

By: Hinojosa

S.B. No. 888

A BILL TO BE ENTITLED

AN ACT

relating to the appeal of waiver of jurisdiction and transfer to criminal court in juvenile cases.

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

SECTION 1. Article 4.18(g), Code of Criminal Procedure, is amended to read as follows:

(g) This article does not apply to a claim of a defect or error in a discretionary transfer proceeding in juvenile court. A defendant may appeal a defect or error only as provided by Chapter 56, Family Code [~~Article 44.47~~].

SECTION 2. Section 51.041(a), Family Code, is amended to read as follows:

(a) The court retains jurisdiction over a person, without regard to the age of the person, for conduct engaged in by the person before becoming 17 years of age if, as a result of an appeal by the person or the state under Chapter 56 [~~or by the person under Article 44.47, Code of Criminal Procedure,~~] of an order of the court, the order is reversed or modified and the case remanded to the court by the appellate court.

SECTION 3. Section 56.01, Family Code, is amended by amending Subsections (c) and (h) and adding Subsections (g-1) and (h-1) to read as follows:

(c) An appeal may be taken:

(1) except as provided by Subsection (n), by or on

1 behalf of a child from an order entered under:

2 (A) Section 54.02 respecting transfer of the  
3 child for prosecution as an adult;

4 (B) Section 54.03 with regard to delinquent  
5 conduct or conduct indicating a need for supervision;

6 (C) [~~(B)~~] Section 54.04 disposing of the case;

7 (D) [~~(C)~~] Section 54.05 respecting modification  
8 of a previous juvenile court disposition; or

9 (E) [~~(D)~~] Chapter 55 by a juvenile court  
10 committing a child to a facility for the mentally ill or  
11 intellectually disabled [~~mentally retarded~~]; or

12 (2) by a person from an order entered under Section  
13 54.11(i)(2) transferring the person to the custody of the Texas  
14 Department of Criminal Justice.

15 (g-1) An appeal from an order entered under Section 54.02  
16 respecting transfer of the child for prosecution as an adult does  
17 not stay the criminal proceedings pending the disposition of that  
18 appeal.

19 (h) If the order appealed from takes custody of the child  
20 from the child's [~~his~~] parent, guardian, or custodian or waives  
21 jurisdiction under Section 54.02 and transfers the child to  
22 criminal court for prosecution, the appeal has precedence over all  
23 other cases.

24 (h-1) The supreme court shall adopt rules accelerating the  
25 disposition by the appellate court and the supreme court of an  
26 appeal of an order waiving jurisdiction under Section 54.02 and  
27 transferring a child to criminal court for prosecution.

1           SECTION 4. Article [44.47](#), Code of Criminal Procedure, is  
2 repealed.

3           SECTION 5. The change in law made by this Act applies only  
4 to an order of a juvenile court waiving jurisdiction and  
5 transferring a child to criminal court that is issued on or after  
6 the effective date of this Act. An order of a juvenile court  
7 waiving jurisdiction and transferring a child to criminal court  
8 that is issued before the effective date of this Act is governed by  
9 the law in effect on the date the order was issued, and the former  
10 law is continued in effect for that purpose.

11          SECTION 6. This Act takes effect September 1, 2015.