

- SUBJECT:** Raising the minimum age of juvenile courts' jurisdiction over children
- COMMITTEE:** Juvenile Justice and Family Issues — committee substitute recommended
- VOTE:** 7 ayes — Dutton, Bowers, Calanni, Cyrier, Dean, Shine, Talarico
1 nay — Murr
- WITNESSES:** For — Eva DeLuna Castro, Center for Public Policy Priorities; Ellen Stone, Texas Appleseed; Jose Flores, Texas Criminal Justice Coalition; Lauren Rose, Texas Network of Youth Services; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Traci Berry, Goodwill Central Texas; Cate Graziani, Grassroots Leadership, Texas Advocates for Justice; Aimee Bertrand, Harris County Commissioners Court; Eric Kunish, National Alliance on Mental Illness Austin; Alissa Sughrue, National Alliance on Mental Illness-Texas; Will Francis, National Association of Social Workers-Texas Chapter; Joshua Massingill, Prison Fellowship Ministries; Kate Murphy, Texans Care for Children; Lori Henning, Texas Association of Goodwills; Bryan Mares, Texas CASA; Lindsey Linder, Texas Criminal Justice Coalition; Marc Levin, Texas Public Policy Foundation; Carl F. Hunter)
- Against — Ron Quiros, Guadalupe County Juvenile Services
- On — (*Registered, but did not testify*: Laura Nicholes, Texas Probation Association)
- BACKGROUND:** Family Code sec. 51.04 establishes juvenile courts' jurisdiction over cases involving delinquent conduct or conduct indicating a need for supervision of a person who was a child at the time the person engaged in the conduct.
- Sec. 51.02(2) defines a child as a person who is:
- at least 10 years old and younger than 17; or
 - at least 17 years old and younger than 18 who is alleged or found to have engaged in delinquent conduct or conduct indicating a need

for supervision as a result of acts committed before turning 17.

Education Code ch. 37 governs the discipline of children in the education system. Sec. 37.141 defines as a child as a person who is a student and at least 10 years of age but younger than 18 years of age.

Code of Criminal Procedure art. 45.058 governs the treatment of children taken into custody. A child taken into custody for certain offenses may be released to the child's parent, guardian, or other responsible adult. The article defines a child as a person who is at least 10 years of age and younger than 17.

DIGEST:

CSHB 1364 would raise from 10 to 12 the minimum age at which a juvenile court could exercise jurisdiction over a child. The bill also would establish a procedure for determining jurisdiction in cases in which children younger than 12 committed a first- or second-degree felony.

Definitions. The bill would change the definition of a child, for the purpose of establishing juvenile courts' jurisdiction, to mean an individual who was:

- at least 10 years old and younger than 19 who was alleged or found to have committed a first- or second-degree felony before turning 12; or
- at least 12 and younger than 19 who was alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision after turning 12 and before turning 17.

The bill also would raise the minimum age of a "child" defined in other codes.

Juvenile courts' jurisdiction over children younger than 12. CSHB 1364 would require that a child younger than 12 who was taken into custody be released from custody to a parent, guardian, custodian, or other responsible adult upon that person's promise to bring the child before a juvenile court as requested by the court, unless the child posed an

immediate threat to public safety or to the child's own safety.

The bill would require a court to hold a hearing without a jury to determine whether to retain jurisdiction over a child younger than 12. The hearing would have to be held immediately before detention, adjudication, or transfer hearings.

In the hearing, the court would be required to consider whether:

- probable cause existed to believe the child committed a first- or second-degree felony;
- normal interventions by child protective services or the child's school would be sufficient to ensure the safety of the public and of the child;
- intervention by the court was warranted; and
- it was in the best interest of the child for the court to intervene.

If the court retained jurisdiction over the child, it could proceed with detention or adjudication hearings, as applicable. If the court waived jurisdiction over the child, it would be required to immediately dismiss the child and the charges against the child. The waiver of jurisdiction over the child would apply only to the dismissed charges.

Age of criminal responsibility. CSHB 1364 would raise from 10 to 12 the age of criminal responsibility for misdemeanors punishable by fines only and certain violations of penal ordinances of political subdivisions, other than offenses under juvenile curfew ordinances or orders.

The bill would take effect September 1, 2019, and would apply only to offenses committed or conduct that occurred on or after that date.

**SUPPORTERS
SAY:**

CSHB 1364 would reduce the number of young children entering and potentially re-entering the juvenile justice system and instead allow them to participate in alternative programs in their communities. Many children who misbehave have experienced trauma in the past and struggle with mental health issues and other issues that could be better addressed by

parents, schools, and in certain cases the Department of Family and Protective Services (DFPS) and Child Protective Services (CPS) than by the juvenile justice system. The bill would allow juvenile courts to grant themselves jurisdiction in severe cases involving first- or second-degree felony offenses.

Studies have shown that every encounter a child has with the justice system increases the likelihood that the child will come into contact with the system again. By reducing the number of young children who come into contact with the system, as well as the number of children in custody and being prosecuted, CSHB 1364 would lower juvenile justice related expenses while helping to reduce the detrimental effects the justice system can have on young children.

CSHB 1364 also would provide juvenile courts jurisdiction over certain individuals younger than 19 who engaged in delinquent conduct when they were young, removing the burden on adult courts of prosecuting some 18-year-olds charged with minor offenses.

OPPONENTS
SAY:

CSHB 1364 would place the responsibility of providing services to certain children and families on the Department of Family and Protective Services and Child Protective Services, which could be ill-equipped to help these families in some cases, especially if the children and families already had received prior assistance from those agencies. In some cases, juvenile probation could be more effective in helping children and families.

The bill also would expand juvenile courts' jurisdiction over 18-year-olds, who should be prosecuted in adult courts.

NOTES:

According to the Legislative Budget Board, CSHB 1364 would have an estimated positive impact of about \$1.2 million in general revenue related funds through the 2020-21 biennium.