

By: Wu

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) 12 [~~ten~~] years of age or older and under 17
24 years of age; or

1 (B) 17 [~~seventeen~~] years of age or older and
2 under 19 [~~18~~] years of age who is:

3 (i) alleged or found to have engaged in
4 delinquent conduct or conduct indicating a need for supervision as
5 a result of acts committed before becoming 17 years of age; and

6 (ii) under the jurisdiction of a juvenile
7 court.

8 SECTION 4. Section 54.02(j), Family Code, is amended to
9 read as follows:

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

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

14 (2) the person was:

15 (A) 12 [~~10~~] years of age or older and under 17
16 years of age at the time the person is alleged to have committed a
17 capital felony or an offense under Section 19.02, Penal Code;

18 (B) 14 years of age or older and under 17 years of
19 age at the time the person is alleged to have committed an
20 aggravated controlled substance felony or a felony of the first
21 degree other than an offense under Section 19.02, Penal Code; or

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

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

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

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

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

9 (i) the state did not have probable cause to
10 proceed in juvenile court and new evidence has been found since the
11 18th birthday of the person;

12 (ii) the person could not be found; or

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

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

18 SECTION 5. Section 63.001(1), Human Resources Code, is
19 amended to read as follows:

20 (1) "Juvenile" means a person from the age of 12 [~~10~~]
21 to 18 years who has been found to have engaged in delinquent conduct
22 by a court of competent jurisdiction.

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

25 (2) "Child" means an individual 12[~~+~~

26 [~~(A)~~—~~10~~] years of age or older and younger than 19
27 [~~18~~] years of age who is under the jurisdiction of a juvenile

1 court [~~or~~
2 [~~(B) 10 years of age or older and younger than 19~~
3 ~~years of age who is committed to the department under Title 3,~~
4 ~~Family Code]~~.

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

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

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

21 SECTION 8. The changes in law made by this Act apply only to
22 an offense committed or conduct that occurs on or after the
23 effective date of this Act. An offense committed or conduct that
24 occurred before that date is governed by the law in effect on the
25 date the offense was committed or the conduct occurred, and the
26 former law is continued in effect for that purpose. For purposes of
27 this section, an offense was committed or conduct occurred before

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1 the effective date of this Act if any element of the offense or
2 conduct occurred before that date.

3 SECTION 9. This Act takes effect September 1, 2019.