

1-1 By: Cook, Isaac, Swanson (Senate Sponsor - Hughes) H.B. No. 1819
1-2 (In the Senate - Received from the House May 5, 2023;
1-3 May 8, 2023, read first time and referred to Committee on
1-4 Jurisprudence; May 10, 2023, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 10, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			

1-13 A BILL TO BE ENTITLED
1-14 AN ACT

1-15 relating to the repeal of the authority of political subdivisions
1-16 to adopt or enforce juvenile curfews.

1-17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-18 SECTION 1. Article 45.045(c), Code of Criminal Procedure,
1-19 is amended to read as follows:

1-20 (c) This article does not limit the authority of a court to
1-21 order a child taken into custody under Article 45.058 [~~or 45.059~~].

1-22 SECTION 2. Article 45.060(a), Code of Criminal Procedure,
1-23 is amended to read as follows:

1-24 (a) Except as provided by Article [~~Articles~~] 45.058 [~~and~~
1-25 ~~45.059~~], an individual may not be taken into secured custody for
1-26 offenses alleged to have occurred before the individual's 17th
1-27 birthday.

1-28 SECTION 3. Section 51.02(15), Family Code, is amended to
1-29 read as follows:

1-30 (15) "Status offender" means a child who is accused,
1-31 adjudicated, or convicted for conduct that would not, under state
1-32 law, be a crime if committed by an adult, including:

1-33 (A) running away from home under Section
1-34 51.03(b)(2);

1-35 (B) a fineable only offense under Section
1-36 51.03(b)(1) transferred to the juvenile court under Section
1-37 51.08(b), but only if the conduct constituting the offense would
1-38 not have been criminal if engaged in by an adult;

1-39 (C) a violation of standards of student conduct
1-40 as described by Section 51.03(b)(4);

1-41 (D) [~~a violation of a juvenile curfew ordinance~~
1-42 ~~or order,~~

1-43 [~~(E)~~] a violation of a provision of the Alcoholic
1-44 Beverage Code applicable to minors only; or

1-45 (E) [~~(F)~~] a violation of any other fineable only
1-46 offense under Section 8.07(a)(4) or (5), Penal Code, but only if the
1-47 conduct constituting the offense would not have been criminal if
1-48 engaged in by an adult.

1-49 SECTION 4. Section 38.003(a), Government Code, is amended
1-50 to read as follows:

1-51 (a) The judge of a county, justice, or municipal court, in
1-52 accordance with Section 38.002, may award money from a judicial
1-53 donation trust fund established under Section 38.001 to eligible
1-54 children or families who appear before the court for a truancy [~~or~~
1-55 ~~curfew~~] violation or in another misdemeanor offense proceeding
1-56 before the court.

1-57 SECTION 5. Section 71.0352, Government Code, is amended to
1-58 read as follows:

1-59 Sec. 71.0352. JUVENILE DATA: JUSTICE, MUNICIPAL, AND
1-60 TRUANCY COURTS. As a component of the official monthly report
1-61 submitted to the Office of Court Administration of the Texas

2-1 Judicial System:

2-2 (1) a justice court, municipal court, or truancy court
2-3 shall report the number of cases filed for:

2-4 (A) truant conduct under Section 65.003(a),
2-5 Family Code; and

2-6 (B) the offense of parent contributing to
2-7 nonattendance under Section 25.093, Education Code; and

2-8 [~~(C) a violation of a local daytime curfew
2-9 ordinance adopted under Section 341.905 or 351.903, Local
2-10 Government Code, and]~~

2-11 (2) in cases in which a child fails to obey an order of
2-12 a justice court, municipal court, or truancy court under
2-13 circumstances that would constitute contempt of court, the justice
2-14 court, municipal court, or truancy court shall report the number of
2-15 incidents in which the child is:

2-16 (A) referred to the appropriate juvenile court
2-17 for delinquent conduct as provided by Article 45.050(c)(1), Code of
2-18 Criminal Procedure, or Section 65.251, Family Code; or

2-19 (B) held in contempt, fined, or denied driving
2-20 privileges as provided by Article 45.050(c)(2), Code of Criminal
2-21 Procedure, or Section 65.251, Family Code.

2-22 SECTION 6. Chapter 370, Local Government Code, is amended
2-23 by adding Section 370.007 to read as follows:

2-24 Sec. 370.007. JUVENILE CURFEWS PROHIBITED. (a)
2-25 Notwithstanding any other law, a political subdivision may not
2-26 adopt or enforce an order, ordinance, or other measure that imposes
2-27 a curfew to regulate the movements or actions of persons younger
2-28 than 18 years of age.

2-29 (b) This section does not apply to a curfew implemented
2-30 under Chapter 418, Government Code, for purposes of emergency
2-31 management.

2-32 SECTION 7. Section 8.07(e), Penal Code, is amended to read
2-33 as follows:

2-34 (e) A person who is at least 10 years of age but younger than
2-35 15 years of age is presumed incapable of committing an offense
2-36 described by Subsection (a)(4) or (5) [~~other than an offense under~~
2-37 ~~a juvenile curfew ordinance or order~~]. This presumption may be
2-38 refuted if the prosecution proves to the court by a preponderance of
2-39 the evidence that the actor had sufficient capacity to understand
2-40 that the conduct engaged in was wrong at the time the conduct was
2-41 engaged in. The prosecution is not required to prove that the actor
2-42 at the time of engaging in the conduct knew that the act was a
2-43 criminal offense or knew the legal consequences of the offense.

2-44 SECTION 8. The following provisions are repealed:

- 2-45 (1) Article 45.059, Code of Criminal Procedure;
- 2-46 (2) Section 341.905, Local Government Code;
- 2-47 (3) Section 351.903, Local Government Code; and
- 2-48 (4) Section 370.002, Local Government Code.

2-49 SECTION 9. A violation of a juvenile curfew ordinance or
2-50 order may not be prosecuted or adjudicated after the effective date
2-51 of this Act. If on the effective date of this Act a criminal or
2-52 civil action is pending for a violation of a juvenile curfew
2-53 ordinance or order, the action is dismissed on that date. However,
2-54 a final conviction or adjudication for a violation of a juvenile
2-55 curfew ordinance or order that exists on the effective date of this
2-56 Act is unaffected by this Act.

2-57 SECTION 10. This Act takes effect September 1, 2023.

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