

HCS SB 793 -- JUVENILE COURT PROCEEDINGS

This bill changes "adult" to mean anyone 18 years old or older and "child" to mean anyone under the age of 18. The bill also requires children to be prosecuted in juvenile courts unless the child is certified as an adult or is being prosecuted for a traffic or curfew violation. Additionally, the bill specifies that no person under the age of 18 may be detained in an adult jail unless the person has been certified as an adult.

The bill also specifies that offenders under the age of 18 who have been certified as adults are eligible for dual jurisdiction of both criminal and juvenile codes, whereas the provision currently applies to such offenders under the age of 17 and one-half. Dual jurisdiction allows an offender who has been found guilty in an adult court to complete a juvenile sentence in a Division of Youth Services facility.

This bill adds a surcharge of \$3.50 for all civil suits filed in the state, and the assessment of the surcharge shall expire on August 28, 2024. The surcharge shall be deposited into the newly created "Juvenile Justice Preservation Fund," for the administration of the juvenile justice system. There shall also be a surcharge of \$2 on all traffic violations for which the defendant pled guilty, and the surcharge shall also be deposited into the fund. The surcharge shall expire if the provisions of the fund expire. The bill gives discretion to a prosecutor to fine a defendant \$500 for each offense in which the victim was a child. Such fine shall also be deposited into the fund. The permission to charge this fine shall expire if the provisions of the fund expire.

The bill also provides an affirmative defense for the offense of prostitution if the defendant was under 18 and was acting under the coercion of an agent, and it increases the penalty for the offense of patronizing prostitution from a class A misdemeanor to a class E felony when the person the offender patronizes is between the ages of 14 and 18 and from a class E felony to a class D felony when the person the offender patronizes is under the age of 14. The bill also increases the penalty for the offense of promoting prostitution in the first degree in cases where the offender uses compulsion by use of a drug or intoxicating substance to render the person incapable of controlling his conduct or appreciating its nature to between 10 and 15 years in prison. The bill also adds promoting prostitution of a person 16 or 17 years of age to the offense of promoting prostitution in the second degree.

If a person was under 18 at the time he or she committed the offense of prostitution, the person may apply to the court in which he or she pled guilty or was sentenced for an order to expunge all

records of the offense from all official records. If the court determines that the person was acting under the coercion of an agent when committing the offense, the court shall enter an order of expungement.

The bill has a delayed effective date of January 1, 2021, for a majority of the provisions of the bill. Expanding services from 17 to 18 is considered a new service and will not become effective until there is sufficient funding to expand the services.