

SUBJECT: Mentally ill and mentally retarded children in the juvenile justice system

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 8 ayes — Goodman, Pickett, Isett, P. King, Morrison, Naishtat, A. Reyna, E. Reyna
0 nays
1 absent — Truitt

WITNESSES: For — Mitch Poe, Tarrant County District Attorney’s Office

Against — Beth Mitchell, Advocacy, Inc; Ruth Snyder, Parent Association for the Retarded of Texas

On — Charles G. Childress, Texas Department of Protective and Regulatory Services; Steve Robinson, Texas Youth Commission

BACKGROUND: Family Code, Title 3 sets up a civil court system to adjudicate accusations against persons age 17 or younger for offenses committed while they were age 10 through 16 and to attempt to rehabilitate juvenile offenders. Youths 17 or older at the time of a criminal offense are considered adults, and offenders younger than 10 are referred through law enforcement agencies to the Texas Department of Protective and Regulatory Services (DPRS).

Terminology in a juvenile case differs from that in an adult criminal case. For example, in the juvenile system, “adjudication” and “disposition” describe what in criminal proceedings are called “trial” and “punishment.” The juvenile justice system uses the terms “unfit to proceed” to describe what is termed “not competent to stand trial” in the adult system. The term “not responsible for conduct” is used in the juvenile justice system in the same situation in which the adult system uses “not guilty by reason of insanity.”

If children involved in the juvenile justice system are suspected of being mentally ill or mentally retarded, these issues generally are addressed before juvenile court proceedings. Children are considered unfit to proceed if they lack capacity to understand the court proceedings or to assist in their defense.

Children are considered not responsible for their conduct if at the time of the conduct, as a result of mental illness or mental retardation, they lack the capacity either to appreciate the wrongfulness of their conduct or to conform their conduct to the requirements of the law. Courts must order exams of children alleged to be unfit to proceed or not responsible for their conduct, and the court or a jury determines whether the child is unfit to proceed as a result of mental illness or mental retardation.

Juvenile courts can initiate mental health services for children found unfit to proceed or not responsible for their conduct. Juvenile courts can conduct civil commitment hearings, governed by the Health and Safety Code, which can result in children being committed for mental illness or mental retardation services. If mental health or mental retardation services are ordered, juvenile court proceedings are stayed. Proceedings can resume or be dismissed if the child is discharged or furloughed from the mental-health services facility before turning 18. Juvenile courts can transfer pending proceedings to the adult system if the child is not discharged from the mental-health services facility before turning 18 and the child is accused of one of the violent or habitual offenses listed in Family Code, sec. 53.045.

DIGEST:

CSHB 3517 would establish detailed procedures for juvenile or other courts to handle accused children with mental illness and mental retardation. The bill would make other changes in the laws dealing with juveniles accused of crimes, including detention of juveniles, transfer of certain juveniles to the adult system, juvenile records, and reporting of child abuse and neglect.

CSHB 3517 would take effect September 1, 1999.

Children with Mental Illness and Mental Retardation

CSHB 3517 would move authorization for juvenile courts to order exams for youths from the section governing proceedings for children with mental illness and mental retardation to the general provisions of the juvenile justice code.

The bill would authorize juvenile courts to order all juveniles who have been referred to a juvenile court — not only those who for whom a petition has been filed — to be examined by experts, including physicians, psychiatrists, or psychologists, at any time during juvenile proceedings. If a prosecutor had

not filed an adjudication petition, probation departments would have to refer children to local mental health or mental retardation authorities if, after an exam and after reviewing other evidence, there was reason to believe that the child had mental illness or mental retardation.

Children committed for mental health services would have to be cared for, treated, and released in accordance with the Mental Health Code. The bill would allow medication to be administered forcefully to juveniles committed to receive court-ordered mental health services.

Children with mental illness. Upon a motion, juvenile courts would decide whether probable cause existed to believe that a child accused of an offense had mental illness. If probable cause existed, the court would have to stay the court proceedings temporarily and order the child to be examined by experts. If the court found such evidence, it would have to initiate commitment proceedings or refer the child to an appropriate court for proceedings. If the court did not find evidence that the child had a mental illness or met statutory criteria for commitment, the court would have to continue with court proceedings.

If the court initiated proceedings for mental health services, the prosecuting or defense attorney could file an application for services under the Health and Safety Code, and the court would have to conduct a hearing. After the hearing, the court would have to order temporary or extended mental health services if the statutory criteria were met.

If the proceedings were sent to another court, all appropriate paperwork would have to be sent to the other court and would constitute an application for mental health services. CSHB 3517 would establish placement options for children whose cases had been transferred to another court for commitment proceedings. The other court would have to notify the juvenile court of whether it had ordered mental health services for the child. If either court did not order mental health services, juvenile court proceedings would have to continue. If mental health services were ordered, juvenile court proceedings would be stayed.

Unfit to proceed. Upon a motion, juvenile courts would have to determine whether there was probable cause to believe that a child was unfit to proceed because of mental illness or mental retardation. If the court found probable

cause, it would have to stay the juvenile court proceedings temporarily and order the child to be examined.

If a court did not find evidence that a child was unfit to proceed, the juvenile court proceedings would have to continue. If the court found evidence that the child was unfit to proceed, it would have to hold a separate hearing on that issue. A child or a child's attorney would have until 10 days before the hearing to demand that a jury decide the issue.

If the hearing resulted in a child being ruled unfit, the court would have to stay the juvenile court proceedings and, if the child had been accused of delinquent conduct, place the child with the Texas Department of Mental Health and Mental Retardation (MHMR) or in a private psychiatric inpatient facility, not to be paid by the state, for up to 90 days. Children alleged to have mental illness also could be ordered into outpatient treatment for up to 90 days. CSHB 3517 would establish procedures for a sheriff or probation department to transport children ordered to a facility.

Courts would have to order relevant information to be forwarded to the facilities, and a facility would have to report to the court within 75 days on the child's treatment and whether the facility's director thought the child was fit for court proceedings. When the court had received the report, the court would have to order the probation department to transport the child to the court. If this were not done within 10 days, the facility would have to transport the child to the court, and the county where the court was located would have to reimburse the facility.

If the report found that the child was fit to proceed, court proceedings would resume, unless the child's attorney objected. If the attorney objected, the court would have to hold another hearing on the issue.

If the facility's report found that the child was unfit to proceed as a result of mental illness or mental retardation and that the child met statutory criteria for commitment, the court would have to begin commitment proceedings or refer the case to an appropriate court for the proceedings. The prosecutor could file an application for court-ordered mental illness services or for placement of the child for mental retardation services, after which the court would have to hold a hearing on the matter. The court would have to order commitment for mental health services if the child's unfitness was due to mental illness and

the commitment criteria were met. If the unfitness was due to mental retardation, a court could order commitment to a residential care facility if the commitment criteria were satisfied.

Restoration hearing. The prosecutor could ask the juvenile court for a restoration hearing if a child was found unfit to proceed because of mental illness or mental retardation but was *not* ordered by the court to receive inpatient or outpatient services or committed to a residential care facility or was discharged or furloughed from a mental health facility or outpatient center before turning 18. If the hearing found by a preponderance of the evidence that the child was fit to proceed, the court would have to continue the juvenile court proceedings.

Transfer to adult court. Under some circumstances, courts that ordered inpatient mental health services or residential care for children with mental retardation would have to transfer all pending proceedings to a criminal court on the child's 18th birthday. This would have to be done if the child was not discharged or furloughed from the facility before turning 18 and the child was alleged to have committed one of the violent or repeat felonies listed in Family Code, sec. 53.045. Children who later were found fit to proceed as adults could not be incarcerated for longer than the maximum term to which they could have been sentenced if prosecuted when a child.

Lack of responsibility. CSHB 3517 would establish procedures, similar to those used for children determined unfit to proceed, for children found to be not responsible for their conduct due to mental illness or mental retardation. Courts would have to order examinations for children alleged to be unfit. If the court found a child not responsible, it would have to place the child with MHMR or with a private psychiatric facility, not to be paid with state funds, for up to 90 days. If the child was mentally ill, the court would have a third option, requiring outpatient treatment for up to 90 days.

Courts would have to order relevant information to be forwarded to the facilities, and a facility would have to report to the court within 75 days on the child's treatment and whether the facility's director thought the child was mentally ill or mentally retarded. When the court had received the report, the court would have to order the probation department to transport the child to the court. If this were not done within 10 days, the facility would have to

transport the child to the court, and the county where the court was located would have to reimburse the facility.

If the report stated that the child had a mental illness or mental retardation and the child met commitment criteria, the court would have to initiate commitment proceedings or refer the case to another court. Prosecutors could file a petition for services, and courts would have to hold a hearing and commit the child if commitment criteria were met.

If a facility reported that the child did not have a mental illness or mental retardation, a court would have to discharge the child from the juvenile justice system, unless the child was accused of one of the violent or repeat felonies listed in Family Code, sec. 53.045, a grand jury had approved the prosecution of the offense, and the prosecutor objected to the discharge.

If the prosecutor objected to the discharge, the court would have to hold a hearing on whether the child had a mental illness or mental retardation and whether the child met statutory commitment criteria. If the court found that the child did not have mental illness or mental retardation and did not meet statutory commitment criteria, the court would have to discharge the child from the juvenile justice system. If a child had mental illness or mental retardation and met commitment criteria, courts would have to issue a commitment order.

Other Provisions

Detention. CSHB 3517 would lower from 18 to 17 years old the age at which youths who escaped from juvenile facilities or who violated parole could be held in adult jails. Youths of any age who violated probation could not be held in adult jails.

CSHB 3517 would set deadlines for courts to order children to be released from detention centers if the prosecutor had not filed a petition in the case. Children alleged to have committed a capital felony, an aggravated controlled-substance felony, or a first-degree felony would have to be released within 30 working days after the initial detention hearing. Children accused of other offenses would have to be released within 15 working days.

Transfer to adult system. Juvenile courts could transfer to the adult criminal justice system persons at least 18 years old who were accused of committing a murder while between the ages of 10 and 17.

If a person 18 or older was taken into custody for discretionary transfer to the adult system, juvenile courts would have to hold the standard type of detention hearings for these persons, except that, unlike in cases of children, courts could use as a criterion to detain the person whether or not the person had a parent, guardian, or other person to return them to court. Pending a hearing on the transfer to the adult system, these persons could be held in a juvenile detention facility or an adult county jail. Persons held in a juvenile facility would have to be kept separate from children who were being detained, to the extent practical. The juvenile court would have to set or deny bond for persons transferred to an adult county jail.

Juvenile records. CSHB 3517 would require, rather than allow, law enforcement authorities to send certain records to the Juvenile Justice Information System (JJIS) operated by the Department of Public Safety (DPS). Authorities would not have to send photographs to the JJIS. The JJIS reporting requirements that now apply if a child has been referred to the juvenile court within 10 days of being detained or taken into custody would apply only if a child had been taken into custody.

Law enforcement officers no longer would have to get permission from both the parent and the child to photograph the child, but could get written consent from only one. CSHB 3517 would establish the content of the consent form.

CSHB 3517 would add law enforcement agencies to the list of those who can look at the records and files of the juvenile court, court clerk, juvenile probation department, and prosecutors. Law enforcement agencies could look at a juvenile probation department's records only if the chief juvenile probation officer consented in accordance with the guidelines of the county juvenile board and could look at a prosecutor's records only if the prosecutor agreed.

Juvenile courts could disseminate to the public certain information about children who were named in arrest warrants or other directives and who could not be found. The court could make public the child's name, description, photograph, and alleged offense. In addition to current authority to

disseminate information about juveniles who escape from Texas Youth Commission (TYC) facilities, DPS could disseminate information about juveniles who escaped from all secure detention and correctional facilities

Reporting child abuse and neglect. The bill would allow TYC teachers and treatment staff to report certain information about children's abuse of other children to TYC instead of to law enforcement, DPRS, or one of the agencies listed in current law. This could be done if the report was based on information given by a child under TYC's supervision and concerned the informer's alleged abuse of another child. TYC and DPRS would have to cooperate in adopting rules to identify reports that should be referred to law enforcement agencies or DPRS. The guidelines would have to consider the severity and immediacy of the alleged abuse and neglect.

The Texas Juvenile Probation Commission (TJPC) would have to investigate reports of abuse or neglect in any program operated by a juvenile probation department or by a private vendor operating with the authority of a county juvenile board.

Miscellaneous. CSHB 3517 would eliminate the current requirement that TJPC and DPRS have a memorandum of understanding to coordinate local interagency services to runaways. The bill also would eliminate requirements that TJPC, TYC, and DPRS have memoranda of understanding concerning children who are abused, neglected, or at risk of abuse and neglect.

CSHB 3517 would make other changes in the laws concerning juveniles accused of offenses, including:

- ! setting deadlines for the currently required discharge by TYC of certain children who are mentally ill or mentally retarded and who have not been committed for certain felonies under fixed-term (determinate) sentences. These children have completed their minimum length of stay for the offense and have been assessed as unable to progress in TYC's rehabilitation programs because of mental illness or retardation;
- ! requiring TYC to refer mentally retarded children whom it releases for mental retardation services if the child is not receiving them, and eliminating a current requirement that TYC refer these children for a mental retardation determination by an interdisciplinary team;
- ! expanding prosecutors' current authority to refer certain cases to a grand

jury to include all juvenile cases. If a grand jury took no action on a prosecutor's referral, the prosecutor could not file an adjudication petition, and if a grand jury approved a referral, the prosecutor would have the option of filing a petition;

- ! allowing juvenile law referees or masters to perform magistrates' duties relating to taking statements from children, if approved by the county's juvenile board;
- ! giving juvenile court masters the same authority as referees to hear certain juvenile hearings, with a new requirement that both parties be given an opportunity to object to a master or referee holding a hearing;
- ! giving juvenile referees and masters new authority to conduct juvenile justice hearings concerning children with mental illness or mental retardation;
- ! requiring results of diagnostic studies of juveniles who are transferred to the adult criminal justice system;
- ! authorizing children to be adjudicated for lesser offenses if the elements of the lesser offense were included in another offense, in accordance with the Code of Criminal Procedure;
- ! removing from the proposed punishments for progressive sanction level 2 that a child be placed on probation and leaving probation as a punishment for sanction level 3;
- ! prohibiting the application of Code of Criminal Procedure, art. 4.18, which governs claims that adult courts do not have jurisdiction over certain juveniles, in cases claiming that errors were made in juvenile court certification hearings, which are used to certify juveniles to stand trial in the adult system. CSHB 3517 would state that those claims are handled by art. 44.47, which covers appeals of transfers from juvenile courts;
- ! prohibiting appeals based on a juvenile court's or probation department's failure to report a deviation from the progressive sanctions guidelines;
- ! adding certifications issued by TJPC to juvenile probation, detention, and correctional officers to the list of potential licenses that can be suspended by a court for failure to pay child support or to comply with a subpoena;
- ! requiring any report done for the juvenile court before transferring a juvenile to criminal court and that is included in a prosecutor's file to be forwarded to TDCJ; and
- ! allowing juvenile traffic offenses and the offense of operating of a motor vehicle by a minor without a license to be punishable by any fine or

sanction — except for confinement or imprisonment — that is authorized by statute for the offenses, instead of having them all punished as Class C misdemeanors.

**SUPPORTERS
SAY:**

CSHB 3517 would help ensure uniform treatment for juvenile justice cases involving children with mental illness and mental retardation. It would allow certain juveniles to be held in adult facilities when it would be appropriate. It would ensure that certain juveniles who commit murder would not avoid the justice system. It would help some juveniles' rehabilitation efforts by changing rules regarding the reporting of some child abuse, and it would ensure complete statewide juvenile records.

Children with mental illness, mental retardation. Moving authorization for juvenile courts to order exams for youths to the general provisions of the juvenile justice code would ensure that this authority was not limited to mental health exams but also could be used, for example, to examine a juvenile who was being sent to a boot camp or other program. Juvenile courts could order all juveniles who had been referred to a juvenile court, not only those for whom a petition had been filed, to be examined by experts so that courts could act whenever they saw a need. If a child was examined before a petition was filed and was found to need services, CSHB 3517 would ensure that the child got these services by requiring probation departments to refer the case to the local mental health or mental retardation authority.

CSHB 3517 would provide needed details on how juvenile courts should handle children with mental illness or mental retardation. Juvenile courts handle these cases infrequently, and CSHB 3517 would help ensure uniform treatment of the increasing number of these complex cases.

Requiring an assessment period of up to 90 days and an evaluation by a treatment professional in some cases would ensure appropriate assessment of juveniles before commitment proceedings. The 90-day placement would come only after a hearing and a judicial ruling of unfitness to proceed or non-responsibility. These criteria would ensure that the 90-day placement was not used to punish children or simply move them out of a juvenile facility. CSHB 3517 would not create situations with unnecessary “dueling experts” but instead would allow for full evaluation of children.

The assessment period would be for a *maximum* of 90 days and most likely

would be shorter, since a facility would not want to keep a child for evaluation any longer than necessary. By setting up rules for transporting children back to the court, CSHB 3517 would ensure that these children would be moved from the facility to the court as soon as the evaluation was finished.

The bill would give courts a new option to refer commitment proceedings to an appropriate court that customarily handled these proceedings. This could be appropriate if a juvenile court did not have experience conducting these proceedings.

The number of children who would be committed to mental health facilities under CSHB 3517 would be small and would not change the nature of the population in state schools. In the past fiscal year, MHMR received only 29 mentally retarded children from the juvenile justice system and can identify only nine mentally ill children committed this way. MHMR is sensitive to the inappropriate mixing of residents and could place any violent child in one of its secure beds.

Detention. Allowing 17-year-olds who escape from TYC or who violate parole conditions to be held temporarily in adult jails pending transportation back to TYC or a revocation hearing would be appropriate. Seventeen is also the age at which these persons, if accused of a new crime, would be handled by the adult system, even though they can remain under juvenile jurisdiction until they turn 21 for crimes committed when they were younger. Short-term detention in an adult facility would not harm these older youths and could be more appropriate than detaining them in a short-term juvenile detention facility that also housed youths as young as 10.

Currently there is no time limit for prosecutors to file a petition alleging an offense by a child who is being held in a juvenile detention center. By setting time limits, CSHB 3517 would force prosecutors to move expeditiously. This could decrease detention costs and overcrowding and would ensure that youths were not in detention centers for long periods of time without at least a petition being filed.

Transfer to the adult system. CSHB 3517 would fill a gap in current law that results in no criminal proceedings if a person who is younger than 14 murders someone but is not identified as the murderer until after the person

turns 18. Currently, the justice system is set up to handle persons 18 or older who were at least 14 when they allegedly committed a capital felony, an aggravated controlled-substance felony, or another first-degree felony.

CSHB 3517 would clarify how to handle pretrial detention of persons 18 or older who may be transferred to the adult system for crimes they committed when they children. Clarifying these procedures is important because they may be used more and more often, since scientific advances are allowing biological evidence to be used to solve older crimes. Since CSHB 3517 would allow these persons to be held in county jails, fairness requires that juvenile courts follow standard bond procedures in these cases so they would be treated like others held in the jails.

Reporting child abuse and neglect. It is necessary to allow TYC's professional staff employees to report alleged child abuse and neglect to TYC instead of to law enforcement agencies or DPRS to ensure that TYC's treatment programs are effective. Sometimes a child will disclose information about the child's past abuse of another child, but the event happened long ago or the information is vague or stale. Routinely reporting all such incidents to law enforcement officials or DPRS can have a chilling effect on the child who might want to confess abuse during a counseling session.

CSHB 3517 would ensure that these incidents were reported, as required by Attorney General's Opinion DM-458, which requires treatment providers to report suspicion of child abuse even if it is based on dated or incomplete information. However, in the limited circumstances where a child committed to TYC confessed to TYC's professionals, the report could be made to the TYC administration. Any reports that should be referred to law enforcement agencies or DPRS would be identified under the rules that TYC would have to adopt in cooperation with DPRS.

CSHB 3517 would ensure protection for all children by clarifying that TJPC was responsible for investigations of abuse and neglect in programs operated by a juvenile board.

Juvenile records. CSHB 3517 would make the JJIS reporting requirements mandatory so that the state could compile accurate, complete statewide records. This would not be a burden on law enforcement agencies because

any increase in reporting would not be great, and these agencies already routinely send information to DPS on all adult offenders.

Submitting photographs to the JJIS no longer would be necessary because the system is based on fingerprints, and DPS has no way to file the photographs. CSHB 3517 would eliminate confusion among some law enforcement officers about when the JJIS reporting requirements are triggered. The bill would eliminate reporting requirements when a child merely is detained but would require reporting when a child officially is taken into custody for an offense, since this is analogous to an adult arrest.

CSHB 3517 would make it clear that children who were referred to juvenile courts without being taken into custody could be photographed and fingerprinted. This would ensure that the requirements covered juveniles who were initiated into the juvenile justice system through a referral to a juvenile court, often through a report by a law enforcement agency, without being taken into custody.

CSHB 3517 would eliminate the requirement that parents give consent for photographing children who are not in custody so that law enforcement officers could photograph children who gave their consent freely. This could be especially useful in combating juvenile gangs, because many gang members freely consent to be photographed while out in public, but it could be difficult or unworkable to find a parent for their consent. CSHB 3517 would ensure that children would understand their rights by establishing the content of the required written consent form.

Allowing law enforcement agencies limited access to juvenile records could help integrate juvenile programs and services. Some counties have law enforcement programs that aid juvenile offenders. CSHB 3517 would make juvenile probation departments' and prosecutors' records available only upon permission to ensure that a need was demonstrated before the records could be inspected.

CSHB 3517 would enhance public safety by allowing courts to disseminate information about a juvenile if it was needed to apprehend someone alleged to have committed an offense and by allowing DPS to disseminate information about juvenile offenders who escape from any secure facility, not only TYC.

Miscellaneous. CSHB 3517 would eliminate the requirement for two memoranda of understanding among state agencies handling juveniles, because the goals of the memoranda are being accomplished through other means and the agencies have close working relationships. Programs for runaways are coordinated through the STAR program with input from TJPC and DPRS. Services for abused and neglected children are coordinated through local community resource coordination groups with input from juvenile probation, child protective services, and mental health and mental retardation agencies.

OPPONENTS
SAY:

CSHB 3517 could set up procedures that do not provide enough protections for children with mental illness or mental retardation.

Children with mental illness and mental retardation. Some of the procedures proposed in CSHB 3517 would be unfair to children with mental illness or mental retardation. For example, the bill would require courts to place children initially found to be unfit to proceed or not responsible for their conduct with MHMR or another facility for an evaluation period of up to 90 days. However, the bill would not define the criteria for a 90-day placement. Nothing in CSHB 3517 would prevent a court from sending a child back to MHMR for multiple 90-day evaluation periods if the facility director reported that it found a child fit to proceed or responsible for conduct. These “evaluation periods” could amount to unfair punishment outside of the judicial arena. Without adequate parameters on the 90-day detention periods, some judges could abuse this provision and use it to remove children from their detention centers.

While many of the provisions of CSHB 3517 are designed to make the juvenile system’s handling of children with mental illness and mental retardation more like the adult system, some portions of the bill would fail to give children the same protections. For example, CSHB 3517 would not require that children found not responsible for their conduct due to mental illness or mental retardation and placed with MHMR or another facility for up to 90 days for an evaluation be found to be *presently* mentally ill or mentally retarded.

CSHB 3517 unwisely would allow prosecutors’ objections to treatment facilities’ reports to trigger another round of hearings. For example, after MHMR or another treatment facility reported that a child who had been found

not responsible for conduct did not have a mental illness or mental retardation, a prosecutor's objection would require a court to hold a hearing — without a jury — to determine mental illness or retardation. This hearing could be unnecessary and wasteful, since MHMR or other experts who would be in the best position to make a determination about a child already would have said that the child was not mentally ill or mentally retarded.

Without additional resources, CSHB 3517 could be burdensome on MHMR. Last fiscal year, the agency received about 29 children with mental retardation and at least nine with mental illness via the juvenile justice system. These numbers could go up under CSHB 3517, especially with the potential for multiple 90-day placements.

In addition, MHMR estimates that it would have to do some remodeling to house the additional children in a secure facility. Currently, MHMR has only about 38 secure beds for juveniles. Without remodeling or construction to provide additional secure beds, CSHB 3517 could result in inappropriate mixing of the often fragile mentally ill and mentally retarded populations in state facilities with streetwise and perhaps violent juvenile offenders.

While the fiscal note estimates the bill's general revenue cost at about \$416,000 per year, MHMR estimates that it would cost as much as \$1.2 million the first year and about \$563,000 in the second year.

Juvenile records. It would be unfair to counties to change the current reporting of information to DPS from permissive to mandatory. Decisions about submitting information on children taken into custody should remain at the local level. CSHB 3517 could be a burden on agencies that were forced to begin submitting information.

CSHB 3517 would go too far in removing restrictions on juvenile records. Parental consent always should be required for children who are not in custody to be photographed, because children may not understand fully the repercussions of being photographed.

In addition, CSHB 3517 unwisely would allow some juvenile records to be open to law enforcement agencies if they were granted permission. Juvenile records can contain sensitive information, such as psychological information

or notes about a juvenile's family, that could be inappropriate for law enforcement agencies to inspect.

NOTES:

The committee substitute added numerous provisions to the original bill, including those that would:

- ! allow juvenile courts to transfer proceedings to the adult system if a person over 17 was accused of committing a murder when the person was between 10 and 17 years old;
- ! allow law enforcement agencies to inspect some juvenile records;
- ! allow the fingerprinting and photographing of a child with the child's written consent;
- ! prohibit a court's failure to report a deviation from the progressive sanctions guidelines from being used as a grounds for appeal;
- ! allow the forcible administration of medication to a child receiving court-ordered mental health services; and
- ! allow TYC staff to report alleged child abuse and neglect to agency officials who would have to act on the report according to a memorandum. The original bill would have allowed TYC and juvenile court professionals the discretion to report alleged abuse and neglect.

The substitute removed several provisions from the original bill, including ones that would have limited commitment to TYC of juveniles committing felonies or Class A or B misdemeanors and that would have eliminated some requirements for reporting child abuse or neglect for some professionals working with children under the supervision of the juvenile court or TYC.