

By: Dutton

H.B. No. 3594

A BILL TO BE ENTITLED

AN ACT

relating to procedures related to juvenile justice proceedings;
increasing the punishment for certain delinquent conduct.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 4.19(a), Code of Criminal Procedure, is amended to read as follows:

(a) Notwithstanding the order of a juvenile court to detain a person under the age of 17 who has been certified to stand trial as an adult in a certified juvenile detention facility under Section 54.02(h), Family Code, the judge of the criminal court having jurisdiction over the person may order the person to be transferred to an adult facility. A person under the age of 17 ~~[child]~~ who is transferred to an adult facility must be detained under conditions meeting the requirements of Section 51.12(f) ~~[51.12]~~, Family Code.

SECTION 2. Sections 51.02(2) and (8-a), Family Code, are amended to read as follows:

(2) "Child" means a person who is:

(A) ten years of age or older and under 17 years of age; or

(B) under the jurisdiction of a juvenile court,
is seventeen years of age or older and under 19 ~~[18]~~ years of age,
and ~~[who]~~ is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.

(8-a) "Nonsecure correctional facility" means any public or private residential [a] facility, other than a secure detention or correctional facility, that only accepts juveniles who:

(A) are on probation;

(B) have been detained in compliance with Section 53.02, 54.01, or 54.011; or

(C) have been placed at the facility as a condition of court-ordered deferred adjudication or prosecution under Section 53.03 [described by Section 51.126].

SECTION 3. Section 51.12, Family Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) Subsection (g) does not apply to a person under 17 years of age who:

(1) has been transferred to a criminal court for prosecution under Section 54.02; and

(2) is detained in an adult jail or lockup pending trial.

SECTION 4. Sections 52.0151(b) and (c), Family Code, are amended to read as follows:

(b) The court may order that the person who is the witness be detained in a certified juvenile detention facility ~~[if the person is younger than 17 years of age]~~. If the person is at least 17 years of age and in the custody of the Texas Juvenile Justice Department or a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code, the court may order that the person be detained without bond in an appropriate county

1 facility for the detention of adults accused of criminal offenses.

2 (c) A witness held in custody under this section may be
3 placed in a certified juvenile detention facility or a county
4 facility for a period not to exceed 30 days. The length of placement
5 may be extended in 30-day increments by the court that issued the
6 original bench warrant. If the placement is not extended, the
7 period under this section expires and the witness shall [~~may~~] be
8 returned as provided by Subsection (a).

9 SECTION 5. Section 53.045(a), Family Code, is amended to
10 read as follows:

11 (a) Except as provided by Subsection (e), the prosecuting
12 attorney may refer the petition to the grand jury of the county in
13 which the court in which the petition is filed presides if the
14 petition alleges that the child engaged in delinquent conduct that
15 constitutes habitual felony conduct as described by Section 51.031
16 or that included the violation of any of the following provisions:

- 17 (1) Section 19.02, Penal Code (murder);
- 18 (2) Section 19.03, Penal Code (capital murder);
- 19 (3) Section 19.04, Penal Code (manslaughter);
- 20 (4) Section 20.04, Penal Code (aggravated
21 kidnapping);
- 22 (5) Section 22.011, Penal Code (sexual assault) or
23 Section 22.021, Penal Code (aggravated sexual assault);
- 24 (6) Section 22.02, Penal Code (aggravated assault);
- 25 (7) Section 29.03, Penal Code (aggravated robbery);
- 26 (8) Section 22.04, Penal Code (injury to a child,
27 elderly individual, or disabled individual), if the offense is

1 punishable as a felony, other than a state jail felony;

2 (9) Section 22.05(b), Penal Code (felony deadly
3 conduct involving discharging a firearm);

4 (10) Subchapter D, Chapter 481, Health and Safety
5 Code, if the conduct constitutes a felony of the first degree or an
6 aggravated controlled substance felony (certain offenses involving
7 controlled substances);

8 (11) Section 15.03, Penal Code (criminal
9 solicitation);

10 (12) Section 21.11(a)(1), Penal Code (indecent with a
11 child);

12 (13) Section 15.031, Penal Code (criminal
13 solicitation of a minor);

14 (14) Section 15.01, Penal Code (criminal attempt), if
15 the offense attempted was an offense under Section 19.02, Penal
16 Code (murder), or Section 19.03, Penal Code (capital murder), or an
17 offense listed by Article 42A.054(a), Code of Criminal Procedure;

18 (15) Section 28.02, Penal Code (arson), if bodily
19 injury or death is suffered by any person by reason of the
20 commission of the conduct;

21 (16) Section 49.08, Penal Code (intoxication
22 manslaughter); ~~[or]~~

23 (17) Section 30.02, Penal Code (burglary), if the
24 offense is punishable under Section 30.02(d), Penal Code, and the
25 actor committed the offense with intent to commit a felony under
26 Section 21.11, 22.011, 22.021, or 22.02, Penal Code; or

27 (18) Section 15.02, Penal Code (criminal conspiracy),

1 if the offense made the subject of the criminal conspiracy includes
2 a violation of any of the provisions referenced in Subdivisions (1)
3 through (17) [~~(16)~~].

4 SECTION 6. Section 54.04(d), Family Code, is amended to
5 read as follows:

6 (d) If the court or jury makes the finding specified in
7 Subsection (c) allowing the court to make a disposition in the case:

8 (1) the court or jury may, in addition to any order
9 required or authorized under Section 54.041 or 54.042, place the
10 child on probation on such reasonable and lawful terms as the court
11 may determine:

12 (A) in the child's own home or in the custody of a
13 relative or other fit person; or

14 (B) subject to the finding under Subsection (c)
15 on the placement of the child outside the child's home, in:

16 (i) a suitable foster home;

17 (ii) a suitable public or private
18 residential treatment facility licensed by a state governmental
19 entity or exempted from licensure by state law, except a facility
20 operated by the Texas Juvenile Justice Department; ~~or~~

21 (iii) a suitable public or private
22 post-adjudication secure correctional facility that meets the
23 requirements of Section 51.125, except a facility operated by the
24 Texas Juvenile Justice Department; or

25 (iv) a suitable public or private nonsecure
26 correctional facility that meets the requirements of Section
27 51.126, other than a nonsecure facility operated by the Texas

1 Juvenile Justice Department;

2 (2) if the court or jury found at the conclusion of the
3 adjudication hearing that the child engaged in delinquent conduct
4 that violates a penal law of this state or the United States of the
5 grade of felony, the court or jury made a special commitment finding
6 under Section 54.04013, and the petition was not approved by the
7 grand jury under Section 53.045, the court may commit the child to
8 the Texas Juvenile Justice Department under Section 54.04013, or a
9 post-adjudication secure correctional facility under Section
10 54.04011(c)(1), as applicable, without a determinate sentence;

11 (3) if the court or jury found at the conclusion of the
12 adjudication hearing that the child engaged in delinquent conduct
13 that included a violation of a penal law listed in Section 53.045(a)
14 and if the petition was approved by the grand jury under Section
15 53.045, the court or jury may sentence the child to commitment in
16 the Texas Juvenile Justice Department or a post-adjudication secure
17 correctional facility under Section 54.04011(c)(2) with a possible
18 transfer to the Texas Department of Criminal Justice for a term of:

19 (A) not more than 40 years if the conduct
20 constitutes:

21 (i) a capital felony;
22 (ii) a felony of the first degree; or
23 (iii) an aggravated controlled substance
24 felony;

25 (B) not more than 20 years if the conduct
26 constitutes a felony of the second degree; or

27 (C) not more than 10 years if the conduct

constitutes a felony of the third degree;

(4) the court may assign the child an appropriate sanction level and sanctions as provided by the assignment guidelines in Section 59.003; or

~~(5) [the court may place the child in a suitable nonsecure correctional facility that is registered and meets the applicable standards for the facility as provided by Section 51.126; or~~

~~[(6)]~~ if applicable, the court or jury may make a disposition under Subsection (m) or Section 54.04011(c)(2)(A).

SECTION 7. Section 61.0031(d), Family Code, is amended to read as follows:

(d) The juvenile court to which the order has been transferred shall require the parent or other eligible person to appear before the court to notify the parent or other eligible person of the existence and terms of the order, unless the parent or other eligible person ~~[permanent supervision hearing under Section 51.073(c)]~~ has ~~[been]~~ waived, in writing, the right to appear. Failure to do so renders the order unenforceable.

SECTION 8. Section 261.401, Family Code, is amended by adding Subsection (e) to read as follows:

(e) In this section, for purposes of an investigation conducted by the Texas Juvenile Justice Department, "child" means an individual who is:

(1) 10 years of age or older and younger than 19 years of age; and

(2) committed to the department under Title 3.

SECTION 9. Section 261.405(a), Family Code, is amended to read as follows:

(a) In this section:

(1) "Child" means a person who is:

(A) 10 years of age or older and younger than 19 years of age; and

(B) under the jurisdiction of a juvenile court.

(2) "Juvenile justice facility" means a facility operated wholly or partly by the juvenile board, by another governmental unit, or by a private vendor under a contract with the juvenile board, county, or other governmental unit that serves juveniles under juvenile court jurisdiction. The term includes:

(A) a public or private juvenile pre-adjudication secure detention facility, including a holdover facility;

(B) a public or private juvenile post-adjudication secure correctional facility except for a facility operated solely for children committed to the Texas Juvenile Justice Department; and

(C) a public or private nonsecure [~~non-secure~~] juvenile post-adjudication residential treatment facility that is not licensed by the Department of Family and Protective Services or the Department of State Health Services.

(3) [~~(2)~~] "Juvenile justice program" means a program or department operated wholly or partly by the juvenile board or by a private vendor under a contract with a juvenile board that serves juveniles under juvenile court jurisdiction. The term includes:

(A) a juvenile justice alternative education program;

(B) a non-residential program that serves juvenile offenders under the jurisdiction of the juvenile court; and

(C) a juvenile probation department.

SECTION 10. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Section 152.0018 to read as follows:

Sec. 152.0018. COORDINATION OF SERVICES FOR JUVENILES IN CONSERVATORSHIP. A juvenile board or local juvenile probation department and the Department of Family and Protective Services shall plan and coordinate services for a child who is in the conservatorship of the Department of Family and Protective Services and subject to proceedings under Title 3, Family Code, including services for a child who is:

(1) released from detention under conditions provided under Section 53.02(a), Family Code;

(2) released from detention under conditions provided under Section 54.01(f), Family Code, after a hearing conducted under Section 54.01, Family Code;

(3) detained as a result of a hearing conducted under Section 54.01, Family Code;

(4) placed in a secure correctional facility, nonsecure correctional facility, or other placement, including a placement that qualifies for funding under Title IV-E, Social Security Act (42 U.S.C. Section 670 et seq.), by a juvenile court as a condition of probation under Section 54.04(d), Family Code; or

1 (5) placed on probation under Section 54.04, Family
2 Code, and released to the custody of the Department of Family and
3 Protective Services.

4 SECTION 11. Section 201.001(a)(2), Human Resources Code, is
5 amended to read as follows:

6 (2) "Child" means an individual:

7 (A) 10 years of age or older and younger than 19
8 ~~[18]~~ years of age who is under the jurisdiction of a juvenile court;
9 or

10 (B) 10 years of age or older and younger than 19
11 years of age who is committed to the department under Title 3,
12 Family Code.

13 SECTION 12. Section 53.045(a), Family Code, as amended by
14 this Act, applies only to conduct violating a penal law that occurs
15 on or after the effective date of this Act. Conduct violating a
16 penal law that occurs before the effective date of this Act is
17 governed by the law in effect when the conduct occurred, and the
18 former law is continued in effect for that purpose. For purposes of
19 this section, conduct occurs before the effective date of this Act
20 if any element of the conduct occurs before the effective date.

21 SECTION 13. This Act takes effect September 1, 2017.