

- SUBJECT:** Authorizing hate crime finding by juvenile courts
- COMMITTEE:** Corrections — committee substitute recommended
- VOTE:** 6 ayes — McReynolds, Madden, Dutton, Hodge, Marquez, Sheffield
0 nays
5 absent — England, Kolkhorst, Martinez, S. Miller, Ortiz
- WITNESSES:** (*On original version:*)
For — Jeffrey Newberg, Anti-Defamation League; (*Registered but did not testify:* Steve Lyons, Houston Police Department)
Against — Allen Place, Texas Criminal Defense Lawyers Association
- BACKGROUND:** Code of Criminal Procedure, art. 42.014 requires a court to make an affirmative finding of a hate crime if the trier of fact determines that the adult defendant committed a hate crime.
Family Code, ch. 54 establishes the guidelines for juvenile court proceedings.
- DIGEST:** HB 824 would amend Family Code, ch. 54 to require a juvenile court to make an affirmative finding of fact if the trier of fact determined that the child committed a hate crime.
A juvenile hate crime would be arson, criminal mischief, graffiti, or an offense against the person under Penal Code, title 5 in which the property or person was chosen because of the defendant's bias or prejudice based on race, color, disability, religion, national origin, ancestry, age, gender, or sexual preference.
A prosecuting attorney, in a case against an adult accused of a hate crime, could apply to the juvenile court to reopen the sealed files and records of a prior juvenile hate crime conviction. Before granting community supervision to an adult convicted of a hate crime, the court would have to consider any previous juvenile hate crime conviction.

If a juvenile were convicted of a hate crime, the court could require the child to attend an acceptance and understanding education program or psychological counseling.

Upon conviction, the court could order the child to perform community service at a project serving the person or group that was the target of the child's offense. The court also could order such community service as a condition of release from a Texas Youth Commission facility.

If a court was asked to make an affirmative finding, the court clerk would have to report that request and the results to the Texas Judicial Council.

The bill would take effect September 1, 2009, and would apply only to offenses committed on or after that date.

**SUPPORTERS
SAY:**

Authorizing juvenile courts to make a hate crime finding would be an important tool to hold offenders accountable and help tailor rehabilitation requirements to better fit the offense. Though one-third of hate crime offenders are under 18 years old, current law only addresses hate crimes committed by adults. CSHB 824 would allow courts to make juveniles answer for their crimes and give young offenders an opportunity for rehabilitation. By providing counseling, education, and community service options, the bill could help juvenile offenders understand the consequences of their actions and lower recidivism.

By requiring a court to consider juvenile hate crimes before granting community service to an adult convicted of a hate crime, a court would be able to determine if the defendant was an habitual offender and apply the most appropriate sentence.

Allowing courts discretion in juvenile adjudications is the norm and gives courts the necessary ability to consider mitigating factors. CSHB 824 would follow that standard and be an effective tool, allowing courts to address juvenile hate crimes.

Making education and counseling permissive rather than mandatory would mirror the treatment of adult hate crime offenders.

**OPPONENTS
SAY:**

Making HB 824 permissive instead of binding would make it less effective because it would not ensure that there would be consequences for a juvenile court's finding of a hate crime. Though counseling, education,

and community service might be helpful to a child found to have committed a hate crime, the court would not be required to use these rehabilitation tools.

Current law prohibits granting community supervision to an adult found to have committed a hate crime if the adult committed a previous hate crime. CSHB 824 would still allow community supervision as an option if the adult previously had committed a hate crime as a juvenile.

NOTES:

The committee substitute differs from the bill as filed by deleting a provision that would have prohibited the court from granting community supervision to an adult defendant found to have committed a hate crime if the defendant also had a juvenile adjudication with an affirmative finding of a hate crime. Instead, the committee substitute would require the court to consider the juvenile hate-crime adjudication before granting community supervision to such an adult defendant.