropriate.

H.B. 2687 applies only to an offense committed or conduct that occurs on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense or conduct, or any element thereof, that occurred before that date.

EFFECTIVE DATE

September 1, 2023.