

BILL ANALYSIS

H.B. 3852
By: Moody
Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties have expressed concern that while a child who is a status offender may not be punished with a term of secure confinement, such a child can be confined pending adjudication of a status offense case or if the child is held in contempt of court for failing to obey all orders of the court in connection with the adjudication. Critics assert that these practices are loopholes that circumvent the legal restrictions on confinement of children. H.B. 3852 seeks to address this issue.

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. 3852 amends the Family Code to specify that conduct that violates a lawful order of a court in a case for a status offense, under circumstances that would constitute contempt of that court in a justice, municipal, or county court, is not delinquent conduct for purposes of the juvenile justice code and instead amends the Code of Criminal Procedure and the Government Code to categorize such conduct as conduct indicating a need for supervision. The bill limits the authorized places of detention for a child who is accused only of such conduct, a status offense, or the violation of a valid court order concerning a child adjudicated as a status offender to a juvenile processing office, a place of nonsecure custody, or a nonsecure correctional facility that meets certain conditions. The bill includes among the places to which a person taking such a child into custody may bring the child, after first trying to take the child to a juvenile processing office, a place of nonsecure custody that meets certain requirements or, if a juvenile processing office or place of nonsecure custody is not available, a nonsecure correctional facility that meets certain conditions. The bill prohibits such a child from being detained at a place of detention for longer than 24 hours after the time the child arrived at the place of detention. The bill entitles such a child who is not released before the sixth hour after the time the child arrived at the place of detention to a detention hearing that is required to be held before the 24th hour after the time the child arrived at the place of detention, excluding weekends and holidays. The bill, with certain exceptions, requires the judge or referee conducting the detention hearing to release the child from detention.

H.B. 3852 decreases the maximum detention period that a judge or referee is authorized to order for a child who is accused of the violation of a valid court order concerning a child adjudicated as a status offender from 72 hours after the time the detention order is entered to 24 hours after

the time the detention order is entered. The bill authorizes a juvenile court to assign a child who commits conduct that violates a lawful order of a court in a case for a status offense, under circumstances that would constitute contempt of that court in a justice, municipal, or county court, a sanction level of two.

H.B. 3852 repeals Section 54.04(n), Family Code, authorizing a court under certain conditions to order a disposition of secure confinement of a status offender adjudicated for violating a valid court order.

EFFECTIVE DATE

September 1, 2015.