86R8128 ADM-D

By:  Wu H.B. No. 2491

A BILL TO BE ENTITLED

AN ACT

relating to the disposition of a juvenile who engages in delinquent conduct that violates a penal law of the grade of state jail felony.

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

SECTION 1.  Section 54.04(d), Family Code, is amended to read as follows:

(d)  If the court or jury makes the finding specified in Subsection (c) allowing the court to make a disposition in the case:

(1)  the court or jury may, in addition to any order required or authorized under Section 54.041 or 54.042, place the child on probation on such reasonable and lawful terms as the court may determine:

(A)  in the child's own home or in the custody of a relative or other fit person; or

(B)  subject to the finding under Subsection (c) on the placement of the child outside the child's home, in:

(i)  a suitable foster home;

(ii)  a suitable public or private residential treatment facility licensed by a state governmental entity or exempted from licensure by state law, except a facility operated by the Texas Juvenile Justice Department; or

(iii)  a suitable public or private post-adjudication secure correctional facility that meets the requirements of Section 51.125, except a facility operated by the Texas Juvenile Justice Department;

(2)  if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony, other than a state jail felony, the court or jury made a special commitment finding under Section 54.04013, and the petition was not approved by the grand jury under Section 53.045, the court may commit the child to the Texas Juvenile Justice Department under Section 54.04013[~~, or a post-adjudication secure correctional facility under Section 54.04011(c)(1), as applicable,~~] without a determinate sentence;

(3)  if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) and if the petition was approved by the grand jury under Section 53.045, the court or jury may sentence the child to commitment in the Texas Juvenile Justice Department [~~or a post-adjudication secure correctional facility under Section 54.04011(c)(2)~~] with a possible transfer to the Texas Department of Criminal Justice for a term of:

(A)  not more than 40 years if the conduct constitutes:

(i)  a capital felony;

(ii)  a felony of the first degree; or

(iii)  an aggravated controlled substance felony;

(B)  not more than 20 years if the conduct constitutes a felony of the second degree; or

(C)  not more than 10 years if the conduct constitutes a felony of the third degree;

(4)  the court may assign the child an appropriate sanction level and sanctions as provided by the assignment guidelines in Section 59.003;

(5)  the court may place the child in a suitable nonsecure correctional facility that is registered and meets the applicable standards for the facility as provided by Section 51.126; or

(6)  if applicable, the court or jury may make a disposition under Subsection (m) [~~or Section 54.04011(c)(2)(A)~~].

SECTION 2.  Section 54.04013, Family Code, is amended to read as follows:

Sec. 54.04013.  SPECIAL COMMITMENT TO TEXAS JUVENILE JUSTICE DEPARTMENT.  Notwithstanding any other provision of this code, after a disposition hearing held in accordance with Section 54.04, the juvenile court may commit a child who is found to have engaged in delinquent conduct that constitutes a felony offense, other than a state jail felony, to the Texas Juvenile Justice Department without a determinate sentence if the court makes a special commitment finding that the child has behavioral health or other special needs that cannot be met with the resources available in the community.  The court should consider the findings of a validated risk and needs assessment and the findings of any other appropriate professional assessment available to the court.

SECTION 3.  Section 54.05(f), Family Code, is amended to read as follows:

(f)  Except as provided by Subsection (j), a disposition based on a finding that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony, other than a state jail felony, may be modified so as to commit the child to the Texas Juvenile Justice Department [~~or, if applicable, a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code,~~] if the court after a hearing to modify disposition finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court.  A disposition based on a finding that the child engaged in habitual felony conduct as described by Section 51.031 or in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) may be modified to commit the child to the Texas Juvenile Justice Department [~~or, if applicable, a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code,~~] with a possible transfer to the Texas Department of Criminal Justice for a definite term prescribed by[~~, as applicable,~~] Section 54.04(d)(3) [~~or Section 152.0016(g), Human Resources Code,~~] if the original petition was approved by the grand jury under Section 53.045 and if after a hearing to modify the disposition the court finds that the child violated a reasonable and lawful order of the court.

SECTION 4.  This Act applies only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct occurred before the effective date of this Act if any element of the conduct occurred before that date.

SECTION 5.  This Act takes effect September 1, 2019.