

BILL ANALYSIS

Senate Research Center
76R13767 JMC-D

C.S.H.B. 1269
By: Goodman (Shapiro)
Criminal Justice
4/30/1999
Committee Report (Substituted)

DIGEST

Currently, law enforcement agencies are unable to detain a juvenile prior to a hearing if a juvenile has been taken into custody for engaging in conduct involving a firearm. In such cases, juveniles are released to their parents or guardian until a detention hearing is set. This bill would require the immediate detention of juveniles who possess, use, or exhibit a firearm in the commission of an offense.

PURPOSE

As proposed, C.S.H.B. 1269 sets forth guidelines for mandatory detention of a juvenile for allegedly engaging in certain conduct.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 53.02, Family Code, by amending Subsection (b) and adding Subsection (f), to authorize a child taken into custody to be detained prior to hearing on the petition only if the child's detention is required under Subsection (f). Requires a child who is alleged to have engaged in delinquent conduct and to have used, possessed, to exhibited a firearm in the commission of an offense, to be detained until released at the direction, including an oral direction by telephone, of a judge of a juvenile court, a substitute judge authorized by Section 51.04(f), or a referee appointed under Section 51.04(g), or until a detention hearing is held. Makes nonsubstantive changes.

SECTION 2. Amends Sections 51.04(f) and (g), Family Code, to authorize any magistrate to make a determination under Section 53.02(f), if a judge of a juvenile court or any alternative judge is not available. Authorizes a juvenile board or juvenile court to appoint a referee to make determinations under Section 53.02(f) or to conduct hearings under this title. Requires a referee to comply with Section 54.10. Deletes text regarding this section and this code. Deletes text regarding Section 54.10.

SECTION 3. Amends Section 51.12, Family Code, as amended by Chapters 772 and 1374, Acts of the 75th Legislature, Regular Session, 1997, to authorize a child to be detained only in a detention facility as provided by Subsection (j), or a county jail or other facility as provided by Subsection (l). Prohibits a child from being placed or detained in a certain facility, except as provided by Subsections (j) and (l), rather than Subsection (i). Prohibits a child from being detained in a building that contains a jail, except for a child detained in a secure detention facility as provided by Subsection (j), rather than (i), or a facility as provided by Subsection (l). Authorizes a child who is taken into custody and required to be detained under Section 53.02(f) to be detained in a county jail or other facility until the child is released or until a detention hearing is held as required by Section 54.01(p), regardless of whether the facility complies with the requirements of this section, if certain criteria for the facility are met. Makes conforming changes.

SECTION 4. Amends Section 54.01, Family Code, by amending Subsection (a) and adding Subsection (p), to require a detention hearing without a jury to be held if a child is not released under Section 53.02, except as provided by Subsection (p). Requires a detention hearing without a jury to be held within 24 hours of taking the child into custody, excluding weekends and holidays, if a child is detained in a county jail or other facility as provided by Section 51.12(l) and the child is not released under Section 53.02(f).

SECTION 5. Amends Section 54.10, Family Code, to authorize a determination made under Section

53.02(f) whether to release a child to be made by a referee appointed in accordance with Section 51.04(g) if the child has been informed that the child is entitled to have the determination made by a juvenile court judge or a substitute judge, or the child and the attorney for the child have waived the right to have the determination made by certain other judges. Requires a juvenile court judge or a substitute judge to make the determination if a child objects to a referee making the determination. Requires the referee to transmit written findings and recommendations to the juvenile court judge immediately after making the determination. Makes conforming and nonsubstantive changes.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 1999.

SECTION 8. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 3.

Amends Section 51.12, Family Code, to authorize a child who is taken into custody to be detained in a county jail or other facility until a detention hearing is held as required by Section 54.01(p) if certain criteria for the facility are met. Revises the criteria required to be met to detain a child in a county jail or other facility.

SECTION 4.

Amends Section 54.01, Family Code, by amending Subsection (a) and adding Subsection (p), to require a detention hearing without a jury to be held if a child is not released under Section 53.02, except as provided by Subsection (p). Requires a detention hearing without a jury to be held within 24 hours of taking the child into custody, excluding weekends and holidays, if a child is detained in a county jail or other facility as provided by Section 51.12(1) and the child is not released under Section 53.02(f).

SECTIONS 5 - 8.

Redesignated from SECTIONS 4 - 7.