

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3660
By: White; Collier (Perry)
Criminal Justice
5/19/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Juveniles who commit fine-only offenses are currently not entitled to the same diversion strategies that are employed by the juvenile courts in cases when juveniles commit felonies, Class A misdemeanors, or Class B misdemeanors. Therefore juveniles who are convicted of Class C misdemeanors have criminal convictions on their records and these convictions can have significant long-term consequences.

The purpose of this bill is to reduce juvenile involvement in the criminal justice system for fine-only offenses. This bill applies only to children who are at least 10 years of age and younger than 17 years of age who commit Class C misdemeanors other than traffic offenses. This bill would specifically require that children be diverted from the criminal justice system through an identified diversion strategy. A child who is 15 years of age or older at the time of the alleged offense is not eligible for diversion if the child has previously had two unsuccessful diversions.

Diversion strategies that courts will be able to utilize include: teen courts, school related programs, educational programs, rehabilitation programs, or self-improvement programs. Additionally, all records of a diversion may be expunged after the child's 17th birthday and shall be expunged before the child's 18th birthday.

(Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 3660 amends current law relating to youth diversion programs for children accused of certain fine-only offenses and related criminal justice matters and authorizes and imposes fees and fines.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 45, Code of Criminal Procedure, by adding Subchapter E, as follows:

SUBCHAPTER E. YOUTH DIVERSION

Art. 45.301. DEFINITIONS. Defines "charge," "child," "diversion," "offense," "parent," "service provider," and "youth diversion plan."

Art. 45.302. APPLICABILITY. Provides that Subchapter E applies only to a child who is alleged to have engaged in conduct that constitutes a misdemeanor punishable by fine only, other than a traffic offense.

Art. 45.303. TRANSFER TO JUVENILE COURT NOT AFFECTED. Provides that nothing in Subchapter E precludes:

(1) a case involving a child from being referred, adjudicated, or disposed of as conduct indicating a need for supervision under Title 3 (Juvenile Justice Code), Family Code; or

(2) a waiver of criminal jurisdiction and transfer of a child's case as provided by Section 51.08 (Transfer from Criminal Court), Family Code.

Art. 45.304. DIVERSION ELIGIBILITY. (a) Requires a child, except as otherwise provided by this subchapter, to be diverted from formal criminal prosecution as provided by Subchapter E.

(b) Provides that a child is not eligible for diversion if the child has previously had two unsuccessful diversions under Subchapter E for offenses that were not part of a single criminal episode, as defined by Section 3.01 (Definition), Penal Code.

Art. 45.305. DIVERSION STRATEGIES. (a) Provides that diversion strategies include requiring a child to participate in certain programs, referring the child to a service provider for certain services, and requiring a child to participate in certain testing or treatment or to perform certain court-ordered actions in restitution.

(b) Sets forth certain conditions under which a diversion strategy is authorized to be imposed.

(c) Prohibits a diversion strategy under this subchapter from requiring a child who is a home-schooled student, as defined by Section 29.916 (Home-Schooled Student Merit Scholarship and Advanced Placement Testing), Education Code, to attend an elementary or secondary school or use an educational curriculum other than the curriculum selected by the parent.

Art. 45.306. YOUTH DIVERSION PLAN. (a) Provides that a youth diversion plan is a written plan that describes the types of strategies that will be used to implement youth diversion and that a youth diversion plan does not limit the types of diversion strategies that are authorized to be imposed under a diversion agreement under Article 45.312.

(b) Requires each justice and municipal court to adopt a youth diversion plan.

(c) Authorizes a youth diversion plan to be devised for a county or municipality or an individual court within a county or municipality.

(d) Authorizes a local government, in accordance with Chapter 791 (Interlocal Cooperation Contracts), Government Code, to enter into an agreement with one or more local governments to create a regional youth diversion plan and collaborate in the implementation of Subchapter E.

(e) Authorizes a youth diversion plan to include an agreement with a service provider to provide services for a diversion strategy.

(f) Authorizes a youth diversion plan to contain guidelines for disposition or diversion of a child's case by law enforcement under Article 45.310 or 45.311. Provides that the guidelines are not mandatory.

(g) Prohibits the guidelines adopted under Subsection (f) from allowing for the disposition or diversion of a child's case under Article 45.310 or 45.311 if there is probable cause to believe that the child may be the victim of conduct that constitutes an offense under Section 20A.02 (Trafficking of Persons), Penal Code.

(h) Requires that a current youth diversion plan be maintained on file for public inspection in each justice and municipal court, including courts that collaborate with one or more counties or municipalities.

(i) Authorizes a court or local government to adopt rules necessary to coordinate services under a youth diversion plan or to implement Subchapter E.

Art. 45.307. YOUTH DIVERSION COORDINATOR. (a) Authorizes a court to designate a youth diversion coordinator to assist the court in certain responsibilities.

(b) Authorizes the responsibilities of the youth diversion coordinator to be performed by certain officials.

Art. 45.308. YOUTH DIVERSION ADVISORY COUNCIL. (a) Authorizes a commissioners court of a county or the governing body of a municipality to establish a youth diversion advisory council.

(b) Provides that the purpose of a youth diversion advisory council is to facilitate community input, suggest improvements to a youth diversion plan, and make recommendations to accomplish certain objectives.

(c) Provides that the commissioners court of the county or governing body of the municipality appoints the members of the youth diversion advisory council. Provides that the members serve terms specified by the commissioners court or governing body without compensation.

(d) Authorizes county and municipal youth diversion advisory councils to collaborate to identify best practices, share information and resources, and coordinate diversion efforts under Subchapter E.

(e) Authorizes one or more counties or municipalities, by agreement, to create a regional youth diversion advisory council.

Art. 45.309. WARNING NOTICE BY PEACE OFFICER. (a) Authorizes a peace officer, in lieu of taking a child into custody, issuing a citation, or filing a complaint for an offense, to issue a warning notice to the child under certain circumstances.

(b) Provides that a warning notice filed under this article is not a diversion but is authorized to be used as the basis of further action under the terms of a diversion agreement.

Art. 45.310. PEACE OFFICER DISPOSITION. (a) Authorizes a peace officer, in lieu of issuing a citation to a child or filing a complaint in a justice or municipal court, to dispose of a case under certain circumstances.

(b) Prohibits a disposition under this article from including keeping the child in law enforcement custody or requiring the child to report periodically to a peace officer, law enforcement agency, or other service provider.

(c) Authorizes a disposition under this article to include referral of the child to a service provider or other diversion strategy specified in a youth diversion plan, a brief conference with the child and the child's parent, or referral of the child and the child's parent for at-risk youth services under Subchapter D (Services to At-Risk Youth), Chapter 264 (Child Welfare Services), Family Code.

Art. 45.311. FIRST OFFENSE DIVERSION PROGRAM. (a) Defines "program."

(b) Authorizes a commissioners court of a county or the governing body of a municipality, as part of a youth diversion plan, to establish a first offense diversion program for the referral and disposition of a case before the filing of a charge for a first offense.

(c) Requires a county or municipality in which a program has been established to designate one or more peace officers, law enforcement agencies, or service providers to process children in the program.

(d) Authorizes a peace officer who has a child in custody, in lieu of issuing a citation to a child or filing a complaint in a justice or municipal court, to refer the child to the peace officer, law enforcement agency, or service provider designated under Subsection (c) if the child has not previously been referred to a program under this article and the officer reports the referral in writing to the agency, identifying the child and specifying the grounds for taking the child into custody or for accusing the child of the offense.

(e) Requires a child's parent to be notified that the child is eligible to be referred to a first offense diversion program. Requires that the notice include certain information.

(f) Requires the child and the child's parent to consent to the referral before a child is referred to a program.

(g) Authorizes a referral to a program under this article to be for a period of not more than 180 days.

(h) Sets forth certain diversion strategies a program is authorized to include.

(i) Provides that the case of a child who successfully completes a program is closed and is prohibited from being referred to court.

(j) Requires that the case of a child referred to a program be referred to a prosecutor or to court, or as specified in a youth diversion plan, if the child fails to complete the program, the child or the child's parent terminates the child's participation in the program before the child completes the program, or the child is alleged to have committed another offense during the child's participation in the program.

(k) Prohibits a statement made by a child to a person while participating in a program from being used against the child in any subsequent court proceeding.

Art. 45.312. DIVERSION AGREEMENT. (a) Requires that a diversion agreement identify the parties to the agreement and the responsibilities of the child and the child's parent to ensure their meaningful participation in a diversion under Article 45.313 or 45.314.

(b) Requires that stated objectives in a diversion agreement be measurable, realistic, and reasonable considering the circumstances of the child and the best interests of the child and the community.

(c) Requires that a diversion agreement include certain elements and information.

(d) Authorizes the terms of an agreement to vary depending on the circumstances of the child, including the child's age and ability, the charge being diverted, the diversion program, or the diversion strategy.

(e) Provides that a charge is prohibited from being filed against a child or, if filed, is required to be dismissed if the child does not contest the charge, is eligible for diversion under Article 45.304, and accepts the terms of the agreement.

(f) Provides that entering into a diversion agreement under this article extends the court's jurisdiction for the term of the agreement.

(g) Requires that a copy of the agreement, on entering into a diversion agreement, be provided to the child and the child's parent, the clerk of the court, a youth diversion coordinator, and any person specified by the youth diversion plan.

Art. 45.313. INTERMEDIATE DIVERSION FROM COURT. (a) Requires a youth diversion coordinator, juvenile case manager, or other designated officer of the court, if provided by a youth diversion plan and subject to the direction of the court, to advise the child and the child's parent before a case is filed that the case is authorized to be diverted under this article for a reasonable period not to exceed 180 days under certain circumstances.

(b) Requires that the terms of a diversion agreement under this article be in writing and authorizes the terms to include any of the diversion strategies under Article 45.305.

(c) Requires that the case of a child who successfully complies with the terms of a diversion agreement under this article be closed and reported as successful to the court.

(d) Requires that a child who does not comply with the terms of a diversion agreement under this article be referred to court under Article 45.315.

(e) Prohibits a statement made by a child or parent during a discussion related to a diversion under this article from being used against a declarant in any subsequent court proceeding.

Art. 45.314. DIVERSION BY JUSTICE OR JUDGE. (a) Requires a justice or judge, if a charge involving a child who is eligible for diversion is filed with a court, to divert the case under this article.

(b) Requires a justice or judge, if the child does not contest the charge, to divert the case under this article without the child having to enter a plea.

(c) Requires a justice or judge, if the child contests the charge, to divert the case under this article at the conclusion of trial on a finding of guilt without entering a judgment of conviction as provided by Article 45.041 (Judgment).

(d) Prohibits a diversion under this article from exceeding 180 days.

(e) Requires that the terms of a diversion agreement under this article be in writing and authorizes the terms to include any of the diversion strategies described by Article 45.305.

(f) Requires that the case of a child who successfully complies with the terms of a diversion agreement under this article be closed and reported as successful to the court.

(g) Requires that a child who does not comply with the terms of a diversion agreement under this article be referred to court for a hearing under Article 45.315.

Art. 45.315. REFERRAL TO COURT. (a) Requires a court to conduct a non-adversarial hearing for a child who does not successfully complete the terms of a diversion under Article 45.311, 45.313, or 45.314 and is referred to court.

(b) Provides that the hearing is an opportunity for a justice or judge to confer with the child and the child's parent to determine whether a diversion should be declared unsuccessful by the court. Authorizes the court to also hear from any person who may be of assistance to the child or the court in determining what is in the best interests of the child and the community.

(c) Authorizes the court, after the hearing, to enter an order:

(1) amending or setting aside terms in a diversion agreement;

(2) extending the diversion for a period not to exceed one year;

(3) issuing a continuance for the hearing for a period not to exceed 60 days to allow an opportunity for compliance with the terms of a diversion;

(4) subject to Subsection (d), requiring the child's parent to do or refrain from doing any act if the court determines that will increase the likelihood the child will successfully complete the diversion and comply with any other order of the court that is reasonable and necessary for the welfare of the child;

(5) finding the diversion successful on the basis of substantial compliance; or

(6) finding the diversion unsuccessful.

(d) Prohibits an order under Subsection (c) (4) from having the substantive effect of interfering with a parent's fundamental right to determine how to raise the parent's child, unless the court finds that the interference is necessary to prevent significant impairment of the child's physical, mental, or emotional health.

(e) Provides that an order under Subsection (c)(4) is enforceable by contempt.

(f) Authorizes the court, if the court enters an order under Subsection (c)(6), to transfer the child to juvenile court for alleged conduct indicating a need for supervision under Section 51.08 (Transfer from Criminal Court), Family Code.

Art. 45.316. LOCAL YOUTH DIVERSION ADMINISTRATIVE FEE. (a) Authorizes the clerk of a justice or municipal court to collect from a child's parent a \$30 administrative fee to defray the costs of the diversion of the child's case under Subchapter E.

(b) Prohibits the fee under this article from being collected unless specified as a term of the diversion agreement accepted by the child's parent. Requires the court, if the fee is not paid after giving the child's parent an opportunity to be heard, to order the parent, if financially able, to pay the fee to the clerk of the court.

(c) Requires a court to waive the fee if the child's parent is indigent or does not have sufficient resources or income to pay the fee.

(d) Authorizes a court to adopt rules for the waiver of a fee for financial hardship under this article.

(e) Requires the clerk of the court to keep a record of the fees collected under this article and to forward the funds to the county treasurer, municipal treasurer, or person fulfilling the role of a county treasurer or municipal treasurer, as appropriate.

(f) Requires that the fee collected under this article be deposited in a special account that can be used only to offset the cost of the operations of youth diversion programs under Subchapter E.

(g) Prohibits a fee, except for the fee authorized under Subsection (a), from being assessed for a child diverted under Subchapter E.

(h) Prohibits the diversion of a child from being contingent on payment of a fee under this article.

Art. 45.317. DIVERSION RECORDS. (a) Requires a justice or municipal court to maintain statistics for each diversion strategy authorized by Subchapter E.

(b) Requires that statistics indicating the number of warning notices under Article 45.309 and types of dispositions or diversions made by a law enforcement agency under Article 45.310 or 45.311 be reported at least annually to the justice or municipal court or youth diversion coordinator as specified by a youth diversion plan. Requires that statistics include the age, gender, and ethnicity of the child and the offense alleged by law enforcement to have been committed by the child.

(c) Provides that, other than statistical records, all records generated under Subchapter E are confidential under Article 45.0217 (Confidential Records Related to Charges Against or the Conviction of a Child).

(d) Authorizes all records of a diversion pertaining to a child under Subchapter E to be expunged after the child's 17th birthday and requires that the records, without requirement for a motion or request, be expunged before the child's 18th birthday.

SECTION 2. Amends Articles 42.15(a-1) and (d), Code of Criminal Procedure, as follows:

(a-1) Deletes existing text requiring the court, if the court determines that the defendant does not have sufficient resources or income to immediately pay all or part of the fine and costs, to determine whether the fine and costs should be discharged by performing community service under, as applicable, Article 45.0492 (Community Service in Satisfaction of Fine or Costs for Certain Juvenile Defendants), as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, and Article 45.0492 (Community Service in Satisfaction of Fine or Costs for Certain Juvenile Defendants), as added by Chapter 777 (H.B. 1964), Acts of the 82nd Legislature, Regular Session, 2011. Makes a nonsubstantive change.

(d) Authorizes a judge to allow a defendant who is a child to discharge the fine and cost imposed by conviction under certain circumstances, including by performing community service or receiving tutoring under Article 45.049 (Community Service in Satisfaction of Fine or Costs), rather than under Article 45.0492, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011.

SECTION 3. Reenacts Article 44.2811, Code of Criminal Procedure, as amended by Chapters 1257 (H.B. 528), 1319 (S.B. 394), and 1407 (S.B. 393), Acts of the 83rd Legislature, Regular Session, 2013, and amends it, as follows:

Art. 44.2811. New heading: RECORDS RELATING TO CERTAIN FINE-ONLY MISDEMEANORS COMMITTED BY A CHILD. Provides that all records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a criminal case for a misdemeanor punishable by fine only, other than a traffic offense, that is committed by a child and that is appealed are confidential and are prohibited from being disclosed to the public except as provided under Article 45.0217(b) (relating to who is authorized to view certain confidential records). Deletes existing text providing that this article applies only to a misdemeanor offense punishable by fine only, other than a traffic offense. Makes conforming changes.

SECTION 4. Amends Article 45.0215(a), Code of Criminal Procedure, to provide that Article 45.0215 (Plea by Minor and Appearance of Parent) is subject to the requirements of Subchapter E.

SECTION 5. Reenacts Article 45.0217, Code of Criminal Procedure, as amended by Chapters 1257 (H.B. 528), 1319 (S.B. 394), and 1407 (S.B. 393), Acts of the 83rd Legislature, Regular Session, 2013, and amends it, as follows:

Art. 45.0217. New heading: CONFIDENTIAL RECORDS RELATED TO CHARGES AGAINST OR CONVICTION OF A CHILD. (a) Provides that, except as provided by Article 15.27 (Notification to Schools Required) and Subsection (b), all records and files, including those held by law enforcement, and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is charged with, is convicted of, is found not guilty of, had a charge dismissed for, or is granted deferred disposition for a misdemeanor punishable by fine only, other than a traffic offense, rather than is granted deferred disposition for or who has received a dismissal after deferral of disposition for an offense described by Subsection (a), are confidential and are prohibited from being disclosed to the public. Deletes existing text providing that this article applies only to a misdemeanor offense punishable by fine only, other than a traffic offense. Makes nonsubstantive changes.

(b) Authorizes information subject to Subsection (a), rather than (a-1), to be open to inspection only by:

(1) judges, prosecutors, and the staff of the judges or prosecutors, rather than judges or court staff;

(2) - (6) makes nonsubstantive changes to these subdivisions;

(7) a governmental agency if the disclosure is required or authorized by law or for the purpose of maintaining statistical records of recidivism and for diagnosis and classification;

(8) an individual or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the individual or entity regarding the protection of the disclosed information; or

(9) with leave of the justice or municipal court, any other person having a legitimate interest in the proceeding or in the work of the court.

SECTION 6. Amends Articles 45.041(a-1), (b-3), and (b-5), Code of Criminal Procedure, as follows:

(a-1) Deletes existing text requiring the justice or judge, if the justice or judge determines that the defendant does not have sufficient resources or income to immediately pay all or part of the fine and costs, to determine whether the fine and costs should be discharged by performing community service under, as applicable, Article 45.0492, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, or Article 45.0492, as added by Chapter 777 (H.B. 1964), Acts of the 82nd Legislature, Regular Session, 2011.

(b-3) Requires, rather than authorizes, a judge, if a diversion is not required under Subchapter E or Subsection (b-5), to allow a defendant who is a child, as defined by Article 45.058(h) (relating to the definition of a child), to elect at the time of conviction, as defined by Section 133.101 (Meaning of Conviction), Local Government Code, to discharge the fine and costs by performing community service or receiving tutoring under Article 45.049. Makes a conforming change.

(b-5) Requires the justice or judge, if a case involving a child who is eligible for diversion under Article 45.304 results in a trial, on a finding of guilt, without entering a judgment, sentence, or conviction, to order a diversion under Article 45.314. Deletes existing text providing that certain requirements under Article 45.0492(a) (relating to application of this article only to a defendant younger than 17 years of age who is

assessed a fine or costs for certain Class C misdemeanors), as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011 do not apply to the performance of community service or the receipt of tutoring to discharge a fine or costs under Subsection (b-3)(1).

SECTION 7. Amends Articles 45.049(a), (b), (c), (d), (f), and (i), Code of Criminal Procedure, as follows:

(a) Includes a defendant who is a child and assessed a fine or costs among defendants a justice or judge is authorized to require to discharge all or part of the fine or costs by performing community service. Makes a nonsubstantive change.

(b) Prohibits the number of hours of community service the defendant is required to perform under Article 45.049 from exceeding 20 hours if the defendant is a child.

(c) Authorizes the justice or judge to order the defendant to perform community service under Article 45.049 by attending certain activities, including a tutoring program if the defendant is a child. Makes a nonsubstantive change.

(d) Prohibits a justice or judge from ordering a defendant to perform more than 16 hours per week of community service under Article 45.049 unless the justice or judge determines that requiring the defendant to perform additional hours does not impose an undue hardship including, if the defendant is a child, on the defendant or the defendant's family. Defines "family."

(f) Provides that certain law enforcement officials that accept a defendant under Article 45.049 or Subchapter E, rather than under Article 45.049, to perform community service are not liable for damages arising from an act or failure to act in connection with community service performed by a defendant under Article 45.049 or Subchapter E, rather than under Article 45.049, if the act or failure to act was performed pursuant to court order and was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

(i) Authorizes certain entities, including, among others, a local juvenile probation department, to provide the administrative and other services necessary for supervision of a defendant required to perform community service under Article 45.049.

SECTION 8. Amends Article 45.051(a-1), Code of Criminal Procedure, to delete existing text authorizing the judge to require an eligible defendant to discharge all or part of those fines and costs by performing community service or attending a tutoring program under Article 45.0492, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011.

SECTION 9. Amends Articles 45.056(a), (b), (d), (e), (g), and (h), Code of Criminal Procedure, as follows:

(a) Authorizes a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity, on approval of certain appropriate authority, to:

(1) employ a juvenile case manager or contract for a juvenile case manager, rather than employ a case manager, to provide services in cases involving:

(A) youth diversion under Subchapter E;

(B) children, rather than juvenile offenders, who are before a court consistent with the court's statutory powers; or

(C) makes a conforming change to this paragraph;

(2) employ or contract for the services of, rather than employ, one or more juvenile case managers who are authorized to provide youth diversion services, rather than intervention services, to juveniles engaged in misconduct before cases are filed, excluding traffic offenses; or

(3) agree in accordance with Chapter 791, Government Code, with any appropriate governmental entity to jointly employ a juvenile case manager, jointly contract for juvenile case manager services, or jointly contribute to the costs of a juvenile case manager or juvenile case manager services, rather than a case manager employed by one governmental entity to provide services, described by Subdivisions (1) and (2).

Makes conforming and nonsubstantive changes.

(b) Authorizes a local entity to apply or more than one local entity to jointly apply to the criminal justice division of the governor's office for reimbursement of all or part of the costs of employing one or more juvenile case managers or contracting for juvenile case manager services, from funds appropriated to the governor's office or otherwise available for purposes of youth diversion. Requires the entity applying, to be eligible for reimbursement, to present to the governor's office certain information, including a youth diversion plan under Article 45.306 that addresses the role of the juvenile case manager. Makes conforming changes.

(d) Authorizes the court or governing body to pay from the local youth diversion fund established under Section 134.156, Local Government Code:

(1) creates this subdivision from existing text and makes a nonsubstantive change;

(2) the costs of contracting for juvenile case manager services; and

(3) the costs of training, travel, office supplies, and other necessary expenses relating to the position of the juvenile case manager and juvenile case manager services.

Makes nonsubstantive changes.

(e) Requires a juvenile case manager, rather than a juvenile case manager employed under Subsection (c), to give priority to cases brought under Section 25.093 (Parent Contributing to Nonattendance), Education Code, Chapter 65 (Truancy Court Proceedings), Family Code, and youth diversion under Subchapter E, rather than under Sections 25.093 and 25.094 (Failure to Attend School), Education Code.

(g) Makes a nonsubstantive change to this subsection.

(h) Requires the commissioners court or governing body of the municipality that administers a local youth diversion fund, rather than a local truancy prevention and diversion fund, under Section 134.156, Local Government Code, to require periodic review of juvenile case managers to ensure the implementation of the rules adopted under Subsection (f) (relating to certain rules for juvenile case managers).

SECTION 10. Reenacts Article 45.056(c), Code of Criminal Procedure, as amended by Chapters 1213 (S.B. 1419) and 1407 (S.B. 393), Acts of the 83rd Legislature, Regular Session, 2013, and amends it, as follows:

(c) Provides that an entity that jointly employs a juvenile case manager, rather than a case manager, jointly contracts for juvenile case manager services, or jointly contributes to the costs of a juvenile case manager or juvenile case manager services under Subsection (a)(3) (relating to authorizing certain entities to jointly employ a case manager with a governmental entity) employs a juvenile case manager for purposes of Chapter 102

(Costs, Fees, and Fines Paid by Defendants), Code of Criminal Procedure, and Chapter 102 (Court Costs in Criminal Proceedings), Government Code.

SECTION 11. Amends the heading to Article 102.014, Code of Criminal Procedure, to read as follows:

Art. 102.014. FINES FOR CHILD SAFETY FUND.

SECTION 12. Amends Articles 102.014(g) and (h), Code of Criminal Procedure, as follows:

(g) Authorizes a municipality with a population less than 850,000, if the municipality does not operate a school crossing guard program or if the money received from fines from municipal court cases exceeds the amount necessary to fund the school crossing guard program, to expend the additional money for certain programs designed to enhance child safety, health, or nutrition, including, among others, youth diversion.

(h) Makes a conforming change to this subsection.

SECTION 13. Amends Article 102.0171, Code of Criminal Procedure, by amending Subsections (a) and (c) and adding Subsection (e), as follows:

(a) Requires a defendant convicted of an offense under Section 28.08 (Graffiti), Penal Code, in a municipal court, justice court, county court, county court at law, or district court, rather than a county court, county court at law, or district court, to pay a fine of \$50 for juvenile delinquency prevention and graffiti eradication.

(c) Requires the clerks of the respective courts to collect the fines and pay the fines to the county treasurer, municipal treasurer, or to any other official who discharges the duties commonly delegated to the county or municipal treasurer, rather than to the county treasurer, or to any other official who discharges the duties commonly delegated to the county treasurer for deposit in a fund to be known as the county juvenile delinquency prevention fund or municipal juvenile delinquency prevention fund. Authorizes a fund designated by this subsection to be used in only certain circumstances, including to provide funding for youth diversion under Subchapter E, Chapter 45. Makes conforming and nonsubstantive changes.

(e) Requires that the municipal juvenile delinquency prevention fund be administered by or under the direction of the governing body of a municipality.

SECTION 14. Amends Section 52.03(a), Family Code, as follows:

(a) Authorizes a law-enforcement officer authorized by Title 3 (Juvenile Justice Code), to take a child into custody to dispose of the case of a child taken into custody, without referral to juvenile court, if the officer makes a written report of the officer's disposition to the law-enforcement agency, identifying the child and specifying the grounds for believing that the taking into custody was authorized. Deletes existing text authorizing a law-enforcement officer to dispose of the case of a child taken into custody or accused of a Class C misdemeanor, other than a traffic offense without referral to juvenile court or charging a child in a court of competent criminal jurisdiction under certain circumstances. Makes a conforming change.

SECTION 15. Amends Section 52.031(a), Family Code, as follows:

(a) Authorizes a juvenile board to establish a first offender program under Section 52.031 (First Offender Program) for the referral and disposition of children taken into custody for, rather than children taken into custody or accused prior to the filing of a criminal charge, of :

(1) makes a nonsubstantive change to this subdivision; or

(2) certain delinquent conduct.

Deletes existing text authorizing a juvenile board to establish first offender program under this section for the referral and disposition of children accused prior to the filing of a criminal charge, of a Class C misdemeanor, other than a traffic offense. Makes a nonsubstantive change.

SECTION 16. Reenacts Sections 52.031(d), (f), (i), and (j), Family Code, as amended by Chapters 1407 (S.B. 393) and 1409 (S.B. 1114), Acts of the 83rd Legislature, Regular Session, 2013, and amends them, as follows:

(d) Authorizes a law enforcement officer taking a child into custody, rather than taking a child into custody or accusing a child of an offense described in Subsection (a)(2) (relating to a Class C misdemeanor, other than a traffic offense), to refer the child to the law enforcement officer or agency designated under Subsection (b) (relating to the requirement that each juvenile board designate one or more law enforcement agencies for first offender programs) for disposition under the first offender program and not refer the child to juvenile court, rather than juvenile court or a court of competent criminal jurisdiction, only if:

(1) and (2) makes no changes to these subdivisions; and

(3) the officer reports in writing the referral to the agency, identifying the child and specifying the grounds for taking the child into custody, rather than taking the child into custody or accusing a child of an offense described in Subsection (a)(2).

(f) Requires the parent, guardian, or other custodian of the child to receive notice that the child has been referred for disposition under the first offender program. Requires that the notice:

(1) makes a conforming change to this subdivision;

(2) and (3) makes no changes to these subdivisions; and

(4) state that the child's failure to complete the program will result in the child being referred to the juvenile court, rather than being referred to the juvenile court or a court of competent criminal jurisdiction.

(i) and (j) Makes conforming changes to these subsections.

SECTION 17. Amends Section 264.302(e), Family Code, as follows:

(e) Requires the Department of Family and Protective Services (DFPS) to provide services for a child and the child's family if a contract to provide services under Section 264.302 (Early Youth Intervention Services) is available in the county and the child is referred to DFPS as an at-risk child by:

(1) makes no changes to this subdivision;

(2) a law enforcement officer or agency under Article 45.310 or 45.311, Code of Criminal Procedure, or Section 52.03 (Disposition Without Referral to Court), of this code, rather than a law enforcement officer or agency under Section 52.03; or

(3) a justice or municipal court under Article 45.057 (Offenses Committed by Juveniles), 45.313, or 45.314, Code of Criminal Procedure, rather than under Article 45.057, Code of Criminal Procedure.

SECTION 18. Amends Section 133.102(e), Local Government Code, to require the Comptroller of Public Accounts of the State of Texas (comptroller) to allocate certain court costs to certain

accounts, including the youth diversion account, rather than the truancy prevention and diversion account. Makes a nonsubstantive change.

SECTION 19. Amends Section 133.125, Local Government Code, as follows:

Sec. 133.125. New heading: ALLOCATION OF FEES TO YOUTH DIVERSION ACCOUNT. (a) Provides that the youth diversion account, rather than the truancy prevention and diversion account, is a dedicated account in the general revenue fund.

(b) and (c) Makes conforming changes to these subsections.

SECTION 20. Amends Section 134.103(b), Local Government Code, to require the treasurer to allocate court costs received under Section 134.103 (Local Consolidated Fee on Conviction of Nonjailable Misdemeanor) to certain accounts, including the local youth diversion fund, rather than the local truancy prevention and diversion fund.

SECTION 21. Amends the heading to Section 134.156, Local Government Code, to read as follows:

Sec. 134.156. LOCAL YOUTH DIVERSION FUND.

SECTION 22. Amends Section 134.156(a), Local Government Code, as follows:

(a) Authorizes money allocated under Section 134.103 to the local youth diversion fund, rather than the local truancy prevention and diversion fund, maintained in the county or municipal treasury as required by Section 134.151 (Maintenance of Funds and Accounts) to be used by a county or municipality to finance certain expenses relating to the position of a juvenile case manager employed or contracted, rather than employed, under Article 45.056 (Juvenile Case Managers), Code of Criminal Procedure.

SECTION 23. Repealer: Article 45.0492 (Community Service in Satisfaction of Fine or Costs for Certain Juvenile Defendants), Code of Criminal Procedure, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011.

Repealer: Article 45.0492 (Community Service in Satisfaction of Fine or Costs for Certain Juvenile Defendants), Code of Criminal Procedure, as added by Chapter 777 (H.B. 1964), Acts of the 82nd Legislature, Regular Session, 2011.

Repealer: Article 42.15(f) (relating to non-applicability of the requirement that an offense occur on the grounds of the school in which the defendant was enrolled to the performance of community service to discharge a fine or cost), Code of Criminal Procedure.

Repealer: Section 52.031(a-1) (relating to a child accused of a Class C misdemeanor referred to a first offender program), Family Code.

SECTION 24. Requires each justice and municipal court, not later than September 1, 2022, to implement a youth diversion plan under Subchapter E, Chapter 45, Code of Criminal Procedure, as added by this Act.

SECTION 25. Makes application of this Act prospective to September 1, 2022.

SECTION 26. Effective date: September 1, 2021.