

BILL ANALYSIS

Senate Research Center

S.B. 1208
By: Whitmire
Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current jurisdiction of the Texas Youth Commission (TYC) is until a youth reaches 19 years of age; this aligns the youth sentenced to a determinate juvenile probation the option of being supervised by the juvenile judge for the same time frame. If the youth is being supervised as a participant in a program that was a diversion from TYC, this allows the court more time to work through the rehabilitative efforts.

S.B. 1208 amends current law relating to the age until which juveniles placed on determinate sentence probation may be on probation.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.0412, Family Code, as follows:

Sec. 51.0412. JURISDICTION OVER INCOMPLETE PROCEEDINGS. Provides that the court retains jurisdiction over a person, without regard to the age of the person, who is a respondent in an adjudication proceeding, a disposition proceeding, a proceeding to modify disposition, or a motion for transfer of determinate sentence probation to an appropriate district court if:

- (1) the petition or motion to modify, rather than the petition, motion to modify, or motion for transfer, was filed while the respondent was younger than 18 years of age or the motion for transfer was filed while the respondent was younger than 19 years of age;
- (2) the proceeding is not complete before the respondent becomes 18 or 19 years of age, as applicable; and
- (3) the court enters a finding in the proceeding that the prosecuting attorney exercised due diligence in an attempt to complete the proceeding before the respondent became 18 or 19 years of age, as applicable.

SECTION 2. Amends Section 54.04(q), Family Code, as follows:

(q) Authorizes the court to, before the child's 19th birthday, rather than before the child's 18th birthday, discharge the child from the sentence of probation. Requires the court, if a sentence of probation ordered under this subsection and any extension of probation ordered under Section 54.05 (Hearing to Modify Disposition) will continue after the child's 19th birthday, rather than after the child's 18th birthday, to discharge the child from the sentence of probation on the child's 19th birthday unless the court transfers the child to an appropriate district court under Section 54.051 (Transfer of Determinate Sentence Probation to Appropriate District Court). Makes a conforming change.

SECTION 3. Amends Section 54.0405(i), Family Code, to authorize a court that requires as a condition of probation that a child attend psychological counseling under Subsection (a) (relating to a child placed on probation for conduct constituting a sexual offense) to, before the date the probation period ends, extend the probation for any additional period necessary to complete the required counseling as determined by the treatment provider, except that the probation may not be extended to a date after the date of the child's 18th birthday, or 19th birthday if the child is placed on determinate sentence probation under Section 54.04(q).

SECTION 4. Amends Section 54.041(h), Family Code, to require the district court, if the juvenile court places the child on probation in a determinate sentence proceeding initiated under Section 53.045 (Violent or Habitual Offenders) and transfers supervision on the child's 19th birthday, rather than on the child's 18th birthday, to a district court for placement on community supervision, to require the payment of any unpaid restitution as a condition of the community supervision.

SECTION 5. Amends Sections 54.05(a) and (b), Family Code, as follows:

(a) Authorizes any disposition, except a commitment to the Texas Youth Commission, to be modified by the juvenile court as provided in this section until:

(1) the child reaches:

(A) the child's 18th birthday; or

(B) the child's 19th birthday, if the child was placed on determinate sentence probation under Section 54.04(q); or

(2) the child is earlier discharged by the court or operation of law.

(b) Provides that, except for a commitment to the Texas Youth Commission or a placement on determinate sentence probation under Section 54.04(q), all dispositions automatically terminate when the child reaches the child's 18th birthday. Makes nonsubstantive changes.

SECTION 6. Amends Sections 54.051(a)-(d) and (e-2), Family Code, as follows:

(a) Requires the juvenile court, on motion of the state concerning a child who is placed on probation under Section 54.04(q) for a period, including any extension ordered under Section 54.05, that will continue after the child's 19th, rather than the child's 18th, birthday, to hold a hearing to determine whether to transfer the child to an appropriate district court or discharge the child from the sentence of probation.

(b) Requires that the hearing be conducted before the child's 19th, rather than the child's 18th, birthday and in the same manner as a hearing to modify disposition under Section 54.05.

(c) Requires the court to specify a date on or before the child's 19th birthday, rather than on or before the child's 18th birthday, to discharge the child from the sentence of probation if, after a hearing, the court determines to discharge the child.

(d) Requires the court to transfer the child to an appropriate district court on the child's 19th birthday, rather than on the child's 18th birthday, if, after a hearing, the court determines to transfer the child.

(e-2) Requires the district court, if a child who is placed on community supervision under this section violates a condition of that supervision or if the child violated a condition of probation ordered under Section 54.04(q) and that probation violation was not discovered by the state before the child's 19th birthday, rather than before the child's 18th birthday, to dispose of the violation of community supervision or probation, as

appropriate, in the same manner as if the court had originally exercised jurisdiction over the case.

SECTION 7. Makes application of the changes in law made by this Act in amending a provision of Title 3 (Juvenile Justice Code), Family Code, except as otherwise provided by this Act, prospective.

SECTION 8. Effective date: September 1, 2011.