

A BILL TO BE ENTITLED
AN ACT

relating to the repeal of the authority of political subdivisions to adopt or enforce juvenile curfews.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 45.045(c), Code of Criminal Procedure, is amended to read as follows:

(c) This article does not limit the authority of a court to order a child taken into custody under Article 45.058 ~~[or 45.059]~~.

SECTION 2. Article 45.060(a), Code of Criminal Procedure, is amended to read as follows:

(a) Except as provided by Article ~~[Articles]~~ 45.058 ~~[and 45.059]~~, an individual may not be taken into secured custody for offenses alleged to have occurred before the individual's 17th birthday.

SECTION 3. Section 51.02(15), Family Code, is amended to read as follows:

(15) "Status offender" means a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult, including:

(A) running away from home under Section 51.03(b)(2);

(B) a fineable only offense under Section 51.03(b)(1) transferred to the juvenile court under Section 51.08(b), but only if the conduct constituting the offense would not have been criminal if engaged in by an adult;

(C) a violation of standards of student conduct as described by Section 51.03(b)(4);

(D) ~~[a violation of a juvenile curfew ordinance or order];~~

~~[(E)]~~ a violation of a provision of the Alcoholic Beverage Code applicable to minors only; or

(E) ~~[(F)]~~ a violation of any other fineable only offense under Section 8.07(a)(4) or (5), Penal Code, but only if the conduct constituting the offense would not have been criminal if engaged in by an adult.

SECTION 4. Section 38.003(a), Government Code, is amended to read as follows:

(a) The judge of a county, justice, or municipal court, in accordance with Section 38.002, may award money from a judicial donation trust fund established under Section 38.001 to eligible children or families who appear before the court for a truancy ~~[or curfew]~~ violation or in another misdemeanor offense proceeding before the court.

SECTION 5. Section 71.0352, Government Code, is amended to read as follows:

Sec. 71.0352. JUVENILE DATA: JUSTICE, MUNICIPAL, AND TRUANCY COURTS. As a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System:

(1) a justice court, municipal court, or truancy court shall report the number of cases filed for:

(A) truant conduct under Section 65.003(a), Family Code; and

(B) the offense of parent contributing to nonattendance under Section 25.093, Education Code; and

~~[(C) a violation of a local daytime curfew ordinance adopted under Section 341.905 or 351.903, Local Government Code; and]~~

(2) in cases in which a child fails to obey an order of a justice court, municipal court, or truancy court under circumstances that would constitute contempt of court, the justice court, municipal court, or truancy court shall report the number of incidents in which the child is:

(A) referred to the appropriate juvenile court for delinquent conduct as provided by Article 45.050(c)(1), Code of Criminal Procedure, or Section 65.251, Family Code; or

(B) held in contempt, fined, or denied driving privileges as provided by Article 45.050(c)(2), Code of Criminal Procedure, or Section 65.251, Family Code.

SECTION 6. Chapter 370, Local Government Code, is amended by adding Section 370.007 to read as follows:

Sec. 370.007. JUVENILE CURFEWS PROHIBITED. (a) Notwithstanding any other law, a political subdivision may not adopt or enforce an order, ordinance, or other measure that imposes a curfew to regulate the movements or actions of persons younger than 18 years of age.

(b) This section does not apply to a curfew implemented under Chapter 418, Government Code, for purposes of emergency management.

SECTION 7. Section 8.07(e), Penal Code, is amended to read as follows:

(e) A person who is at least 10 years of age but younger than 15 years of age is presumed incapable of committing an offense described by Subsection (a)(4) or (5) [~~other than an offense under a juvenile curfew ordinance or order~~]. This presumption may be refuted if the prosecution proves to the court by a preponderance of the evidence that the actor had sufficient capacity to understand that the conduct engaged in was wrong at the time the conduct was engaged in. The prosecution is not required to prove that the actor at the time of engaging in the conduct knew that the act was a criminal offense or knew the legal consequences of the offense.

SECTION 8. The following provisions are repealed:

- (1) Article 45.059, Code of Criminal Procedure;
- (2) Section 341.905, Local Government Code;
- (3) Section 351.903, Local Government Code; and
- (4) Section 370.002, Local Government Code.

SECTION 9. A violation of a juvenile curfew ordinance or order may not be prosecuted or adjudicated after the effective date of this Act. If on the effective date of this Act a criminal or civil action is pending for a violation of a juvenile curfew ordinance or order, the action is dismissed on that date. However, a final conviction or adjudication for a violation of a juvenile curfew ordinance or order that exists on the effective date of this Act is unaffected by this Act.

SECTION 10. This Act takes effect September 1, 2023.