

SUBJECT: Referring certain youths to community services in lieu of prosecution

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 5 ayes — Dutton, Dale, Moody, Schofield, Thierry
2 nays — Biedermann, Cain

WITNESSES: For — Lauren Rose, Texans Care for Children; Haley Holik, Texas Public Policy Foundation; (*Registered, but did not testify*: Terry Smith, Dallas County Juvenile Department; Will Francis, National Association of Social Workers-Texas Chapter; Katherine Barillas, One Voice Texas; Sarah Crockett, Texas CASA; Shannon Noble, Texas Counseling Association; Linda Brooke, Texas Probation Association; Ellen Arnold, Texas PTA; Pamela McPeters, TexProtects (Texas Association for the Protection of Children); Knox Kimberly, Upbring; Sacha Jacobson)

Against — None

On — Kaci Singer, Texas Juvenile Justice Department; (*Registered, but did not testify*: Jill Mata, Texas Juvenile Justice Department)

BACKGROUND: Family Code, sec. 53.01 governs the preliminary investigation of juvenile justice cases. A probation officer, intake officer, or other authorized person must conduct a preliminary investigation to determine whether the person should be released or the case should be referred to a prosecuting attorney.

DIGEST: CSHB 1204 would require a person conducting a preliminary investigation under Family Code, sec. 53.01 to refer children younger than age 12 to a community resource coordination group, local-level interagency staffing group, or community juvenile service provider in certain cases. Children under age 12 would be referred to these community services if:

- there was probable cause to believe the child engaged in delinquent

- conduct or conduct indicating a need for supervision;
- the case did not require referral to the prosecuting attorney;
- the child was eligible for deferred prosecution; and
- the child and the child's family were not currently receiving community services described in the bill and would benefit from them.

Upon receiving a referral, a community resource coordination group, local-level interagency staffing group, or other community juvenile services provider would have to evaluate the child's case and recommend appropriate services to the juvenile probation department. The probation officer would be required to create and coordinate a service plan or system of care based on those recommendations. Children and their families would have to consent to the services with knowledge that such consent was voluntary.

The probation officer could keep a child's case open for up to three months to monitor adherence to the service plan or system of care and could adjust it as necessary during that period. The child could be referred to the prosecuting attorney if the child failed to successfully participate in the required services.

The bill also would instruct juvenile boards to develop policies to prioritize the diversion of children under 12 years old from referral to a prosecuting attorney and limiting detention of such children to circumstances of last resort.

The bill would take effect September 1, 2017, and would apply only to a child's conduct that occurred on or after that date.

**SUPPORTERS
SAY:**

CSHB 1204 would help divert young offenders from prosecution or detention and into community services tailored to their specific needs. Without early intervention, these children may engage in criminal behavior in adulthood. Detaining children who would be better served by participating in community programs is counterproductive and only reinforces an adversarial mindset among youth toward authorities.

Participation in these community services would be voluntary and intended to divert young children for whom the availability of help and services would be more appropriate than prosecution. The services are designed to help children and their families address behavioral issues by focusing on identified concerns. If the family did not consent, or consented but failed to comply with the community services plan, the probation officer could refer the case a prosecuting attorney.

**OPPONENTS
SAY:**

A probable cause finding would not be sufficient to justify putting children and their families through the rigors of a community services plan. The bill effectively could create a three-month term of probation without a trial on the merits and could violate due process.