

SUBJECT: Felony for convicted juvenile felon to possess firearm

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Hinojosa, Dunnam, Talton, Garcia, Kitchen, Shields
0 nays
3 absent — Keel, Green, Martinez Fischer

WITNESSES: For — Nina Butts, Texans Against Gun Violence; Jan Crabtree, Marsha Fishman, Million Mom March – Dallas Chapter; Jerry Patterson, Houston Gun Collectors Association, Houston Safari Club; *Registered but did not testify:* Johnnie B. Rogers, Jr., Houston Gun Collectors Association, Houston Safari Club; Nancy Stevens, Million Mom March – Tarrant County Chapter, Texans Against Gun Violence; June M. Schubert

Against — None

On — Alice Tripp, Texas State Rifle Association; Robert Dawson

BACKGROUND: Penal Code, art. 46.04 makes it a third-degree felony (punishable by two to 10 years in prison and an optional fine of up to \$10,000) for a convicted felon to possess a firearm after conviction. An exception is made when five years has passed since the felon discharged his or her sentence and the firearm is located on the premises of his or her home.

The law does not apply to juveniles. If an 18-year-old has been discharged from the Texas Youth Commission (TYC) on a violent offense, including murder, it is legal for him or her to possess a long gun. Police that pull over adult gang members who have completed their juvenile sentences for violent offenses can do nothing about shotguns that may be in these felons' possession.

Family Code, sec. 53.045 covers offenses for which juveniles can receive a determinate sentence – a sentence that carries a defined punishment range. This type of sentence is used for the most violent felonies, including capital

murder, murder, aggravated kidnapping, sexual assault, and aggravated robbery. In 2000, 197 juveniles received determinate sentences.

DIGEST: CSHB 599 would amend Penal Code, art. 46.04 to create a third-degree felony offense for a person adjudicated by a juvenile court as having violated a penal law covered by Family Code, sec. 53.045 to possess a firearm after adjudication and before the fifth anniversary of the person's discharge from the sentence, whichever date was later. The person would not be permitted to have a firearm at any location other than his or her home for an additional 10 years.

This bill would take effect on September 1, 2001, and would apply only to offenses committed on or after that date.

NOTES: HB 599 as filed would not have allowed juveniles to which this bill applies ever again to possess a firearm outside of their homes.