

## **BILL ANALYSIS**

Senate Research Center

H.B. 824  
By: Hochberg et al. (Ellis)  
State Affairs  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Violence directed at individuals, churches, and community gathering places due to prejudice based on race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference is far too common in Texas. Current law defines and provides penalties for hate crime offenses committed by adults. The same conduct by juveniles, however, is not currently addressed. According to the United States Department of Justice, approximately one-third of all hate crime offenders are under 18 years old.

H.B. 824 allows for a finding of conduct constituting a hate crime in a juvenile court proceeding. The bill requires the court to review any previous findings of an individual previously adjudicated as a juvenile for engaging in delinquent conduct constituting an offense that resulted in an affirmative finding of the Texas Youth Commission of a hate crime before the court grants community supervision.

### **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 13A, Article 42.12, Code of Criminal Procedure, by adding Subsection (c), to require the court, before the court grants community supervision on its own motion or on the recommendation of the jury to a defendant convicted of an offense for which the court has made an affirmative finding under Article 42.014 (Finding that Offense was Committed Because of Bias or Prejudice), to consider any previous adjudication of the defendant for engaging in delinquent conduct constituting an offense that resulted in an affirmative finding under Section 54.035, Family Code.

SECTION 2. Amends Chapter 54, Family Code, by adding Section 54.035, as follows:

Sec. 54.035. CONDUCT THAT CONSTITUTES COMMISSION OF HATE CRIME.

(a) Requires the court, in a proceeding for conduct that constitutes the commission of an offense under Title 5 (Offenses Against the Person), Penal Code, or Section 28.02 (Arson), 28.03 (Criminal Mischief), or 28.08 (Graffiti), Penal Code, to make an affirmative finding of fact and enter the affirmative finding in the judgment of the case if the judge or jury, whichever is the trier of fact, determines beyond a reasonable doubt that the child intentionally selected the person against whom the offense was committed or intentionally selected property damaged or affected as a result of the offense because of the child's bias or prejudice against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference, as defined by Article 42.014, Code of Criminal Procedure.

(b) Authorizes the court to require a child for whom an affirmative finding is made under this section to attend an education program to further the child's acceptance and understanding of others.

(c) Authorizes the court, if the court makes an affirmative finding under this section, to order the child to perform community service at a project designated

by the court that primarily serves the interests of the person or group that was the target of the child's conduct.

(d) Requires a clerk of the court in which an affirmative finding under this section is requested to report that request to the Texas Judicial Council, along with a statement as to whether the request was granted by the court and, if so, whether the affirmative finding was entered in the judgment of the case. Requires the clerk to make the report required by this subsection not later than the 30th day after the date the judgment is entered in the case.

SECTION 3. Amends Subchapter F, Chapter 61, Human Resources Code, by adding Section 61.08141, as follows:

Sec. 61.08141. COMMUNITY SERVICE FOR CERTAIN RELEASES. Authorizes the Texas Youth Commission (TYC) to require as a condition of release that a child for whom a court has made an affirmative finding under Section 54.035, Family Code, perform community service at a project designated by TYC that primarily serves the interests of the person or group that was the target of the child's conduct.

SECTION 4. Amends Section 58.003, Family Code, by adding Subsection (k-1), to provide that this subsection applies only to a prosecution for an offense for which the prosecuting attorney seeks an affirmative finding under Article 42.014, Code of Criminal Procedure. Authorizes the prosecuting attorney, for the purposes of Section 3(a) (relating to authorizing evidence to be offered by the state and the defendant as to any matter the court deems relevant to sentencing and prohibiting evidence from being offered by the state to establish that the race or ethnicity of the defendant makes it likely that the defendant will engage in future criminal conduct), Article 37.07 (Verdict Must be General; Separate Hearing on Proper Punishment), Code of Criminal Procedure, or Section 13A(c), Article 42.12 (Community Supervision), Code of Criminal Procedure, on application to the juvenile court, to reopen at any time the files and records of a person adjudicated as having engaged in delinquent conduct for an offense for which an affirmative finding was made under Section 54.035 and for which the files and records were sealed by the court under this section.

SECTION 5. (a) Makes application of this Act prospective.

(b) Provides that conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose.

SECTION 6. Effective date: September 1, 2009.