

BILL ANALYSIS

Senate Research Center

S.B. 888
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Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under Article 44.47, Code of Criminal Procedure, juveniles certified as adults cannot appeal their certifications until after they are convicted in adult court. This process can leave youth waiting years for a determination regarding whether their certification to adult court was proper. A recent ruling by the Texas Court of Criminal Appeals found that a juvenile court in Harris County was providing "insufficient evidence" detailing why a youth should stand trial as an adult. Allowing an immediate appeal of a juvenile certification would save the state valuable resources by preventing adult court trials in cases of improper certification.

S.B. 888 grants youth the opportunity to appeal their certification prior to conviction in an adult court. This bill would protect juveniles from having to face the consequences of being in adult criminal proceedings if they are improperly certified. It would also give certainty to the certification process after the juvenile has the opportunity to pursue an appeal of the certification and the decision to transfer him or her to adult court has been fully reviewed. S.B. 888 also gives appeals of certifications precedence over all other cases, similar to appeals of cases where the child was removed from a guardian's custody.

S.B. 888 amends current law relating to the appeal of waiver of jurisdiction and transfer to criminal court in juvenile cases.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the supreme court of the State of Texas in SECTION 3 (Section 56.01, Family Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 4.18(g), Code of Criminal Procedure, to authorize a defendant to appeal a defect or error only as provided by Chapter 56 (Appeal), Family Code, rather than Article 44.47 (Appeal of Transfer from Juvenile Court).

SECTION 2. Amends Section 51.041(a), Family Code, to delete existing text providing that an order of the court is reversed or modified and the case remanded to the court by the appellate court as a result of an appeal by the person under Article 44.47, Code of Criminal Procedure, for conduct engaged in by the person before becoming 17 years of age.

SECTION 3. Amends Section 56.01, Family Code, by amending Subsections (c) and (h) and adding Subsections (g-1) and (h-1), as follows:

(c) Authorizes an appeal to 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 (Waiver of Jurisdiction and Discretionary Transfer to Criminal Court) respecting transfer of the child for prosecution as an adult;

(B) Creates this paragraph from existing text;

(C) Redesignates existing Paragraph (B) as Paragraph (C);

(D) Redesignates existing Paragraph (C) as Paragraph (D); or

(E) Redesignates existing Paragraph (D) as Paragraph (E) and changes a reference to mentally retarded to intellectually disabled; or

(2) Makes no change to this subdivision.

(g-1) Provides that an appeal from an order entered under Section 54.02 respecting transfer of the child for prosecution as an adult does not stay the criminal proceedings pending the disposition of that appeal.

(h) Provides that, if the order appealed from takes custody of the child from the child's 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. Makes a nonsubstantive change.

(h-1) Requires the supreme court of the State of Texas to adopt rules accelerating 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.

SECTION 4. Repealer: Article 44.47 (Appeal of Transfer from Juvenile Court), Code of Criminal Procedure.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2015.