

BILL ANALYSIS

C.S.H.B. 725
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Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, a juvenile who is certified to stand trial as an adult cannot appeal that certification until after conviction or after an order of deferred adjudication has been entered, a process which can take years. Interested parties contend that allowing an appeal at an earlier point could save the state valuable resources if it is determined that a certification was improper prior to the adult trial. C.S.H.B. 725 seeks to bring fairness, equity, and efficiency to this appeals process.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 725 amends the Family Code to include an appeal of a juvenile court order that waives the juvenile court's exclusive original jurisdiction and that transfers a child to criminal court for prosecution among the appeals that have precedence over all other cases. The bill requires the Supreme Court of Texas to adopt rules ensuring the acceleration of the disposition by the appellate court and the supreme court of such an appeal and includes such an appeal among the appeals that may be taken by or on behalf of a child.

C.S.H.B. 725 amends the Code of Criminal Procedure to make a conforming change.

C.S.H.B. 725 repeals Article 44.47, Code of Criminal Procedure, authorizing a defendant to appeal an order of a juvenile court certifying the defendant to stand trial as an adult and transferring the defendant from a juvenile court to a criminal court.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 725 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Article 4.18(g), Code of Criminal Procedure, is amended.

SECTION 2. Section 51.041(a), Family Code, is amended.

SECTION 3. Section 56.01, Family Code, is amended by amending Subsections (b) and (c) and adding Subsection (b-2) to read as follows:

(b) Except as provided by Subsection (b-2), the [The] requirements governing an appeal are as in civil cases generally. When an appeal is sought by filing a notice of appeal, security for costs of appeal, or an affidavit of inability to pay the costs of appeal, and the filing is made in a timely fashion after the date the disposition order is signed, the appeal must include the juvenile court adjudication and all rulings contributing to that adjudication. An appeal of the adjudication may be sought notwithstanding that the adjudication order was signed more than 30 days before the date the notice of appeal, security for costs of appeal, or affidavit of inability to pay the costs of appeal was filed.

(b-2) An appeal of an order entered under Section 54.02 regarding waiver of jurisdiction and transfer of a child to criminal court for prosecution is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure.

- (c) An appeal may be taken:
 - (1) except as provided by Subsection (n), by or on behalf of a child from an order entered under:
 - (A) Section 54.02 respecting transfer of the child for prosecution as an adult;
 - (B) Section 54.03 with regard to delinquent conduct or conduct indicating a need for supervision;
 - (C) [~~B~~] Section 54.04 disposing of the

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Sections 56.01(c) and (h), Family Code, are amended to read as follows:

(h) If the order appealed from takes custody of the child from the child's [his] parent, guardian, or custodian or waives jurisdiction under Section 54.02 and transfers the child to criminal court for prosecution, the appeal has precedence over all other cases. The supreme court shall adopt rules ensuring the acceleration of the disposition by the appellate court and the supreme court of an appeal of an order waiving jurisdiction under Section 54.02 and transferring a child to criminal court for prosecution.

- (c) An appeal may be taken:
 - (1) except as provided by Subsection (n), by or on behalf of a child from an order entered under:
 - (A) Section 54.02 respecting transfer of the child for prosecution as an adult;
 - (B) Section 54.03 with regard to delinquent conduct or conduct indicating a need for supervision;
 - (C) [~~B~~] Section 54.04 disposing of the

case;

(D) [~~(C)~~] Section 54.05 respecting modification of a previous juvenile court disposition; or

(E) [~~(D)~~] Chapter 55 by a juvenile court committing a child to a facility for the mentally ill or intellectually disabled [~~mentally retarded~~]; or

(2) by a person from an order entered under Section 54.11(i)(2) transferring the person to the custody of the Texas Department of Criminal Justice.

SECTION 4. Article 44.47, Code of Criminal Procedure, is repealed.

SECTION 5. The change in law made by this Act applies only to an order of a juvenile court waiving jurisdiction and transferring a child to criminal court that is issued on or after the effective date of this Act. An order of a juvenile court waiving jurisdiction and transferring a child to criminal court that is issued before the effective date of this Act is governed by the law in effect on the date the order was issued, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2015.

case;

(D) [~~(C)~~] Section 54.05 respecting modification of a previous juvenile court disposition; or

(E) [~~(D)~~] Chapter 55 by a juvenile court committing a child to a facility for the mentally ill or intellectually disabled [~~mentally retarded~~]; or

(2) by a person from an order entered under Section 54.11(i)(2) transferring the person to the custody of the Texas Department of Criminal Justice.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.