

- SUBJECT:** Five-day review a child's record before certification for trial as an adult
- COMMITTEE:** Corrections — favorable, without amendment
- VOTE:** 10 ayes — McReynolds, Madden, England, Hodge, Kolkhorst, Marquez, Martinez, S. Miller, Ortiz, Sheffield
- 0 nays
- 1 present not voting — Dutton
- SENATE VOTE:** On final passage, April 2 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — Jennifer Solak, Children at Risk; (*Registered, but did not testify:* Jessica Cassidy, ACLU of Texas; Katrina Daniels, Bexar County District Attorney's Office; Christine Gendron, Texas Network of Youth Services; Samuel Gunter, Texas Criminal Justice Coalition; Kameron Johnson; Amanda Marzullo, Texas Fair Defense Project; Jason Sabo, United Ways of Texas; Riley Shaw, Tarrant County District Attorney's Office; Erica Terrazas, Texas Appleseed)
- Against — None
- BACKGROUND:** Under Family Code, sec. 54.02(e), at a hearing concerning the transfer of a child from a juvenile court to an adult criminal court, the court may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of witnesses. At least one day prior to the transfer hearing, the court shall provide the attorney for the child with access to all written matter to be considered by the court in making the transfer decision. The court may order counsel not to reveal items to the child or the child's parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would decrease substantially the likelihood of receiving information from the same or similar sources in the future.
- DIGEST:** SB 518 would amend Family Code, sec. 54.02(e) to allow, for a hearing on transferring a child from juvenile court to adult criminal court, that a

prosecuting attorney, as well as the child's defense attorney, have five days, rather than one day, of access to all written matter to be considered by the court in making a transfer decision.

The bill would take effect on September 1, 2009.

**SUPPORTERS  
SAY:**

SB 518 would help to make fairer the process by which juveniles are certified for trial as an adult. It is intended to help to lower the number of children who are certified for trial as adults, diverting them to juvenile facilities where they can receive rehabilitative treatment, encounter less abuse, and become less likely to re-offend.

By allowing prosecutors as well as defense attorneys five days instead of one to review a juvenile's file, better arguments would likely be made, more information, including mental health needs, would be considered and properly vetted, and fewer juveniles would be transferred inappropriately to adult courts along with the associated negative impacts on children and taxpayers. This change would benefit both prosecutors and the attorneys for the juvenile.

In 2007, the 80th Legislature enacted SB 103 by Hinojosa, which revised the Texas juvenile justice system. One of the provisions in SB 103 lowered the age at which an offender was eligible to be incarcerated in the Texas Youth Commission from 21 to 19. Prosecutors now tend to seek to certify some 16- and 17-year-old offenders as adult offenders because the lowered age cap for TYC allows detention in juvenile facilities only for two or three years.

In 2006, 178 juveniles were certified for transfer to adult criminal court. In an adult jail or prison, juveniles are 36 times more likely to commit suicide. Juveniles also are at greater risk of physical and sexual assault. In 2005, 21 percent of all victims of inmate-on-inmate sexual violence were adolescents, while such youth comprised only one percent of the inmate population.

Youth prosecuted in adult criminal court are more likely to re-offend than those who pass through the juvenile justice system. Additionally, once they re-offend, they often commit more serious, violent offenses. As a result, Texas would save money by preventing the future incarceration of these vulnerable youth. In 2006, 41 percent of juvenile offenders and 42 percent of misdemeanor juvenile offenders who were committed the Texas

Youth Commission had mental health needs. 41 percent of felony offenders and 46 percent of misdemeanor offenders required substance-abuse treatment. The services and counseling these adolescents need desperately is either lacking or inadequate in adult detention centers.

OPPONENTS  
SAY:

No apparent opposition.