

By: Leach, Flores

H.B. No. 2687

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the age at which a juvenile court may exercise
3 jurisdiction over a child and to the minimum age of criminal
4 responsibility.

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

6 SECTION 1. Articles 45.058(h) and (i), Code of Criminal
7 Procedure, are amended to read as follows:

8 (h) In this article, "child" means a person who is:

9 (1) at least 13 [~~10~~] years of age and younger than 17
10 years of age; and

11 (2) charged with or convicted of an offense that a
12 justice or municipal court has jurisdiction of under Article 4.11
13 or 4.14.

14 (i) If a law enforcement officer [~~issues a citation or~~]
15 files a complaint in the manner provided by Article 45.018 for
16 conduct by a child 13 [~~12~~] years of age or older that is alleged to
17 have occurred on school property or on a vehicle owned or operated
18 by a county or independent school district, the officer shall
19 submit to the court the offense report, a statement by a witness to
20 the alleged conduct, and a statement by a victim of the alleged
21 conduct, if any. An attorney representing the state may not proceed
22 in a trial of an offense unless the law enforcement officer complied
23 with the requirements of this subsection.

24 SECTION 2. Section 37.141(1), Education Code, is amended to

1 read as follows:

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

3 (A) a student; and

4 (B) at least 13 [~~10~~] years of age and younger than
5 18 years of age.

6 SECTION 3. Section [51.02\(2\)](#), Family Code, is amended to
7 read as follows:

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

9 (A) 10 years of age or older and under 13 years of
10 age who is alleged or found to have engaged in conduct that contains
11 the elements of any of the following offenses under the Penal Code:

12 (i) aggravated assault under Section [22.02](#),
13 sexual assault under Section [22.011](#), or aggravated sexual assault
14 under Section [22.021](#);

15 (ii) arson under Section [28.02](#);

16 (iii) murder under Section [19.02](#), capital
17 murder under Section [19.03](#), or criminal attempt under Section [15.01](#)
18 to commit murder or capital murder;

19 (iv) indecentcy with a child under Section
20 [21.11](#);

21 (v) aggravated kidnapping under Section
22 [20.04](#);

23 (vi) aggravated robbery under Section
24 [29.03](#);

25 (vii) manslaughter under Section [19.04](#);

26 (viii) criminally negligent homicide under
27 Section [19.05](#); or

1 (ix) continuous sexual abuse of young child
2 or disabled individual under Section 21.02;

3 (B) 13 [~~ten~~] years of age or older and under 17
4 years of age; or

5 (C) 17 [~~(B) seventeen~~] years of age or older and
6 under 18 years of age who is alleged or found to have engaged in
7 delinquent conduct or conduct indicating a need for supervision as
8 a result of acts committed before becoming 17 years of age.

9 SECTION 4. Chapter 54, Family Code, is amended by adding
10 Section 54.021 to read as follows:

11 Sec. 54.021. WAIVER OF JURISDICTION FOR CHILD UNDER 13
12 YEARS OF AGE. (a) Not later than the 30th day after the date on
13 which a preliminary investigation under Section 53.01 concludes,
14 the attorney representing the state shall file a petition
15 requesting a hearing to determine whether the juvenile court should
16 waive its exclusive original jurisdiction over a child younger than
17 13 years of age.

18 (b) After the petition under Subsection (a) has been filed,
19 the juvenile court shall set a time for the hearing. The hearing
20 must be held:

21 (1) without a jury; and

22 (2) before an adjudication hearing may occur.

23 (c) At a hearing under this section, the juvenile court
24 shall consider whether:

25 (1) less restrictive interventions by the child's
26 parent, guardian, family, or school, or by child protective
27 services or county family and youth services, are available and

1 will be sufficient to ensure the safety of the public and of the
2 child;

3 (2) intervention by the court is warranted; and

4 (3) it is in the best interest of the child for the
5 court to intervene.

6 (d) If the court elects not to waive its jurisdiction over a
7 child in a hearing under this section, the court shall state the
8 reasons for its decision in the order.

9 (e) If the court elects to waive its jurisdiction over a
10 child in a hearing under this section, the court shall dismiss all
11 charges against the child. The court shall refer the child to the
12 person who conducted the preliminary investigation of the child
13 under Section 53.01 for a referral for services described by
14 Subsection (c)(1), as appropriate.

15 SECTION 5. Sections 8.07(d) and (e), Penal Code, are
16 amended to read as follows:

17 (d) Notwithstanding Subsection (a), a person may not be
18 prosecuted for or convicted of an offense described by Subsection
19 (a)(4) or (5) that the person committed when younger than 13 [~~14~~]
20 years of age.

21 (e) A person who is at least 13 [~~14~~] years of age but younger
22 than 15 years of age is presumed incapable of committing an offense
23 described by Subsection (a)(4) or (5), other than an offense under a
24 juvenile curfew ordinance or order. This presumption may be
25 refuted if the prosecution proves to the court by a preponderance of
26 the evidence that the actor had sufficient capacity to understand
27 that the conduct engaged in was wrong at the time the conduct was

1 engaged in. The prosecution is not required to prove that the actor
2 at the time of engaging in the conduct knew that the act was a
3 criminal offense or knew the legal consequences of the offense.

4 SECTION 6. The following provisions are repealed:

- 5 (1) Article 45.058(j), Code of Criminal Procedure;
6 (2) Sections 37.124(d) and 37.126(c), Education Code;
7 and
8 (3) Section 42.01(f), Penal Code.

9 SECTION 7. (a) As soon as practicable after the effective
10 date of this Act, the Texas Commission on Law Enforcement and the
11 Texas School Safety Center shall update the training provided to
12 school resource officers and other peace officers to include the
13 changes in law made by this Act.

14 (b) As soon as practicable after the effective date of this
15 Act, the Texas Juvenile Justice Department shall update the
16 training provided to juvenile probation departments to include the
17 changes in law made by this Act.

18 (c) As soon as practicable after the effective date of this
19 Act, the Supreme Court of Texas Children's Commission shall
20 disseminate information to judges and attorneys in this state
21 regarding the changes in law made by this Act.

22 SECTION 8. The changes in law made by this Act apply only to
23 an offense committed or conduct that occurs on or after the
24 effective date of this Act. An offense committed or conduct that
25 occurred before that date is governed by the law in effect on the
26 date the offense was committed or the conduct occurred, and the
27 former law is continued in effect for that purpose. For purposes of

1 this section, an offense was committed or conduct occurred before
2 the effective date of this Act if any element of the offense or
3 conduct occurred before that date.

4 SECTION 9. This Act takes effect September 1, 2023.