

SUBJECT: Applying appellate procedure rules for new trial motions in juvenile cases

COMMITTEE: Corrections — favorable, without amendment

VOTE: 9 ayes — McReynolds, Madden, England, Hodge, Kolkhorst, Marquez, Martinez, S. Miller, Ortiz

0 nays

2 absent — Dutton, Sheffield

WITNESSES: For — Laura Angelini, Juvenile District Court, 386th District Court, Bexar County; (*Registered, but did not testify*: Katrina Daniels, Bexar County District Attorney Susan D. Reed; Isela Gutierrez, Texas Criminal Justice Coalition; Cindy Segovia, Bexar County)

Against — None

BACKGROUND: Family Code, Title 3, sets up a civil court system to adjudicate cases in which juveniles are accused of offenses. Sec. 51.17 states that the Texas Rules of Civil Procedure govern the juvenile proceedings, with some exceptions. Sec. 56.01 outlines the right to appeal in these cases and states that the requirements governing the appeal are as in civil cases generally.

Rule 21 of the Texas Rules of Appellate Procedure governs appeals from criminal trial courts, including making motions for new trials. It covers the reasons to grant a new trial and timelines for filing and amending a motion for a new trial.

DIGEST: HB 1688 would require that motions for new trials in juvenile cases be governed by Rule 21 of the Texas Rules of Appellate Procedure.

The bill would take effect September 1, 2009, and would apply to motions for new trials filed after disposition orders signed on or after that date.

SUPPORTERS SAY: HB 1688 would ensure that the most appropriate rules governed the filing of motions for new trials in juvenile cases and that all parties were aware of which rules to follow when filing the motions. Because juvenile

proceedings alleging crimes are considered civil in nature, the Family Code requires, in general, that the rules governing civil procedure be followed. However, these rules are not a good fit for motions for new trials, and there is some confusion about which rules to use. HB 1688 would solve these problems by stating that Rule 21 of the Texas Rules of Appellate Procedure governed motions for new trials in juvenile cases.

The civil procedure rules that currently govern motions for new juvenile trials do not translate into appropriate steps for making these motions. The procedures in Rule 21 would be a better fit because these juvenile proceedings are more akin to criminal trials than civil ones. Rule 21 governs which issues to raise in the motions and timelines for making motions, among other issues. Adopting Rule 21 procedures would bring clarity to the proceedings and make the filings more efficient.

HB 1688 also would clarify which rules to follow when filing the motions for new trials. Some attorneys now mistakenly use the procedures in Rule 21, which causes delays and confusion when courts must decide whether to rule on the motion.

HB 1688 would not harm juvenile offenders or put them at any disadvantage when making motions for new trials. In fact, they may receive more protections than under current law because the timelines and rules for a new trial would be clearer, and they would receive some of the same protections as adults concerning post-trial issues. The Family Code makes other exceptions to the use of the civil procedures when necessary. For example, under sec. 51.17, discovery in a juvenile proceeding is governed by the Code of Criminal Procedure.

OPPONENTS
SAY:

No apparent opposition.