

Amend CSHB 3689 (house committee printing) as follows:

(1) Strike the recital to SECTION 5.004 of the bill (page 50, lines 24 through 26) and substitute:

SECTION 5.004. Section 54.04, Family Code, is amended by amending Subsections (d), (l), and (u) and adding Subsections (t) and (y) to read as follows:

(2) On page 50, between lines 26 and 27, insert:

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

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

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

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

(i) a suitable foster home;

(ii) a suitable public or private residential treatment facility licensed by a state governmental entity or exempted from licensure by state law, except a facility operated by the Texas Youth Commission; or

(iii) a suitable public or private post-adjudication secure correctional facility that meets the requirements of Section 51.125, except a facility operated by the Texas Youth Commission;

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony or, if the requirements of Subsection (t) are met, of the grade of misdemeanor, and if the petition was not approved by the grand jury under Section 53.045, the court may commit the child to the Texas Youth Commission without a determinate sentence;

(3) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) and if the petition was approved by the grand jury under Section

53.045, the court or jury may sentence the child to commitment in the Texas Youth Commission with a possible transfer to the Texas Department of Criminal Justice for a term of:

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

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

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

(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) if applicable, the court or jury may make a disposition under Subsection (m).

(3) On page 51, between lines 6 and 7, insert:

(t) The court may make a disposition under Subsection (d)(2) for delinquent conduct that violates a penal law of the grade of misdemeanor if:

(1) the child has been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony on at least one previous occasion; and

(2) the conduct that is the basis of the current adjudication occurred after the date of that previous adjudication.

(u) For the purposes of disposition under Subsection (d)(2), delinquent conduct that violates a penal law of this state of the grade of felony or misdemeanor does not include conduct that violates a lawful order of a county, municipal, justice, or juvenile court under circumstances that would constitute contempt of that court.

(4) Strike the recital to SECTION 5.007 of the bill (page 52, lines 19 and 20) and substitute:

SECTION 5.007. Section 54.05, Family Code, is amended by amending Subsections (b) and (f) and adding Subsection (k) to read

as follows:

(5) On page 52, between lines 24 and 25, insert:

(f) Except as provided by Subsection (j), a disposition based on a finding that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony or, if the requirements of Subsection (k) are met, of the grade of misdemeanor, may be modified so as to commit the child to the Texas Youth Commission if the court after a hearing to modify disposition finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court. A disposition based on a finding that the child engaged in habitual felony conduct as described by Section 51.031 or in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) may be modified to commit the child to the Texas Youth Commission with a possible transfer to the Texas Department of Criminal Justice for a definite term prescribed by Section 54.04(d)(3) if the original petition was approved by the grand jury under Section 53.045 and if after a hearing to modify the disposition the court finds that the child violated a reasonable and lawful order of the court.

(k) The court may modify a disposition under Subsection (f) that is based on an adjudication that the child engaged in delinquent conduct that violates a penal law of the grade of misdemeanor if:

(1) the child has been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony on at least one previous occasion before the adjudication that prompted the disposition that is being modified; and

(2) the conduct that was the basis of the adjudication that prompted the disposition that is being modified occurred after the date of that previous adjudication.