

By: Turner

H.B. No. 3351

A BILL TO BE ENTITLED

AN ACT

relating to delinquent conduct for which a juvenile may be certified to stand trial as an adult in a criminal case.

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

SECTION 1. Sections 54.02(a), (j), and (m), Family Code, are amended to read as follows:

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

(1) the child is alleged to have violated a penal law of the grade of felony that is listed in Section 53.045(a);

(2) the child was:

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

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

(3) after a full investigation and a hearing, the juvenile court determines that there is probable cause to believe

1 that the child before the court committed the offense alleged and  
2 that because of the seriousness of the offense alleged or the  
3 background of the child the welfare of the community requires  
4 criminal proceedings.

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

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

9 (2) the person was:

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

13 (B) 14 years of age or older and under 17 years of  
14 age at the time the person is alleged to have committed an  
15 aggravated controlled substance felony or a felony of the first  
16 degree that is listed in Section 53.045(a), other than an offense  
17 under Section 19.02, Penal Code; or

18 (C) 15 years of age or older and under 17 years of  
19 age at the time the person is alleged to have committed a felony of  
20 the second or third degree that is listed in Section 53.045(a) or a  
21 state jail felony that is listed in Section 53.045(a);

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

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

27 (A) for a reason beyond the control of the state

1 it was not practicable to proceed in juvenile court before the 18th  
2 birthday of the person; or

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

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

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

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

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

15 (m) Notwithstanding any other provision of this section,  
16 the juvenile court shall waive its exclusive original jurisdiction  
17 and transfer a child to the appropriate district court or criminal  
18 court for criminal proceedings if:

19 (1) the child has previously been transferred to a  
20 district court or criminal district court for criminal proceedings  
21 under this section, unless:

22 (A) the child was not indicted in the matter  
23 transferred by the grand jury;

24 (B) the child was found not guilty in the matter  
25 transferred;

26 (C) the matter transferred was dismissed with  
27 prejudice; or

1 (D) the child was convicted in the matter  
2 transferred, the conviction was reversed on appeal, and the appeal  
3 is final; and

4 (2) the child is alleged to have violated a penal law  
5 of the grade of felony that is listed in Section 53.045(a).

6 SECTION 2. Section 8.07(a), Penal Code, is amended to read  
7 as follows:

8 (a) A person may not be prosecuted for or convicted of any  
9 offense that the person committed when younger than 15 years of age  
10 except:

11 (1) perjury and aggravated perjury when it appears by  
12 proof that the person had sufficient discretion to understand the  
13 nature and obligation of an oath;

14 (2) a violation of a penal statute cognizable under  
15 Chapter 729, Transportation Code, except for conduct for which the  
16 person convicted may be sentenced to imprisonment or confinement in  
17 jail;

18 (3) a violation of a motor vehicle traffic ordinance  
19 of an incorporated city or town in this state;

20 (4) a misdemeanor punishable by fine only;

21 (5) a violation of a penal ordinance of a political  
22 subdivision;

23 (6) a violation of a penal statute that is, or is a  
24 lesser included offense of, a capital felony, an aggravated  
25 controlled substance felony, or a felony of the first degree that is  
26 listed in Section 53.045(a), Family Code, for which the person is  
27 transferred to the court under Section 54.02, Family Code, for

1 prosecution if the person committed the offense when 14 years of age  
2 or older; or

3           (7) a capital felony or an offense under Section 19.02  
4 for which the person is transferred to the court under Section  
5 54.02(j)(2)(A), Family Code.

6           SECTION 3. The change in law made by this Act applies only  
7 to conduct in which a juvenile is alleged to have engaged on or  
8 after the effective date of this Act. Conduct in which a juvenile is  
9 alleged to have engaged before the effective date of this Act is  
10 governed by the law in effect on the date the juvenile is alleged to  
11 have engaged in the conduct, and the former law is continued in  
12 effect for that purpose. For purposes of this section, conduct is  
13 engaged in before the effective date of this Act if any element of  
14 the offense that the conduct violates occurs before the effective  
15 date of this Act.

16           SECTION 4. This Act takes effect September 1, 2011.