

By: Whitmire

S.B. No. 1698

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

1 that the child before the court committed the offense alleged and
2 that because of the seriousness of the offense alleged or the
3 background of the child the welfare of the community requires
4 criminal proceedings.

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

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

9 (2) the person was:

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

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

17 (C) 15 years of age or older and under 17 years of
18 age at the time the person is alleged to have committed a felony of
19 the second [~~or third~~] degree [~~or a state jail felony~~];

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

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

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

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

4 (i) the state did not have probable cause to
5 proceed in juvenile court and new evidence has been found since the
6 18th birthday of the person;

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

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

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

13 SECTION 2. This Act applies only to conduct that occurs on
14 or after the effective date of this Act. Conduct that occurs before
15 the effective date of this Act is governed by the law in effect on
16 the date the conduct occurred, and the former law is continued in
17 effect for that purpose. For the purposes of this section, conduct
18 occurred before the effective date of this Act if any element of the
19 conduct occurred before that date.

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