

By: Wu

H.B. No. 2108

A BILL TO BE ENTITLED

AN ACT

relating to the waiver of jurisdiction and discretionary transfer of a child from a juvenile court to a criminal court.

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

SECTION 1. Section 54.02, Family Code, is amended by amending Subsections (d), (h), (l), and (n) and adding Subsection (d-1) to read as follows:

(d) Prior to the hearing, the juvenile court shall admonish the child in open court and in the presence of the child's counsel regarding:

(1) the court's consideration of waiving its jurisdiction over the child and transferring the child to criminal court for criminal proceedings; and

(2) the child's right to participate or to decline to participate in any diagnostic study, social evaluation, or investigation ordered by the juvenile court under Subsection (d-1).

(d-1) After the admonishment under Subsection (d), the juvenile court shall order ~~and obtain~~ a complete diagnostic study, social evaluation, and full investigation of the child, the child's ~~his~~ circumstances, and the circumstances of the alleged offense and shall set the date of the transfer hearing. If the child declines to participate in a study, evaluation, or investigation, the attorney for the child shall state the refusal to the court in open court or in writing not later than the fifth

1 business day after the date the court ordered the study,
2 evaluation, or investigation.

3 (h) If the juvenile court waives jurisdiction, it shall
4 state specifically in the order its reasons for waiver and certify
5 its action, including the written order and findings of the court,
6 and shall transfer the person to the appropriate court for criminal
7 proceedings and cause the results of the diagnostic study of the
8 person ordered under Subsection (d-1) [~~(d)~~], including
9 psychological information, to be transferred to the appropriate
10 criminal prosecutor. On transfer of the person for criminal
11 proceedings, the person shall be dealt with as an adult and in
12 accordance with the Code of Criminal Procedure, except that if
13 detention in a certified juvenile detention facility is authorized
14 under Section [152.0015](#), Human Resources Code, the juvenile court
15 may order the person to be detained in the facility pending trial or
16 until the criminal court enters an order under Article [4.19](#), Code of
17 Criminal Procedure. A transfer of custody made under this
18 subsection is an arrest.

19 (l) The juvenile court shall conduct a hearing without a
20 jury to consider waiver of jurisdiction under Subsection (j).
21 Except as otherwise provided by this subsection, a waiver of
22 jurisdiction under Subsection (j) may be made without the necessity
23 of conducting the diagnostic study [~~or complying with the~~
24 ~~requirements of discretionary transfer proceedings~~] under
25 Subsection (d-1) [~~(d)~~]. If requested by the attorney for the person
26 at least 10 days before the transfer hearing, the court shall order
27 that the person be examined pursuant to Section [51.20](#)(a) and that

1 the results of the examination be provided to the attorney for the
2 person and the attorney for the state at least five days before the
3 transfer hearing.

4 (n) A mandatory transfer under Subsection (m) may be made
5 without conducting the study required in discretionary transfer
6 proceedings by Subsection (d-1) [~~(d)~~]. The requirements of
7 Subsection (b) that the summons state that the purpose of the
8 hearing is to consider discretionary transfer to criminal court
9 does not apply to a transfer proceeding under Subsection (m). In a
10 proceeding under Subsection (m), it is sufficient that the summons
11 provide fair notice that the purpose of the hearing is to consider
12 mandatory transfer to criminal court.

13 SECTION 2. Section 54.02, Family Code, as amended by this
14 Act, applies only to conduct violating a penal law that occurs on or
15 after the effective date of this Act. Conduct violating a penal law
16 that occurs before the effective date of this Act is governed by the
17 law in effect when the conduct occurred, and the former law is
18 continued in effect for that purpose. For purposes of this section,
19 conduct occurs before the effective date of this Act if any element
20 of the conduct occurs before the effective date.

21 SECTION 3. This Act takes effect September 1, 2021.