

1-1 By: Whitmire S.B. No. 1208
1-2 (In the Senate - Filed March 7, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 21, 2011, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; April 21, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the age until which juveniles placed on determinate
1-9 sentence probation may be on probation.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 51.0412, Family Code, is amended to read
1-12 as follows:

1-13 Sec. 51.0412. JURISDICTION OVER INCOMPLETE PROCEEDINGS.
1-14 The court retains jurisdiction over a person, without regard to the
1-15 age of the person, who is a respondent in an adjudication
1-16 proceeding, a disposition proceeding, a proceeding to modify
1-17 disposition, or a motion for transfer of determinate sentence
1-18 probation to an appropriate district court if:

1-19 (1) the petition ~~or~~ ~~[7]~~ motion to modify ~~[7]~~ ~~or~~ ~~motion~~
1-20 ~~for transfer~~ was filed while the respondent was younger than 18
1-21 years of age or the motion for transfer was filed while the
1-22 respondent was younger than 19 years of age;

1-23 (2) the proceeding is not complete before the
1-24 respondent becomes 18 or 19 years of age, as applicable; and

1-25 (3) the court enters a finding in the proceeding that
1-26 the prosecuting attorney exercised due diligence in an attempt to
1-27 complete the proceeding before the respondent became 18 or 19 years
1-28 of age, as applicable.

1-29 SECTION 2. Subsection (q), Section 54.04, Family Code, is
1-30 amended to read as follows:

1-31 (q) If a court or jury sentences a child to commitment in the
1-32 Texas Youth Commission under Subsection (d)(3) for a term of not
1-33 more than 10 years, the court or jury may place the child on
1-34 probation under Subsection (d)(1) as an alternative to making the
1-35 disposition under Subsection (d)(3). The court shall prescribe the
1-36 period of probation ordered under this subsection for a term of not
1-37 more than 10 years. The court may, before the sentence of probation
1-38 expires, extend the probationary period under Section 54.05, except
1-39 that the sentence of probation and any extension may not exceed 10
1-40 years. The court may, before the child's 19th ~~[18th]~~ birthday,
1-41 discharge the child from the sentence of probation. If a sentence
1-42 of probation ordered under this subsection and any extension of
1-43 probation ordered under Section 54.05 will continue after the
1-44 child's 19th ~~[18th]~~ birthday, the court shall discharge the child
1-45 from the sentence of probation on the child's 19th ~~[18th]~~ birthday
1-46 unless the court transfers the child to an appropriate district
1-47 court under Section 54.051.

1-48 SECTION 3. Subsection (i), Section 54.0405, Family Code, is
1-49 amended to read as follows:

1-50 (i) A court that requires as a condition of probation that a
1-51 child attend psychological counseling under Subsection (a) may,
1-52 before the date the probation period ends, extend the probation for
1-53 any additional period necessary to complete the required counseling
1-54 as determined by the treatment provider, except that the probation
1-55 may not be extended to a date after the date of the child's 18th
1-56 birthday, or 19th birthday if the child is placed on determinate
1-57 sentence probation under Section 54.04(q).

1-58 SECTION 4. Subsection (h), Section 54.041, Family Code, is
1-59 amended to read as follows:

1-60 (h) If the juvenile court places the child on probation in a
1-61 determinate sentence proceeding initiated under Section 53.045 and
1-62 transfers supervision on the child's 19th ~~[18th]~~ birthday to a
1-63 district court for placement on community supervision, the district
1-64 court shall require the payment of any unpaid restitution as a

2-1 condition of the community supervision. The liability of the
2-2 child's parent for restitution may not be extended by transfer to a
2-3 district court for supervision.

2-4 SECTION 5. Subsections (a) and (b), Section 54.05, Family
2-5 Code, are amended to read as follows:

2-6 (a) Any disposition, except a commitment to the Texas Youth
2-7 Commission, may be modified by the juvenile court as provided in
2-8 this section until:

2-9 (1) the child reaches:

2-10 (A) the child's ~~[his]~~ 18th birthday; or

2-11 (B) the child's 19th birthday, if the child was
2-12 placed on determinate sentence probation under Section 54.04(q); or

2-13 (2) the child is earlier discharged by the court or
2-14 operation of law.

2-15 (b) Except for a commitment to the Texas Youth Commission or
2-16 a placement on determinate sentence probation under Section
2-17 54.04(q), all dispositions automatically terminate when the child
2-18 reaches the child's ~~[his]~~ 18th birthday.

2-19 SECTION 6. Subsections (a) through (d) and (e-2), Section
2-20 54.051, Family Code, are amended to read as follows:

2-21 (a) On motion of the state concerning a child who is placed
2-22 on probation under Section 54.04(q) for a period, including any
2-23 extension ordered under Section 54.05, that will continue after the
2-24 child's 19th ~~[18th]~~ birthday, the juvenile court shall hold a
2-25 hearing to determine whether to transfer the child to an
2-26 appropriate district court or discharge the child from the sentence
2-27 of probation.

2-28 (b) The hearing must be conducted before the child's 19th
2-29 ~~[18th]~~ birthday and in the same manner as a hearing to modify
2-30 disposition under Section 54.05.

2-31 (c) If, after a hearing, the court determines to discharge
2-32 the child, the court shall specify a date on or before the child's
2-33 19th ~~[18th]~~ birthday to discharge the child from the sentence of
2-34 probation.

2-35 (d) If, after a hearing, the court determines to transfer
2-36 the child, the court shall transfer the child to an appropriate
2-37 district court on the child's 19th ~~[18th]~~ birthday.

2-38 (e-2) If a child who is placed on community supervision
2-39 under this section violates a condition of that supervision or if
2-40 the child violated a condition of probation ordered under Section
2-41 54.04(q) and that probation violation was not discovered by the
2-42 state before the child's 19th ~~[18th]~~ birthday, the district court
2-43 shall dispose of the violation of community supervision or
2-44 probation, as appropriate, in the same manner as if the court had
2-45 originally exercised jurisdiction over the case. If the judge
2-46 revokes community supervision, the judge may reduce the prison
2-47 sentence to any length without regard to the minimum term imposed by
2-48 Section 23(a), Article 42.12, Code of Criminal Procedure.

2-49 SECTION 7. Except as otherwise provided by this Act, the
2-50 changes in law made by this Act in amending a provision of Title 3,
2-51 Family Code, apply only to conduct that violates a penal law and
2-52 that occurs on or after the effective date of this Act. Conduct
2-53 that violates a penal law and that occurs before the effective date
2-54 of this Act is covered by the law in effect at the time the conduct
2-55 occurred, and the former law is continued in effect for that
2-56 purpose. For the purposes of this section, conduct violating a
2-57 penal law occurs before the effective date of this Act if every
2-58 element of the violation occurred before that date.

2-59 SECTION 8. This Act takes effect September 1, 2011.

* * * * *

2-60