

By: Dutton

H.B. No. 2003

A BILL TO BE ENTITLED

AN ACT

relating to the age of a person subject to the juvenile justice system.

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

SECTION 1. Section 51.02(2), Family Code, is amended to read as follows:

(2) "Child" means a person who is ~~+~~  
~~[(A)]~~ ten years of age or older and under 18 ~~[17]~~  
years of age ~~[, or~~

~~[(B) seventeen years of age or older and under 18 years of age 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].~~

SECTION 2. Section 51.041(a), Family Code, is amended to read as follows:

(a) The court retains jurisdiction over a person, without regard to the age of the person, for conduct engaged in by the person before becoming 18 ~~[17]~~ years of age if, as a result of an appeal by the person under Chapter 56 or under Article 44.47, Code of Criminal Procedure, of an order of the court, the order is reversed or modified and the case remanded to the court by the appellate court.

SECTION 3. Section 52.027(i), Family Code, is amended to read as follows:

1           (i) In this section, "child" means a person who is at least  
2 10 years of age and younger than 18 [~~17~~] years of age and who is  
3 charged with or convicted of an offense that a justice or municipal  
4 court has jurisdiction of under Article 4.11 or 4.14, Code of  
5 Criminal Procedure, other than public intoxication.

6           SECTION 4. Section 54.02(j), Family Code, is amended to  
7 read as follows:

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

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

12                 (2) the person was:

13                         (A) 10 years of age or older and under 18 [~~17~~]  
14 years of age at the time the person is alleged to have committed a  
15 capital felony or an offense under Section 19.02, Penal Code;

16                         (B) 14 years of age or older and under 18 [~~17~~]  
17 years of age at the time the person is alleged to have committed an  
18 aggravated controlled substance felony or a felony of the first  
19 degree other than an offense under Section 19.02, Penal Code; or

20                         (C) 15 years of age or older and under 18 [~~17~~]  
21 years of age at the time the person is alleged to have committed a  
22 felony of the second or third degree or a state jail felony;

23                 (3) no adjudication concerning the alleged offense has  
24 been made or no adjudication hearing concerning the offense has  
25 been conducted;

26                 (4) the juvenile court finds from a preponderance of  
27 the evidence that:

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

4 (B) after due diligence of the state it was not  
5 practicable to proceed in juvenile court before the 18th birthday  
6 of the person because:

7 (i) the state did not have probable cause to  
8 proceed in juvenile court and new evidence has been found since the  
9 18th birthday of the person;

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

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

13 (5) the juvenile court determines that there is  
14 probable cause to believe that the child before the court committed  
15 the offense alleged.

16 SECTION 5. Sections 54.023(c), (d), and (f), Family Code,  
17 are amended to read as follows:

18 (c) A justice or municipal court may hold a person in  
19 contempt and impose a remedy authorized by Subsection (a)(2) if:

20 (1) the person as a child was placed under an order of  
21 the justice or municipal court;

22 (2) the person failed to obey the order while the  
23 person was 18 [~~17~~] years of age or older; and

24 (3) the failure to obey occurred under circumstances  
25 that constitute contempt of court.

26 (d) A justice or municipal court may hold a person in  
27 contempt and impose a remedy authorized by Subsection (a)(2) if the

1 person, while younger than 18 [~~17~~] years of age, engaged in conduct  
2 in contempt of an order of the justice or municipal court but  
3 contempt proceedings could not be held before the child's 18th  
4 [~~17th~~] birthday.

5 (f) A justice or municipal court may not refer a child who  
6 violates a court order while 18 [~~17~~] years of age or older to a  
7 juvenile court for delinquency proceedings for contempt of court.

8 SECTION 6. Section 54.04(e), Family Code, is amended to  
9 read as follows:

10 (e) The Texas Youth Commission shall accept a person  
11 properly committed to it by a juvenile court even though the person  
12 may be 18 [~~17~~] years of age or older at the time of commitment.

13 SECTION 7. Section 58.003(c), Family Code, is amended to  
14 read as follows:

15 (c) Subject to Subsection (b), a court may order the sealing  
16 of records concerning a person adjudicated as having engaged in  
17 delinquent conduct that violated a penal law of the grade of felony  
18 only if:

19 (1) the person is 21 years of age or older;

20 (2) the person was not transferred by a juvenile court  
21 under Section 54.02 to a criminal court for prosecution;

22 (3) the records have not been used as evidence in the  
23 punishment phase of a criminal proceeding under Section 3(a),  
24 Article 37.07, Code of Criminal Procedure; and

25 (4) the person has not been convicted of a penal law of  
26 the grade of felony after becoming age 18 [~~17~~].

27 SECTION 8. Section 58.203, Family Code, is amended to read

1 as follows:

2           Sec. 58.203. CERTIFICATION. The department shall certify  
3 to the juvenile court or the juvenile probation department to which  
4 a referral was made that resulted in information being submitted to  
5 the juvenile justice information system that the records relating  
6 to a person's juvenile case are subject to automatic restriction of  
7 access if:

8                   (1) the person is at least 21 years of age;

9                   (2) the juvenile case did not include violent or  
10 habitual felony conduct resulting in proceedings in the juvenile  
11 court under Section 53.045;

12                   (3) the juvenile case was not certified for trial in  
13 criminal court under Section 54.02; and

14                   (4) the department has not received a report in its  
15 criminal history system that the person was granted deferred  
16 adjudication for or convicted of a felony or a misdemeanor  
17 punishable by confinement in jail for an offense committed after  
18 the person became 18 [~~17~~] years of age.

19           SECTION 9. Section 264.302(a), Family Code, is amended to  
20 read as follows:

21           (a) This section applies to a child who:

22                   (1) is seven years of age or older and under 18 [~~17~~]  
23 years of age; and

24                   (2) has not had the disabilities of minority for  
25 general purposes removed under Chapter 31.

26           SECTION 10. Articles 45.0216(b) and (h), Code of Criminal  
27 Procedure, are amended to read as follows:

1 (b) A person convicted of not more than one offense  
2 described by Section 8.07(a)(4) or (5), Penal Code, while the  
3 person was a child may, on or after the person's 18th [~~17th~~]  
4 birthday, apply to the court in which the child was convicted to  
5 have the conviction expunged as provided by this article.

6 (h) Records of a person under 18 [~~17~~] years of age relating  
7 to a complaint dismissed as provided by Article 45.051 or 45.052 may  
8 be expunged under this article.

9 SECTION 11. Article 45.058(h), Code of Criminal Procedure,  
10 is amended to read as follows:

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

12 (1) at least 10 years of age and younger than 18 [~~17~~]  
13 years of age; and

14 (2) charged with or convicted of an offense that a  
15 justice or municipal court has jurisdiction of under Article 4.11  
16 or 4.14.

17 SECTION 12. Article 45.059(a), Code of Criminal Procedure,  
18 is amended to read as follows:

19 (a) A peace officer taking into custody a person younger  
20 than 18 [~~17~~] years of age for violation of a juvenile curfew  
21 ordinance of a municipality or order of the commissioners court of a  
22 county shall, without unnecessary delay:

23 (1) release the person to the person's parent,  
24 guardian, or custodian;

25 (2) take the person before a justice or municipal  
26 court to answer the charge; or

27 (3) take the person to a place designated as a juvenile

1 curfew processing office by the head of the law enforcement agency  
2 having custody of the person.

3 SECTION 13. Section 61.093(b), Human Resources Code, is  
4 amended to read as follows:

5 (b) A child who is arrested or taken into custody under  
6 Subsection (a) may be detained in any suitable place, including an  
7 adult jail facility if the person is 18 [~~17~~] years of age or older,  
8 until the child is returned to the custody of the commission or  
9 transported to a commission facility.

10 SECTION 14. Section 8.07(b), Penal Code, is amended to read  
11 as follows:

12 (b) Unless the juvenile court waives jurisdiction under  
13 Section 54.02, Family Code, and certifies the individual for  
14 criminal prosecution or the juvenile court has previously waived  
15 jurisdiction under that section and certified the individual for  
16 criminal prosecution, a person may not be prosecuted for or  
17 convicted of any offense committed before reaching 18 [~~17~~] years of  
18 age except an offense described by Subsections (a)(1)-(5).

19 SECTION 15. (a) This Act takes effect September 1, 2003.

20 (b) This Act applies only to conduct that occurs on or after  
21 the effective date of this Act. Conduct violating the penal law of  
22 this state occurs on or after the effective date of this Act if any  
23 element of the violation occurs on or after that date.

24 (c) Conduct that occurs before the effective date of this  
25 Act is governed by the law in effect at the time the conduct  
26 occurred, and that law is continued in effect for that purpose.