

BILL ANALYSIS

Senate Research Center
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S.B. 1617
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Jurisprudence
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, when a minor commits a crime he or she must be certified as either a minor or an adult for the entire criminal prosecution. If an element of a homicide or intoxication manslaughter occurs after the defendant has been certified as a child, the defendant may not be re-certified as an adult for prosecution for homicide or intoxication manslaughter.

S.B. 1617 will allow a court to reconsider certifying a person as an adult for a homicide or intoxication manslaughter charge when he or she was previously certified as a minor for prosecution stemming from the criminal transaction. The defendant can only be charged in this manner if one of the elements of the homicide or intoxication manslaughter had not occurred when the defendant was originally certified as a minor.

As proposed, S.B. 1617 amends current law relating to the discretionary transfer from a juvenile court to a criminal court of certain alleged offenses arising out of a single criminal transaction.

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 Section 54.02, Family Code, by amending Subsection (g) and adding Subsection (g-1), as follows:

(g) Requires the juvenile court to either retain or transfer all offenses relating to a single transaction if the petition alleges multiple offenses that constitute more than one criminal transaction. Provides that except as provided by Subsection (g-1), a child is not subject to criminal prosecution at any time for any offense arising out of a criminal transaction for which the juvenile court retains jurisdiction. Makes a nonsubstantive change.

(g-1) Authorizes a child to be subject to criminal prosecution for an offense committed under Chapter 19 (Criminal Homicide) or Section 49.08 (Intoxication Manslaughter), Penal Code, if:

(1) the offense arises out of a criminal transaction for which the juvenile court retained jurisdiction over other offenses relating to the criminal transaction; and

(2) on or before the date the juvenile court retained jurisdiction, one or more of the elements of the offense under Chapter 19 or Section 49.08, Penal Code, had not occurred.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.