

By: Whitmire
(Madden)

S.B. No. 1208

A BILL TO BE ENTITLED

AN ACT

relating to the age until which juveniles placed on determinate sentence probation may be on probation.

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

SECTION 1. Section 51.0412, Family Code, is amended to read as follows:

Sec. 51.0412. JURISDICTION OVER INCOMPLETE PROCEEDINGS.

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 ~~or~~ 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. Subsection (q), Section 54.04, Family Code, is amended to read as follows:

1 (q) If a court or jury sentences a child to commitment in the
2 Texas Youth Commission under Subsection (d)(3) for a term of not
3 more than 10 years, the court or jury may place the child on
4 probation under Subsection (d)(1) as an alternative to making the
5 disposition under Subsection (d)(3). The court shall prescribe the
6 period of probation ordered under this subsection for a term of not
7 more than 10 years. The court may, before the sentence of probation
8 expires, extend the probationary period under Section 54.05, except
9 that the sentence of probation and any extension may not exceed 10
10 years. The court may, before the child's 19th [~~18th~~] birthday,
11 discharge the child from the sentence of probation. If a sentence
12 of probation ordered under this subsection and any extension of
13 probation ordered under Section 54.05 will continue after the
14 child's 19th [~~18th~~] birthday, the court shall discharge the child
15 from the sentence of probation on the child's 19th [~~18th~~] birthday
16 unless the court transfers the child to an appropriate district
17 court under Section 54.051.

18 SECTION 3. Subsection (i), Section 54.0405, Family Code, is
19 amended to read as follows:

20 (i) A court that requires as a condition of probation that a
21 child attend psychological counseling under Subsection (a) may,
22 before the date the probation period ends, extend the probation for
23 any additional period necessary to complete the required counseling
24 as determined by the treatment provider, except that the probation
25 may not be extended to a date after the date of the child's 18th
26 birthday, or 19th birthday if the child is placed on determinate
27 sentence probation under Section 54.04(q).

1 SECTION 4. Subsection (h), Section 54.041, Family Code, is
2 amended to read as follows:

3 (h) If the juvenile court places the child on probation in a
4 determinate sentence proceeding initiated under Section 53.045 and
5 transfers supervision on the child's 19th [~~18th~~] birthday to a
6 district court for placement on community supervision, the district
7 court shall require the payment of any unpaid restitution as a
8 condition of the community supervision. The liability of the
9 child's parent for restitution may not be extended by transfer to a
10 district court for supervision.

11 SECTION 5. Subsections (a) and (b), Section 54.05, Family
12 Code, are amended to read as follows:

13 (a) Any disposition, except a commitment to the Texas Youth
14 Commission, may be modified by the juvenile court as provided in
15 this section until:

- 16 (1) the child reaches:
- 17 (A) the child's [~~his~~] 18th birthday; or
 - 18 (B) the child's 19th birthday, if the child was
19 placed on determinate sentence probation under Section 54.04(q); or

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

22 (b) Except for a commitment to the Texas Youth Commission or
23 a placement on determinate sentence probation under Section
24 54.04(q), all dispositions automatically terminate when the child
25 reaches the child's [~~his~~] 18th birthday.

26 SECTION 6. Subsections (a) through (d) and (e-2), Section
27 54.051, Family Code, are amended to read as follows:

1 (a) On motion of the state concerning a child who is placed
2 on probation under Section 54.04(q) for a period, including any
3 extension ordered under Section 54.05, that will continue after the
4 child's 19th [~~18th~~] birthday, the juvenile court shall hold a
5 hearing to determine whether to transfer the child to an
6 appropriate district court or discharge the child from the sentence
7 of probation.

8 (b) The hearing must be conducted before the child's 19th
9 [~~18th~~] birthday and in the same manner as a hearing to modify
10 disposition under Section 54.05.

11 (c) If, after a hearing, the court determines to discharge
12 the child, the court shall specify a date on or before the child's
13 19th [~~18th~~] birthday to discharge the child from the sentence of
14 probation.

15 (d) If, after a hearing, the court determines to transfer
16 the child, the court shall transfer the child to an appropriate
17 district court on the child's 19th [~~18th~~] birthday.

18 (e-2) If a child who is placed on community supervision
19 under this section violates a condition of that supervision or if
20 the child violated a condition of probation ordered under Section
21 54.04(q) and that probation violation was not discovered by the
22 state before the child's 19th [~~18th~~] birthday, the district court
23 shall dispose of the violation of community supervision or
24 probation, as appropriate, in the same manner as if the court had
25 originally exercised jurisdiction over the case. If the judge
26 revokes community supervision, the judge may reduce the prison
27 sentence to any length without regard to the minimum term imposed by

1 Section 23(a), Article 42.12, Code of Criminal Procedure.

2 SECTION 7. Except as otherwise provided by this Act, the
3 changes in law made by this Act in amending a provision of Title 3,
4 Family Code, apply only to conduct that violates a penal law and
5 that occurs on or after the effective date of this Act. Conduct
6 that violates a penal law and that occurs before the effective date
7 of this Act is covered by the law in effect at the time the conduct
8 occurred, and the former law is continued in effect for that
9 purpose. For the purposes of this section, conduct violating a
10 penal law occurs before the effective date of this Act if every
11 element of the violation occurred before that date.

12 SECTION 8. This Act takes effect September 1, 2011.