

1-1 By: Hughes S.B. No. 1486
 1-2 (In the Senate - Filed March 10, 2021; March 24, 2021, read
 1-3 first time and referred to Committee on Criminal Justice;
 1-4 May 6, 2021, reported favorably by the following vote: Yeas 6,
 1-5 Nays 0; May 6, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the repeal of the authority of political subdivisions
 1-18 to adopt or enforce juvenile curfews.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Article 45.045(c), Code of Criminal Procedure,
 1-21 is amended to read as follows:

1-22 (c) This article does not limit the authority of a court to
 1-23 order a child taken into custody under Article 45.058 [~~or 45.059~~].

1-24 SECTION 2. Article 45.060(a), Code of Criminal Procedure,
 1-25 is amended to read as follows:

1-26 (a) Except as provided by Article [~~Articles~~] 45.058 [~~and~~
 1-27 ~~45.059~~], an individual may not be taken into secured custody for
 1-28 offenses alleged to have occurred before the individual's 17th
 1-29 birthday.

1-30 SECTION 3. Section 51.02(15), Family Code, is amended to
 1-31 read as follows:

1-32 (15) "Status offender" means a child who is accused,
 1-33 adjudicated, or convicted for conduct that would not, under state
 1-34 law, be a crime if committed by an adult, including:

1-35 (A) running away from home under Section
 1-36 51.03(b)(2);

1-37 (B) a fineable only offense under Section
 1-38 51.03(b)(1) transferred to the juvenile court under Section
 1-39 51.08(b), but only if the conduct constituting the offense would
 1-40 not have been criminal if engaged in by an adult;

1-41 (C) a violation of standards of student conduct
 1-42 as described by Section 51.03(b)(4);

1-43 (D) [~~a violation of a juvenile curfew ordinance~~
 1-44 ~~or order~~];

1-45 [~~(E)~~] a violation of a provision of the Alcoholic
 1-46 Beverage Code applicable to minors only; or

1-47 (E) [~~(F)~~] a violation of any other fineable only
 1-48 offense under Section 8.07(a)(4) or (5), Penal Code, but only if the
 1-49 conduct constituting the offense would not have been criminal if
 1-50 engaged in by an adult.

1-51 SECTION 4. Section 38.003(a), Government Code, is amended
 1-52 to read as follows:

1-53 (a) The judge of a county, justice, or municipal court, in
 1-54 accordance with Section 38.002, may award money from a judicial
 1-55 donation trust fund established under Section 38.001 to eligible
 1-56 children or families who appear before the court for a truancy [~~or~~
 1-57 ~~curfew~~] violation or in another misdemeanor offense proceeding
 1-58 before the court.

1-59 SECTION 5. Section 71.0352, Government Code, is amended to
 1-60 read as follows:

1-61 Sec. 71.0352. JUVENILE DATA: JUSTICE, MUNICIPAL, AND

2-1 TRUANCY COURTS. As a component of the official monthly report
2-2 submitted to the Office of Court Administration of the Texas
2-3 Judicial System:

2-4 (1) a justice court, municipal court, or truancy court
2-5 shall report the number of cases filed for:

2-6 (A) truant conduct under Section 65.003(a),
2-7 Family Code; and

2-8 (B) the offense of parent contributing to
2-9 nonattendance under Section 25.093, Education Code; and

2-10 [~~(C) a violation of a local daytime curfew
2-11 ordinance adopted under Section 341.905 or 351.903, Local
2-12 Government Code, and]~~

2-13 (2) in cases in which a child fails to obey an order of
2-14 a justice court, municipal court, or truancy court under
2-15 circumstances that would constitute contempt of court, the justice
2-16 court, municipal court, or truancy court shall report the number of
2-17 incidents in which the child is:

2-18 (A) referred to the appropriate juvenile court
2-19 for delinquent conduct as provided by Article 45.050(c)(1), Code of
2-20 Criminal Procedure, or Section 65.251, Family Code; or

2-21 (B) held in contempt, fined, or denied driving
2-22 privileges as provided by Article 45.050(c)(2), Code of Criminal
2-23 Procedure, or Section 65.251, Family Code.

2-24 SECTION 6. Chapter 370, Local Government Code, is amended
2-25 by adding Section 370.007 to read as follows:

2-26 Sec. 370.007. JUVENILE CURFEWS PROHIBITED. (a)
2-27 Notwithstanding any other law, a political subdivision may not
2-28 adopt or enforce an order, ordinance, or other measure that imposes
2-29 a curfew to regulate the movements or actions of persons younger
2-30 than 18 years of age.

2-31 (b) This section does not apply to a curfew implemented
2-32 under Chapter 418, Government Code, for purposes of emergency
2-33 management.

2-34 SECTION 7. Section 8.07(e), Penal Code, is amended to read
2-35 as follows:

2-36 (e) A person who is at least 10 years of age but younger than
2-37 15 years of age is presumed incapable of committing an offense
2-38 described by Subsection (a)(4) or (5) [~~other than an offense under~~
2-39 ~~a juvenile curfew ordinance or order~~]. This presumption may be
2-40 refuted if the prosecution proves to the court by a preponderance of
2-41 the evidence that the actor had sufficient capacity to understand
2-42 that the conduct engaged in was wrong at the time the conduct was
2-43 engaged in. The prosecution is not required to prove that the actor
2-44 at the time of engaging in the conduct knew that the act was a
2-45 criminal offense or knew the legal consequences of the offense.

2-46 SECTION 8. The following provisions are repealed:

- 2-47 (1) Article 45.059, Code of Criminal Procedure;
- 2-48 (2) Section 341.905, Local Government Code;
- 2-49 (3) Section 351.903, Local Government Code; and
- 2-50 (4) Section 370.002, Local Government Code.

2-51 SECTION 9. A violation of a juvenile curfew ordinance or
2-52 order may not be prosecuted or adjudicated after the effective date
2-53 of this Act. If on the effective date of this Act a criminal or
2-54 civil action is pending for a violation of a juvenile curfew
2-55 ordinance or order, the action is dismissed on that date. However,
2-56 a final conviction or adjudication for a violation of a juvenile
2-57 curfew ordinance or order that exists on the effective date of this
2-58 Act is unaffected by this Act.

2-59 SECTION 10. This Act takes effect September 1, 2021.

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