

By: Wu

H.B. No. 1364

Substitute the following for H.B. No. 1364:

By: Dutton

C.S.H.B. No. 1364

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the age of a child at which a juvenile court may
3 exercise jurisdiction over the child and to the minimum age of
4 criminal responsibility.

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

6 SECTION 1. Article 45.058(h), Code of Criminal Procedure,
7 is amended to read as follows:

8 (h) In this article, "child" means a person who is:

9 (1) at least 12 [~~10~~] years of age and younger than 17
10 years of age; and

11 (2) charged with or convicted of an offense that a
12 justice or municipal court has jurisdiction of under Article 4.11
13 or 4.14.

14 SECTION 2. Section 37.141(1), Education Code, is amended to
15 read as follows:

16 (1) "Child" means a person who is:

17 (A) a student; and

18 (B) at least 12 [~~10~~] years of age and younger than
19 18 years of age.

20 SECTION 3. Section 51.02(2), Family Code, is amended to
21 read as follows:

22 (2) "Child" means a person who is:

23 (A) 10 [~~ten~~] years of age or older and under 19
24 [~~17~~] years of age who is alleged or found to have engaged in conduct

1 that violates a penal law of the grade of felony of the second
2 degree or higher as a result of acts committed before becoming 12
3 years of age; or

4 (B) 12 [~~seventeen~~] years of age or older and
5 under 19 [~~18~~] years of age who is alleged or found to have engaged in
6 delinquent conduct or conduct indicating a need for supervision as
7 a result of acts committed after becoming 12 years of age and before
8 becoming 17 years of age.

9 SECTION 4. Section 52.02, Family Code, is amended by adding
10 Subsection (e) to read as follows:

11 (e) A child younger than 12 years of age must be released
12 from custody in accordance with Subsection (a)(1) unless the child
13 poses an immediate threat to public safety or to the child's own
14 safety.

15 SECTION 5. Chapter 54, Family Code, is amended by adding
16 Section 54.015 to read as follows:

17 Sec. 54.015. JURISDICTIONAL HEARING FOR CHILD YOUNGER THAN
18 12 YEARS OF AGE. (a) A court shall hold a jurisdictional hearing
19 without a jury to determine whether to retain jurisdiction over a
20 child younger than 12 years of age.

21 (b) A hearing under this section must be held:

22 (1) if the child was not released under Section 53.02,
23 immediately before considering whether to release the child at the
24 detention hearing under Section 54.01; or

25 (2) if the child was not detained and the requirements
26 of Sections 53.04, 53.05, 53.06, and 53.07 are satisfied,
27 immediately before the hearing on the petition.

1 (c) At a hearing under this section, the court must
2 determine whether to retain jurisdiction over the child by
3 considering whether:

4 (1) probable cause exists to believe that the child
5 engaged in conduct that violates a penal law of the grade of felony
6 of the second degree or higher;

7 (2) normal interventions by child protective services
8 or the child's school will be sufficient to ensure the safety of the
9 public and of the child;

10 (3) intervention by the court is warranted; and

11 (4) it is in the best interest of the child for the
12 court to intervene.

13 (d) If the court retains jurisdiction over a child under
14 this section, the court may proceed with the detention hearing
15 under Section 54.01 or an adjudication hearing under Section 54.03,
16 as applicable.

17 (e) If the court waives jurisdiction over the child, the
18 court shall immediately dismiss the child and the charges against
19 the child. A waiver under this section is a waiver of jurisdiction
20 over the child only for the dismissed charges.

21 SECTION 6. Section 201.001(a)(2), Human Resources Code, is
22 amended to read as follows:

23 (2) "Child" means an individual [+
24 [~~(A)~~] 10 years of age or older and younger than 19
25 [~~18~~] years of age who is under the jurisdiction of a juvenile
26 court[~~, or~~

27 [~~(B)~~ 10 years of age or older and younger than 19

1 ~~years of age who is committed to the department under Title 3,~~
2 ~~Family Code].~~

3 SECTION 7. Sections 8.07(d) and (e), Penal Code, are
4 amended to read as follows:

5 (d) Notwithstanding Subsection (a), a person may not be
6 prosecuted for or convicted of an offense described by Subsection
7 (a)(4) or (5) that the person committed when younger than 12 [~~10~~]
8 years of age.

9 (e) A person who is at least 12 [~~10~~] years of age but younger
10 than 15 years of age is presumed incapable of committing an offense
11 described by Subsection (a)(4) or (5), other than an offense under a
12 juvenile curfew ordinance or order. This presumption may be
13 refuted if the prosecution proves to the court by a preponderance of
14 the evidence that the actor had sufficient capacity to understand
15 that the conduct engaged in was wrong at the time the conduct was
16 engaged in. The prosecution is not required to prove that the actor
17 at the time of engaging in the conduct knew that the act was a
18 criminal offense or knew the legal consequences of the offense.

19 SECTION 8. The following provisions are repealed:

- 20 (1) Article 45.058(j), Code of Criminal Procedure;
21 (2) Sections 37.124(d) and 37.126(c), Education Code;
22 and
23 (3) Section 42.01(f), Penal Code.

24 SECTION 9. The changes in law made by this Act apply only to
25 an offense committed or conduct that occurs on or after the
26 effective date of this Act. An offense committed or conduct that
27 occurred before that date is governed by the law in effect on the

1 date the offense was committed or the conduct occurred, and the
2 former law is continued in effect for that purpose. For purposes of
3 this section, an offense was committed or conduct occurred before
4 the effective date of this Act if any element of the offense or
5 conduct occurred before that date.

6 SECTION 10. This Act takes effect September 1, 2019.