

**SUBJECT:** Interviewing children in contested custody cases

**COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment

**VOTE:** 5 ayes — Goodman, Staples, McClendon, McReynolds, Smith  
0 nays  
4 absent — J. Jones, Naishtat, A. Reyna, Williams

**WITNESSES:** For — Robert L. (Bob) Green, Texas Fathers Alliance and Primary Nurturing Fathers of Texas; David Allen Shelton, Texas Fathers Alliance; Jan McKenna  
Against — None

**BACKGROUND :** Upon request of a party to a child custody case involving a contested issue of managing conservatorship, the judge *must* interview a child 12 years or older and *may* interview a child under 12 to determine the child's wishes about conservatorship. If a party or the judge makes a motion, the interview of a child 12 years or older must be recorded. Interviewing a child does not diminish the discretion of the judge in awarding custody.

**DIGEST:** HB 2488 would change the age brackets of this provision to 10 and over and under 10.  
The bill would take effect September 1, 1997.

**SUPPORTERS SAY:** HB 2488 would bring conformity to the Family Code. Juvenile justice provisions of the code define "child" as a person who is 10 to 17 years old, and therefore allow a child of 10 to be charged with a crime, adjudicated delinquent and sent to the Texas Youth Commission. If 10-year-old children are mature enough for criminal sanctions, they also should be mature enough to have their day in court in a contested custody hearing.  
Interviewing a child simply allows the child to inform the judge as to the child's wishes regarding custody; it does not diminish the judge's discretion to award custody as the judge decides is appropriate.

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OPPONENTS      No apparent opposition.  
SAY: