

By: Schwertner

S.B. No. 2589

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the prosecution and punishment of juveniles who commit  
3 certain felony offenses while committed to the custody of the Texas  
4 Juvenile Justice Department and the waiver of jurisdiction and  
5 discretionary transfer of a child from a juvenile court to a  
6 criminal court; changing eligibility for community supervision.

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

8 SECTION 1. Article [42A.054](#), Code of Criminal Procedure, is  
9 amended by adding Subsection (b-1) to read as follows:

10 (b-1) Article [42A.053](#) does not apply to a defendant if it is  
11 shown that the defendant committed an offense punishable as a  
12 felony when the defendant was:

13 (1) at least 17 years of age;

14 (2) committed to the Texas Juvenile Justice  
15 Department; and

16 (3) confined in a secure facility operated under  
17 Subtitle C, Title 12, Human Resources Code.

18 SECTION 2. Article [42A.056](#), Code of Criminal Procedure, is  
19 amended to read as follows:

20 Art. 42A.056. LIMITATION ON JURY-RECOMMENDED COMMUNITY  
21 SUPERVISION. A defendant is not eligible for community supervision  
22 under Article [42A.055](#) if the defendant:

23 (1) is sentenced to a term of imprisonment that  
24 exceeds 10 years;

1 (2) is convicted of a state jail felony for which  
2 suspension of the imposition of the sentence occurs automatically  
3 under Article 42A.551;

4 (3) is adjudged guilty of an offense under Section  
5 19.02, Penal Code;

6 (4) is convicted of an offense under Section 21.11,  
7 22.011, or 22.021, Penal Code, if the victim of the offense was  
8 younger than 14 years of age at the time the offense was committed;

9 (5) is convicted of an offense under Section 20.04,  
10 Penal Code, if:

11 (A) the victim of the offense was younger than 14  
12 years of age at the time the offense was committed; and

13 (B) the actor committed the offense with the  
14 intent to violate or abuse the victim sexually;

15 (6) is convicted of an offense under Section 20A.02,  
16 20A.03, 43.04, 43.05, or 43.25, Penal Code;

17 (7) is convicted of an offense for which punishment is  
18 increased under Section 481.134(c), (d), (e), or (f), Health and  
19 Safety Code, if it is shown that the defendant has been previously  
20 convicted of an offense for which punishment was increased under  
21 any of those subsections; ~~or~~

22 (8) is convicted of an offense under Section 481.1123,  
23 Health and Safety Code, if the offense is punishable under  
24 Subsection (d), (e), or (f) of that section; or

25 (9) is convicted of an offense punishable as a felony  
26 when the defendant was:

27 (A) at least 17 years of age;

1                    (B) committed to the Texas Juvenile Justice  
2 Department; and

3                    (C) confined in a secure facility operated under  
4 Subtitle C, Title 12, Human Resources Code.

5            SECTION 3. Section 53.045(a), Family Code, is amended to  
6 read as follows:

7            (a) Except as provided by Subsection (e), the prosecuting  
8 attorney may refer the petition to the grand jury of the county in  
9 which the court in which the petition is filed presides if the  
10 petition alleges that the child engaged in delinquent conduct that:

11                    (1) constitutes habitual felony conduct as described  
12 by Section 51.031;

13                    (2) ~~[or that]~~ included the violation of any of the  
14 following provisions:

15                            (A) ~~[(1)]~~ Section 19.02, Penal Code (murder);

16                            (B) ~~[(2)]~~ Section 19.03, Penal Code (capital  
17 murder);

18                            (C) ~~[(3)]~~ Section 19.04, Penal Code  
19 (manslaughter);

20                            (D) ~~[(4)]~~ Section 20.04, Penal Code (aggravated  
21 kidnapping);

22                            (E) ~~[(5)]~~ Section 22.011, Penal Code (sexual  
23 assault) or Section 22.021, Penal Code (aggravated sexual assault);

24                            (F) ~~[(6)]~~ Section 22.02, Penal Code (aggravated  
25 assault);

26                            (G) ~~[(7)]~~ Section 29.03, Penal Code (aggravated  
27 robbery);

1            (H) [~~(8)~~] Section 22.04, Penal Code (injury to a  
2 child, elderly individual, or disabled individual), if the offense  
3 is punishable as a felony, other than a state jail felony;

4            (I) [~~(9)~~] Section 22.05(b), Penal Code (felony  
5 deadly conduct involving discharging a firearm);

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

10           (K) [~~(11)~~] Section 15.03, Penal Code (criminal  
11 solicitation);

12           (L) [~~(12)~~] Section 21.11(a)(1), Penal Code  
13 (indecent with a child);

14           (M) [~~(13)~~] Section 15.031, Penal Code (criminal  
15 solicitation of a minor);

16           (N) [~~(14)~~] Section 15.01, Penal Code (criminal  
17 attempt), if the offense attempted was an offense under Section  
18 19.02, Penal Code (murder), or Section 19.03, Penal Code (capital  
19 murder), or an offense listed by Article 42A.054(a), Code of  
20 Criminal Procedure;

21           (O) [~~(15)~~] Section 28.02, Penal Code (arson), if  
22 bodily injury or death is suffered by any person by reason of the  
23 commission of the conduct;

24           (P) [~~(16)~~] Section 49.08, Penal Code  
25 (intoxication manslaughter); or

26           (Q) [~~(17)~~] Section 15.02, Penal Code (criminal  
27 conspiracy), if the offense made the subject of the criminal

1 conspiracy includes a violation of any of the provisions referenced  
2 in Paragraphs (A) through (P); or

3 (3) constitutes a felony of the first, second, or  
4 third degree committed while the child was committed to the Texas  
5 Juvenile Justice Department [~~Subdivisions (1) through (16)~~].

6 SECTION 4. Sections 54.02(a) and (j), Family Code, are  
7 amended to read as follows:

8 (a) The juvenile court may waive its exclusive original  
9 jurisdiction and transfer a child to the appropriate district court  
10 or criminal district court for criminal proceedings if:

11 (1) the child is alleged to have violated a penal law  
12 of the grade of felony;

13 (2) the child was:

14 (A) 14 years of age or older at the time the child  
15 [~~he~~] is alleged to have committed the offense, if the offense is a  
16 capital felony, an aggravated controlled substance felony, or a  
17 felony of the first degree, and no adjudication hearing has been  
18 conducted concerning that offense; or

19 (B) 15 years of age or older at the time the child  
20 is alleged to have committed the offense, if the offense is a felony  
21 of the second or third degree [~~or a state jail felony~~], and no  
22 adjudication hearing has been conducted concerning that offense;  
23 and

24 (3) after a full investigation and a hearing, the  
25 juvenile court determines that there is probable cause to believe  
26 that the child before the court committed the offense alleged and  
27 that because of the seriousness of the offense alleged or the

1 background of the child the welfare of the community requires  
2 criminal proceedings.

3 (j) The juvenile court may waive its exclusive original  
4 jurisdiction and transfer a person to the appropriate district  
5 court or criminal district court for criminal proceedings if:

6 (1) the person is 18 years of age or older;

7 (2) the person was:

8 (A) 10 years of age or older and under 17 years of  
9 age at the time the person is alleged to have committed a capital  
10 felony or an offense under Section 19.02, Penal Code;

11 (B) 14 years of age or older and under 17 years of  
12 age at the time the person is alleged to have committed an  
13 aggravated controlled substance felony or a felony of the first  
14 degree other than an offense under Section 19.02, Penal Code; or

15 (C) 15 years of age or older and under 17 years of  
16 age at the time the person is alleged to have committed a felony of  
17 the second or third degree [~~or a state jail felony~~];

18 (3) no adjudication concerning the alleged offense has  
19 been made or no adjudication hearing concerning the offense has  
20 been conducted;

21 (4) the juvenile court finds from a preponderance of  
22 the evidence that:

23 (A) for a reason beyond the control of the state  
24 it was not practicable to proceed in juvenile court before the 18th  
25 birthday of the person; or

26 (B) after due diligence of the state it was not  
27 practicable to proceed in juvenile court before the 18th birthday

1 of the person because:

2 (i) the state did not have probable cause to  
3 proceed in juvenile court and new evidence has been found since the  
4 18th birthday of the person;

5 (ii) the person could not be found; or

6 (iii) a previous transfer order was  
7 reversed by an appellate court or set aside by a district court; and

8 (5) the juvenile court determines that there is  
9 probable cause to believe that the child before the court committed  
10 the offense alleged.

11 SECTION 5. The changes in law made by this Act to Articles  
12 [42A.054](#) and [42A.056](#), Code of Criminal Procedure, and Sections  
13 53.045 and 54.02, Family Code, apply only to an offense committed or  
14 conduct that occurs on or after the effective date of this Act. An  
15 offense committed or conduct that occurred before that date is  
16 governed by the law in effect on the date the offense was committed  
17 or the conduct occurred, and the former law is continued in effect  
18 for that purpose. For purposes of this section, an offense was  
19 committed or conduct occurred before the effective date of this Act  
20 if any element of the offense or conduct occurred before that date.

21 SECTION 6. This Act takes effect September 1, 2023.