

BILL ANALYSIS

Senate Research Center
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S.B. 1698
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Juvenile Certification Process

Currently, juvenile courts in Texas have exclusive jurisdiction over juveniles ages 10–17. The only exception to this is outlined in the Section 54.02, Family Code, which allows for a court to waive its jurisdiction and transfer a juvenile to an adult district court to face the adult criminal justice process—the process commonly referred to as "juvenile certification."

Under Section 54.02(a), Family Code, the juvenile court may certify someone as an adult only if the following factors are met:

1. the alleged offense is a felony;
2. the child was 14 or older at the time of the offense if the alleged offense was a first degree felony, a capital felony, or an aggravated controlled substance felony or the child was 15 or older for any other felony;
3. no adjudication hearing has taken place for that offense; and
4. during a hearing, the court finds that there is a probable cause to believe the juvenile committed the offense.

Additionally, in all cases prior to the certification hearing, the court must order a complete diagnostic study be done on the juvenile, which also includes information about the juvenile's life circumstances and also information about the offense. This study is then provided to the court, prosecutor and defense attorney prior to the hearing.

The district attorney's office makes the initial decision whether to seek certification. If they decide to seek certification, a hearing will be held and a juvenile court judge will determine if the juvenile will be certified to have the case handled in adult court.

S.B. 1698

S.B. 1698 simply limits the felony offenses for which a juvenile can be certified by amending Section 54.02(a)(2)(B).

As stated above, currently if a juvenile is 15 years of age, prosecutors can seek certification on any level of felony offense (as long as the other certification criteria are met). This legislation removes lower level offenses, namely state jail felonies and third degree felonies, from certification eligible offenses.

These lower-level felonies would still be able to be prosecuted and juveniles held responsible for their actions, but within the juvenile system and ultimately Texas Juvenile Justice Department instead of the adult prison system.

As proposed, S.B. 1698 amends current law relating to the eligibility of certain juvenile offenders to be transferred to criminal court.

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 Sections 54.02(a) and (j), Family Code, as follows:

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

(1) makes no changes to this subdivision;

(2) the child was:

(A) makes a nonsubstantive change to this paragraph; 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 degree, rather than the second or third degree or a state jail felony, and no adjudication hearing has been conducted concerning that offense; and

(3) makes no changes to this subdivision.

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

(1) makes no changes to this subdivision;

(2) the person was:

(A)-(B) makes no changes to these paragraphs; or

(C) 15 years of age or older and under 17 years of age at the time the person is alleged to have committed a felony or the second degree, rather than the second or third degree or a state jail felony; and

(3)-(5) makes no changes to these subdivisions.

SECTION 2. Makes application of this Act prospective. Provides that for purposes of this section, conduct occurred before the effective date of this Act if any element of the conduct occurred before that date.

SECTION 3. Effective date: September 1, 2019.