

- SUBJECT:** Six-member juries for misdemeanor hearings in juvenile courts
- COMMITTEE:** Corrections — favorable, without amendment
- VOTE:** 9 ayes — McReynolds, Madden, England, Hodge, Kolkhorst, Marquez, Martinez, S. Miller, Ortiz
- 0 nays
- 2 absent — Dutton, Sheffield
- WITNESSES:** For — Laura Angelini, Juvenile District Court, 386th District Court, Bexar County; (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas; Katrina Daniels, Office of Bexar County District Attorney Susan D. Reed; Isela Gutierrez, Texas Criminal Justice Coalition; Donald Lee, Texas Conference of Urban Counties; Cindy Segovia, Bexar County; Riley Shaw, Tarrant County District Attorney's Office)
- Against — None
- BACKGROUND:** Under Family Code, sec. 51.04 the juvenile board in each county is authorized to designate one or more courts to hear juvenile matters. A district or county court may serve as a juvenile court using a trial-like adjudication hearing. A jury makes any fact determination, unless the child and the child's attorney waive the right to a jury trial.
- Under current law, the size of a jury differs between district and county courts. A district court sitting as a juvenile court must select a 12-member jury in all hearings, regardless of whether a child is accused of a misdemeanor or felony. By contrast, a county court sitting as a juvenile court need only select a six-member jury for all misdemeanors and most felonies. The 12-member requirement applies to a county court only when a juvenile is accused of conduct that may result in determinate sentencing.
- DIGEST:** HB 609 would require all juvenile courts to select a six-member jury in adjudication hearings when a juvenile was alleged to have committed a misdemeanor.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

HB 609 would remove conflicting jury size requirements for district and county courts in misdemeanor juvenile cases and make the adjudication hearing process more efficient and less costly. The current "one jury size fits all" rule for district courts sitting as juvenile courts results in a burdensome, inflexible jury selection process. It also makes little sense given that district courts can use six-member juries to try adults charged with misdemeanors. This bill would give district courts the same flexibility for juvenile adjudication hearings as for adult cases.

Requiring a six-member jury serve on juvenile misdemeanor cases likely would reduce the amount of compensation paid out to jurors by the state. The Legislative Budget Board notes that the state pays \$34 out of a minimum \$40 per day to jurors after their first day of service, so fewer jurors would mean a lower cost to the state.

The bill would not weaken due process protections for juveniles accused of misdemeanors before district courts. For example, a six-member jury still would have to issue a unanimous guilty verdict, and a juvenile eligible for determinate sentencing still would be entitled to a 12-member jury. HB 609 simply would require that juveniles accused of misdemeanors in a district juvenile courts have the same jury size as juveniles in county courts.

**OPPONENTS
SAY:**

HB 609 would subject juveniles to smaller, less diverse juries in misdemeanor cases. A larger jury pool affords juveniles more due process protection because it allows attorneys on both sides of an adjudication hearing to select jurors with diverse personal backgrounds and opinions. Although the current 12-member jury size requirement for district courts may appear inconsistent, it implicitly recognizes that juveniles should be treated as special cases because of the serious consequences of a guilty verdict, even in misdemeanor cases.

NOTES:

The companion bill, SB 1067 by Wentworth, was reported favorably without amendment by the Senate Jurisprudence Committee on March 30.