

BILL ANALYSIS

S.B. 1727
By: Perry
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that data from the Texas Juvenile Justice Department indicates that violence against staff by juveniles continues to be a problem. S.B. 1727 aims to enhance public safety and accountability within the juvenile justice system by restricting eligibility for community supervision for juveniles aged 17 and older who commit new felonies while placed in certain juvenile justice settings, by including a first degree, second degree, or third degree felony offense committed while in certain juvenile justice settings among the conduct eligible for determinate sentencing, and by lowering the threshold for habitual felony conduct, among other changes.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Conduct Ineligible for Community Supervision

S.B. 1727 amends the Code of Criminal Procedure to make a defendant ineligible for community supervision, including deferred adjudication community supervision, for an offense punishable as a felony committed as follows:

- when the defendant was at least 17 years of age; and
- while the defendant was:
 - committed to the Texas Juvenile Justice Department (TJJD);
 - placed in a halfway house operated by or under contract with TJJD; or
 - placed in a secure correctional facility or secure detention facility.

The bill defines "secure correctional facility" and "secure detention facility" by reference to the juvenile justice code.

Habitual Felony Conduct

S.B. 1727 amends the Family Code to lower from two to one the minimum number of previous final adjudications for having engaged in delinquent conduct that violates a penal law of the grade of felony that constitutes habitual felony conduct under the juvenile justice code.

Conduct Eligible for Determinate Sentence

S.B. 1727 includes among the conduct eligible for a determinate sentence delinquent conduct that constitutes a first degree, second degree, or third degree felony committed while the child was committed to TJJD, was placed in a halfway house operated by or under contract with TJJD, or was placed in a secure correctional facility or secure detention facility.

Transfer or Placement of a Child on Determinate Sentence Probation

S.B. 1727 includes among the orders that may be entered by a juvenile court after conducting a hearing to modify a disposition of a child on determinate sentence probation without a jury, if the court finds by a preponderance of the evidence that the child violated a reasonable and lawful condition of the probation, an order to modify the disposition to transfer the child, if the violation occurred on or after the child's 18th birthday, to the Texas Department of Criminal Justice (TDCJ) for a term that does not exceed the original sentence assessed by the court or jury or to an appropriate district court to be placed on community supervision under applicable state law.

S.B. 1727 authorizes a court modifying a disposition to transfer the child to TDCJ for a term that does not exceed the original sentence to consider the following:

- the experiences and character of the child before and after being placed on probation;
- the nature of the conduct violating a penal law for which the child was placed on probation and the manner in which the conduct was engaged;
- the ability of the child to contribute to society;
- the protection of the victim of the conduct for which the child was placed on probation or of a family member of the victim of that conduct;
- the recommendations of the juvenile probation department and the state's attorney;
- the best interests of the child; and
- any other factor the court considers relevant.

However, the bill requires a court conducting a hearing for such a purpose to ensure the hearing is recorded by a court reporter or audio or video tape recording and to retain the record of the hearing until the second anniversary of the date the court issues an order regarding the hearing.

S.B. 1727 establishes that a court may transfer such a child to an appropriate district court before the child's 19th birthday and establishes that only the petition, the grand jury approval, the judgment concerning the conduct for which the child was placed on determinate sentence probation, and the transfer order are part of the district clerk's public record. Accordingly, the bill clarifies that the duty of a district court to dispose of a violation of a condition of determinate sentence probation in the same manner as if the court had originally exercised jurisdiction over the case applies to a violation that was not discovered by the state before the date the person was transferred to the court.

S.B. 1727 authorizes a juvenile court, if the motion of the state concerning whether a child placed on determinate sentence probation will be transferred to an appropriate district court or discharged includes an allegation that after the child's 18th birthday the child violated a condition of probation, to hold a hearing to determine whether there is probable cause to believe that the child committed the alleged violation. The bill authorizes the court, if it determines that there is probable cause to believe that the child committed the alleged violation, to immediately transfer the child to an appropriate district court.

These provisions apply to a child placed on probation on or after the bill's effective date, regardless of whether the conduct for which the child was placed on probation was committed before, on, or after the bill's effective date.

Credit for Time Spent in Secure Detention Facility

S.B. 1727 prohibits a judge from giving a child credit on the child's sentence, except as otherwise provided by state law for time spent by the child in a secure detention facility before the child's

transfer to a TJJD facility or pending disposition of the child's appeal, and removes the requirement for TJJD to grant any credit for time ordered by a judge for a child with a determinate sentence in computing the child's eligibility for parole.

S.B. 1727 prohibits TJJD from granting credit for the purpose of calculating the minimum period of confinement for a child under a determinate sentence and subject to a minimum period of confinement based on the conduct for which the child was sentenced, for time spent in a secure detention facility before the date the child is committed to TJJD. However, the bill requires TJJD to grant credit for the purpose of calculating the minimum period of confinement for such a child for time spent in a secure detention facility on or after the date the child is committed to TJJD.

Hearing to Return Child to Institution for Violation of Condition of Release; Special Prosecution Unit

S.B. 1727 amends the Government Code to authorize a prosecuting attorney serving on a special prosecution unit, at the request of TJJD, to participate in a hearing regarding the return of a child under parole supervision to an institution. The bill authorizes a prosecuting attorney serving on the unit, with TJJD's consent, to serve any role in the hearing but prohibits the prosecuting attorney from representing the child in the hearing. These authorizations and the prohibition apply only to a hearing that occurs on or after the bill's effective date. A hearing that occurs before that date is governed by the law in effect at the time the hearing occurred, and the former law is continued in effect for that purpose.

S.B. 1727 includes participation in such hearings among the general functions of the special prosecution unit.

Minimum Age for Transfer of Child with Determinate Sentence to TDCJ

S.B. 1727 amends the Human Resources Code to lower from 16 to 15 the minimum age at which a child who is sentenced with a determinate sentence to TJJD but has not completed the sentence and whose conduct indicates that the welfare of the community requires transfer to TDCJ for confinement may be referred by TJJD to the applicable juvenile court for approval of the child's transfer.

Prohibition Against Release or Discharge of Child with Determinate Sentence; Extended Custody

S.B. 1727 prohibits TJJD from releasing a child who is committed with a determinate sentence or discharging from its custody or releasing under supervision a child who is committed without a determinate sentence under the following conditions:

- the child is alleged by a pending petition to have engaged in delinquent conduct violating a penal law of the grade of felony during the child's commitment to TJJD; or
- the child is under indictment for a felony committed during the child's commitment to TJJD.

S.B. 1727 lowers the evidentiary standard by which a panel may extend the length of stay for a child in TJJD custody by majority vote from clear and convincing evidence to a preponderance of the evidence. However, the bill authorizes a panel to extend the length of a child's stay in TJJD custody under the following conditions:

- the child is alleged by a pending petition to have engaged in delinquent conduct violating a penal law of the grade of felony during the child's commitment to TJJD; or
- the child is under indictment for a felony committed during the child's commitment to TJJD.

Tampering With an Electronic Monitoring Device

S.B. 1727 amends the Penal Code to expand the conduct constituting the offense of tampering with an electronic monitoring device to include applicable conduct by a person who is required

to submit to electronic monitoring of the person's location as a condition of juvenile probation, TJJD release under supervision, or TJJD placement at a halfway house. This provision applies only to an offense committed or conduct in violation of the offense that occurs on or after the bill's effective date. An offense committed or conduct that occurred before that date is governed by the law in effect on the date the offense was committed or the conduct occurred, and the former law is continued in effect for that purpose. For these purposes, an offense was committed or conduct occurred before the bill's effective date if any element of the offense or conduct occurred before that date.

Applicability

Except as otherwise provided, S.B. 1727 applies only to conduct violating a penal law that occurs or an offense committed on or after the bill's effective date. Conduct that occurred or an offense committed before that date is covered by the law in effect at the time the conduct occurred or the offense was committed, and the former law is continued in effect for that purpose. For these purposes, conduct occurred or an offense was committed before the bill's effective date if any element of the conduct or offense occurred before that date.

Repealed Provision

S.B. 1727 repeals Section 51.031(c), Family Code.

EFFECTIVE DATE

September 1, 2025.