

House Research Act Summary

CHAPTER: 314

SESSION: 2002 Regular Session

TOPIC: Criminal and Juvenile Law Changes

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Overview

This act amends: (1) DWI implied consent hearing procedures, (2) the law addressing the juvenile court's jurisdiction over offenders, (3) the laws governing treatment of habitual truants and their access to counsel, (4) the child endangerment law, (5) the law concerning escape from electronic monitoring, and (6) the law regarding admissibility of evidence of similar conduct.

- 1 **Implied Consent Hearings.** Amends DWI implied consent hearings as follows:
 Prohibits estoppel of a party in a criminal case on an issue adjudicated in a DWI implied consent hearing.
- 2 **Juvenile petty offender; juvenile petty offense.** Strikes language providing that a juvenile petty offense includes a habitual truant.
- 3 **Child in need of protection or services; habitual truant.** Strikes language restricting the classification of a person who is a habitual truant as a child in need of protection or services.
- 4 **Appointment of counsel.** Amends the law regarding appointment of counsel in juvenile cases to specify that counsel not be provided in cases of habitual truants unless an out-of-home placement, including foster care or inpatient treatment, is ordered. In these cases, counsel must be appointed before the out-of-home placement is ordered. Makes other conforming changes.
- 5 **Termination of Jurisdiction.** Expands the group of juvenile offenders over whom the juvenile court may exercise jurisdiction until they are 21 years old (because the offenders missed a hearing or fled juvenile adjudication) by adding the following classes of individuals:
 juveniles who have been found to have committed a delinquent act; and
 juveniles who have been charged by a juvenile petition.

Presently, only juveniles who have "been adjudicated delinquent" and who fail to appear at a hearing or who abscond from a placement are subject to supervision until the age of 21.

- 6 **Child Endangerment.** Expands the crime of endangering a child through exposure to drug activity. Specifically, a person is guilty of endangering a child, and subject to a five year felony, if the offender permits a child to be present where drugs are sold, manufactured, or immediate precursors or chemical substances intended for use in the manufacture of drugs are present.
- 7 **Electronic Monitoring; Escape.** Exposes offenders who are subject to electronic monitoring as a condition of parole, probation, or supervised release to the penalties for escaping custody.
- 8 **Electronic Monitoring; Escape.** Creates the crime of fleeing electronic monitoring or removing an electronic monitoring device. When sentenced to electronic monitoring for most crimes, a violation of this law is a misdemeanor; however, if the offender is subject to electronic monitoring for first through third degree murder, manslaughter, criminal vehicular homicide and injury, first through fourth degree assault, or first through fifth degree criminal sexual conduct, a violation of this statute is a five-year felony.
- 9 **Evidence of Similar Conduct.** Eliminates a restriction on the admissibility of similar conduct evidence. Currently, only "prior" similar conduct of the accused against the victim of domestic abuse or against family or household members is admissible. This section drops all references to "prior" and permits a court to admit all similar conduct. This change will allow prosecutors to introduce evidence of similar conduct that occurs after the events that form the basis of the criminal charge. Under current law, this is not permitted.
- 10 **Effective date.** Sections 1 and 5 to 8 are effective August 1, 2002, and apply to crimes committed on or after that date. Sections 2 to 4 are effective July 1, 2002, except that, the provisions in section 5, are not effective in the Fourth Judicial District until July 1, 2003.