

By: Wu

H.B. No. 2491

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

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

17 (i) a suitable foster home;

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

22 (iii) a suitable public or private
23 post-adjudication secure correctional facility that meets the
24 requirements of Section 51.125, except a facility operated by the

1 Texas Juvenile Justice Department;

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

12 (3) if the court or jury found at the conclusion of the
13 adjudication hearing that the child engaged in delinquent conduct
14 that included a violation of a penal law listed in Section 53.045(a)
15 and if the petition was approved by the grand jury under Section
16 53.045, the court or jury may sentence the child to commitment in
17 the Texas Juvenile Justice Department [~~or a post-adjudication~~
18 ~~secure correctional facility under Section 54.04011(c)(2)] with a
19 possible transfer to the Texas Department of Criminal Justice for a
20 term of:~~

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

- 23 (i) a capital felony;
24 (ii) a felony of the first degree; or
25 (iii) an aggravated controlled substance
26 felony;

27 (B) not more than 20 years if the conduct

1 constitutes a felony of the second degree; or

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

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

7 (5) the court may place the child in a suitable
8 nonsecure correctional facility that is registered and meets the
9 applicable standards for the facility as provided by Section
10 51.126; or

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

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

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

27 SECTION 3. Section 54.05(f), Family Code, is amended to

1 read as follows:

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

24 SECTION 4. This Act applies only to conduct that occurs on
25 or after the effective date of this Act. Conduct that occurs before
26 the effective date of this Act is governed by the law in effect on
27 the date the conduct occurred, and the former law is continued in

1 effect for that purpose. For the purposes of this section, conduct
2 occurred before the effective date of this Act if any element of the
3 conduct occurred before that date.

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