By:  Whitmire S.B. No. 1698

(In the Senate - Filed March 6, 2019; March 14, 2019, read first time and referred to Committee on Criminal Justice; April 23, 2019, reported adversely, with favorable Committee Substitute by the following vote: Yeas 6, Nays 0; April 23, 2019, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Huffman         X

Buckingham      X

Flores          X

Hughes                    X

Miles           X

Perry           X

COMMITTEE SUBSTITUTE FOR S.B. No. 1698 By:  Perry

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of certain juvenile offenders to be transferred to criminal court.

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

SECTION 1.  Sections 54.02(a) and (j), Family Code, are amended to read as follows:

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

(1)  the child is alleged to have violated a penal law of the grade of felony;

(2)  the child was:

(A)  14 years of age or older at the time the child [~~he~~] is alleged to have committed the offense, if the offense is a capital felony, an aggravated controlled substance felony, or a felony of the first degree, and no adjudication hearing has been conducted concerning that offense; 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 or third degree [~~or a state jail felony~~], and no adjudication hearing has been conducted concerning that offense; and

(3)  after a full investigation and a hearing, the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged and that because of the seriousness of the offense alleged or the background of the child the welfare of the community requires criminal proceedings.

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

(1)  the person is 18 years of age or older;

(2)  the person was:

(A)  10 years of age or older and under 17 years of age at the time the person is alleged to have committed a capital felony or an offense under Section 19.02, Penal Code;

(B)  14 years of age or older and under 17 years of age at the time the person is alleged to have committed an aggravated controlled substance felony or a felony of the first degree other than an offense under Section 19.02, Penal Code; 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 of the second or third degree [~~or a state jail felony~~];

(3)  no adjudication concerning the alleged offense has been made or no adjudication hearing concerning the offense has been conducted;

(4)  the juvenile court finds from a preponderance of the evidence that:

(A)  for a reason beyond the control of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person; or

(B)  after due diligence of the state it was not practicable to proceed in juvenile court before the 18th birthday of the person because:

(i)  the state did not have probable cause to proceed in juvenile court and new evidence has been found since the 18th birthday of the person;

(ii)  the person could not be found; or

(iii)  a previous transfer order was reversed by an appellate court or set aside by a district court; and

(5)  the juvenile court determines that there is probable cause to believe that the child before the court committed the offense alleged.

SECTION 2.  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 3.  This Act takes effect September 1, 2019.

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