

By: Perry, et al.

S.B. No. 1727

A BILL TO BE ENTITLED

AN ACT

relating to procedures related to juvenile justice proceedings, the adjudication and disposition of cases involving delinquent conduct, and certain offenses or conduct committed by a child or by a person placed in or committed to certain juvenile facilities; changing the eligibility for community supervision.

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

SECTION 1. Subchapter B, Chapter 42A, Code of Criminal Procedure, is amended by adding Article 42A.061 to read as follows:

Art. 42A.061. PLACEMENT ON COMMUNITY SUPERVISION PROHIBITED FOR CERTAIN OFFENSES COMMITTED IN CERTAIN JUVENILE FACILITIES. Notwithstanding any other provision of this chapter, a defendant is not eligible for community supervision, including deferred adjudication community supervision, under this chapter for an offense punishable as a felony committed:

(1) when the defendant was at least 17 years of age;
and

(2) while the defendant was:
(A) committed to the Texas Juvenile Justice Department;

(B) placed in a halfway house operated by or under contract with the Texas Juvenile Justice Department; or

(C) placed in a secure correctional facility or secure detention facility, as defined by Section 51.02, Family

1 Code.

2 SECTION 2. Section 51.031(a), Family Code, is amended to
3 read as follows:

4 (a) Habitual felony conduct is conduct violating a penal law
5 of the grade of felony, other than a state jail felony, if:

6 (1) the child who engaged in the conduct has at least
7 one ~~[two]~~ previous final adjudication ~~[adjudications]~~ as having
8 engaged in delinquent conduct violating a penal law of the grade of
9 felony; and

10 (2) ~~[the second previous final adjudication is for~~
11 ~~conduct that occurred after the date the first previous~~
12 ~~adjudication became final; and~~

13 ~~[(3)]~~ all appeals relating to at least one ~~[the]~~
14 previous adjudication ~~[adjudications]~~ considered under Subdivision
15 ~~[Subdivisions]~~ (1) ~~[and (2)]~~ have been exhausted.

16 SECTION 3. Section 53.04(d), Family Code, is amended to
17 read as follows:

18 (d) The petition must state:

19 (1) with reasonable particularity the time, place, and
20 manner of the acts alleged and the penal law or standard of conduct
21 allegedly violated by the acts;

22 (2) the name, age, and residence address, if known, of
23 the child who is the subject of the petition;

24 (3) the names and residence addresses, if known, of
25 the parent, guardian, or custodian of the child and of the child's
26 spouse, if any;

27 (4) if the child's parent, guardian, or custodian does

1 not reside or cannot be found in the state, or if their places of
2 residence are unknown, the name and residence address of any known
3 adult relative residing in the county or, if there is none, the name
4 and residence address of the known adult relative residing nearest
5 to the location of the court; and

6 (5) if the child is alleged to have engaged in habitual
7 felony conduct, the previous adjudication [~~adjudications~~] in which
8 the child was found to have engaged in conduct violating a penal law
9 [~~laws~~] of the grade of felony.

10 SECTION 4. Section 53.045(a), Family Code, is amended to
11 read as follows:

12 (a) Except as provided by Subsection (e), the prosecuting
13 attorney may refer the petition to the grand jury of the county in
14 which the court in which the petition is filed presides if the
15 petition alleges that the child engaged in delinquent conduct that:

16 (1) constitutes habitual felony conduct as described
17 by Section 51.031;

18 (2) [~~or that~~] included the violation of any of the
19 following provisions:

20 (A) [~~(1)~~] Section 19.02, Penal Code (murder);

21 (B) [~~(2)~~] Section 19.03, Penal Code (capital
22 murder);

23 (C) [~~(3)~~] Section 19.04, Penal Code
24 (manslaughter);

25 (D) [~~(4)~~] Section 20.04, Penal Code (aggravated
26 kidnapping);

27 (E) [~~(5)~~] Section 22.011, Penal Code (sexual

1 assault) or Section 22.021, Penal Code (aggravated sexual assault);
2 (F) [~~(6)~~] Section 22.02, Penal Code (aggravated
3 assault);
4 (G) [~~(7)~~] Section 29.03, Penal Code (aggravated
5 robbery);
6 (H) [~~(8)~~] Section 22.04, Penal Code (injury to a
7 child, elderly individual, or disabled individual), if the offense
8 is punishable as a felony, other than a state jail felony;
9 (I) [~~(9)~~] Section 22.05(b), Penal Code (felony
10 deadly conduct involving discharging a firearm);
11 (J) [~~(10)~~] Subchapter D, Chapter 481, Health and
12 Safety Code, if the conduct constitutes a felony of the first degree
13 or an aggravated controlled substance felony (certain offenses
14 involving controlled substances);
15 (K) [~~(11)~~] Section 15.03, Penal Code (criminal
16 solicitation);
17 (L) [~~(12)~~] Section 21.11(a)(1), Penal Code
18 (indecent with a child);
19 (M) [~~(13)~~] Section 15.031, Penal Code (criminal
20 solicitation of a minor);
21 (N) [~~(14)~~] Section 15.01, Penal Code (criminal
22 attempt), if the offense attempted was an offense under Section
23 19.02, Penal Code (murder), or Section 19.03, Penal Code (capital
24 murder), or an offense listed by Article 42A.054(a), Code of
25 Criminal Procedure;
26 (O) [~~(15)~~] Section 28.02, Penal Code (arson), if
27 bodily injury or death is suffered by any person by reason of the

1 commission of the conduct;

2 (P) [(16)] Section 49.08, Penal Code
3 (intoxication manslaughter); or

4 (Q) [(17)] Section 15.02, Penal Code (criminal
5 conspiracy), if the offense made the subject of the criminal
6 conspiracy includes a violation of any of the provisions referenced
7 in Paragraphs (A) [Subdivisions (1)] through (P); or

8 (3) constitutes a felony of the first, second, or
9 third degree committed while the child was:

10 (A) committed to the Texas Juvenile Justice
11 Department;

12 (B) placed in a halfway house operated by or
13 under contract with the Texas Juvenile Justice Department; or

14 (C) placed in a secure correctional facility or
15 secure detention facility, as defined by Section 51.02 [(16)].

16 SECTION 5. Section 54.05, Family Code, is amended by
17 amending Subsection (j) and adding Subsections (k), (k-1), and
18 (k-2) to read as follows:

19 (j) If, after conducting a hearing to modify disposition
20 without a jury, the court finds by a preponderance of the evidence
21 that a child violated a reasonable and lawful condition of
22 probation ordered under Section 54.04(q), the court may:

23 (1) modify the disposition to commit the child to the
24 Texas Juvenile Justice Department under Section 54.04(d)(3) [or, if
25 applicable, a post-adjudication secure correctional facility
26 operated under Section 152.0016, Human Resources Code,] for a term
27 that does not exceed the original sentence assessed by the court or

1 jury; or

2 (2) if the violation occurred on or after the child's
3 18th birthday, modify the disposition to transfer the child to:

4 (A) the Texas Department of Criminal Justice for
5 a term that does not exceed the original sentence assessed by the
6 court or jury; or

7 (B) an appropriate district court to be placed on
8 community supervision under Chapter 42A, Code of Criminal
9 Procedure, as provided by Section 54.051(e).

10 (k) A court modifying a disposition under Subsection
11 (j)(2)(A) may consider:

12 (1) the experiences and character of the child before
13 and after being placed on probation;

14 (2) the nature of the conduct violating a penal law for
15 which the child was placed on probation and the manner in which the
16 conduct was engaged;

17 (3) the ability of the child to contribute to society;

18 (4) the protection of the victim of the conduct for
19 which the child was placed on probation or of a family member of the
20 victim of that conduct;

21 (5) the recommendations of the juvenile probation
22 department and the attorney representing the state;

23 (6) the best interests of the child; and

24 (7) any other factor the court considers relevant.

25 (k-1) A court conducting a hearing under this section for
26 the purpose of modifying a disposition in the manner described by
27 Subsection (j)(2)(A) shall:

1 (1) ensure the hearing is recorded by a court reporter
2 or by audio or video tape recording; and

3 (2) retain the record of the hearing until the second
4 anniversary of the date the court issues an order regarding the
5 hearing.

6 (k-2) A court may transfer a child to an appropriate
7 district court under Subsection (j)(2)(B) before the child's 19th
8 birthday.

9 SECTION 6. Section 54.051, Family Code, is amended by
10 amending Subsections (b), (d), (d-1), (e), (e-2), (f), and (i) and
11 adding Subsection (f-1) to read as follows:

12 (b) The hearing must be conducted before the person's 19th
13 birthday~~[, or before the person's 18th birthday if the offense for~~
14 ~~which the person was placed on probation occurred before September~~
15 ~~1, 2011,]~~ and must be conducted in the same manner as a hearing to
16 modify disposition under Section 54.05.

17 (d) Except as provided by Subsection (f-1), if [If], after a
18 hearing, the court determines to transfer the child, the court
19 shall transfer the child to an appropriate district court on the
20 child's 19th birthday.

21 (d-1) After a transfer to district court under this section
22 or Section 54.05(j)(2)(B) [Subsection (d)], only the petition, the
23 grand jury approval, the judgment concerning the conduct for which
24 the person was placed on determinate sentence probation, and the
25 transfer order are a part of the district clerk's public record.

26 (e) A district court that exercises jurisdiction over a
27 person transferred under this section or Section 54.05(j)(2)(B)

~~[Subsection (d)]~~ shall place the person on community supervision under Chapter 42A, Code of Criminal Procedure, for the remainder of the person's probationary period and under conditions consistent with those ordered by the juvenile court.

(e-2) If a person who is placed on community supervision under this section violates a condition of that supervision or if the person violated a condition of probation ordered under Section 54.04(q) and that probation violation was not discovered by the state before the date the person was transferred to the district court ~~[person's 19th birthday]~~, the district court shall dispose of the violation of community supervision or probation, as appropriate, in the same manner as if the court had originally exercised jurisdiction over the case. If the judge revokes community supervision, the judge may reduce the prison sentence to any length without regard to the minimum term imposed by Article 42A.755(a), Code of Criminal Procedure.

(f) The juvenile court may transfer a child to an appropriate district court as provided by Subsection (d) ~~[this section]~~ without a showing that the child violated a condition of probation ordered under Section 54.04(q).

(f-1) If a motion filed under Subsection (a) includes an allegation that, after the child's 18th birthday, the child violated a condition of probation ordered under Section 54.04(q), the juvenile court may hold a hearing to determine whether there is probable cause to believe that the child committed the alleged violation. If the court determines that there is probable cause to believe that the child committed the alleged violation, the court

1 may immediately transfer the child to an appropriate district
2 court.

3 (i) If the juvenile court exercises jurisdiction over a
4 person who is ~~[18 or]~~ 19 years of age or older~~[, as applicable,]~~
5 under Section 51.041 or 51.0412, the court or jury may, if the
6 person is otherwise eligible, place the person on probation under
7 Section 54.04(q). The juvenile court shall set the conditions of
8 probation and immediately transfer supervision of the person to the
9 appropriate court exercising criminal jurisdiction under
10 Subsection (e).

11 SECTION 7. Section 54.052, Family Code, is amended to read
12 as follows:

13 Sec. 54.052. CREDIT FOR TIME SPENT IN DETENTION FACILITY
14 FOR CHILD WITH DETERMINATE SENTENCE. (a) This section applies only
15 to a child who is committed to~~+~~

16 ~~[(1)]~~ the Texas Juvenile Justice Department under a
17 determinate sentence under Section 54.04(d)(3) or (m) or Section
18 54.05(f)~~[, or~~

19 ~~[(2) a post-adjudication secure correctional facility~~
20 ~~under a determinate sentence under Section 54.04011(c)(2)].~~

21 (b) The judge of the court in which a child is adjudicated
22 shall give the child credit on the child's sentence for the time
23 spent by the child, in connection with the conduct for which the
24 child was adjudicated, in a secure detention facility before the
25 child's transfer to a Texas Juvenile Justice Department facility
26 ~~[or a post-adjudication secure correctional facility, as~~
27 ~~applicable].~~

1 (c) If a child appeals the child's adjudication or
2 disposition and is retained in a secure detention facility pending
3 the appeal, the judge of the court in which the child was
4 adjudicated shall give the child credit on the child's sentence for
5 the time spent by the child in a secure detention facility pending
6 disposition of the child's appeal. The court shall endorse on both
7 the commitment and the mandate from the appellate court all credit
8 given the child under this subsection.

9 (c-1) Except as otherwise authorized by this section, a
10 judge may not give a child credit on the child's sentence.

11 (d) The Texas Juvenile Justice Department [~~or the juvenile~~
12 ~~board or local juvenile probation department operating or~~
13 ~~contracting for the operation of the post-adjudication secure~~
14 ~~correctional facility under Section 152.0016, Human Resources~~
15 ~~Code, as applicable,~~] shall grant any credit under this section in
16 computing the child's eligibility for [~~parole and~~] discharge from
17 the department's custody for completion of the child's sentence.

18 (e) The Texas Juvenile Justice Department may not grant
19 credit under this section for the purpose of calculating the
20 minimum period of confinement for a child under Section 245.051(c),
21 Human Resources Code, for time spent by the child in a secure
22 detention facility before the date the child is committed to the
23 department.

24 (f) The Texas Juvenile Justice Department shall grant
25 credit under this section for the purpose of calculating the
26 minimum period of confinement for a child under Section 245.051(c),
27 Human Resources Code, for time spent by the child in a secure

1 detention facility on or after the date the child is committed to
2 the department.

3 SECTION 8. Section 41.302, Government Code, is amended to
4 read as follows:

5 Sec. 41.302. GENERAL FUNCTION OF SPECIAL PROSECUTION UNIT.
6 The special prosecution unit is an independent unit that:

7 (1) cooperates with and supports prosecuting
8 attorneys in prosecuting offenses and delinquent conduct described
9 by Article 104.003(a), Code of Criminal Procedure; and

10 (2) participates in a hearing described by Section
11 41.311.

12 SECTION 9. Subchapter E, Chapter 41, Government Code, is
13 amended by adding Section 41.311 to read as follows:

14 Sec. 41.311. HEARING TO RETURN CHILD TO INSTITUTION FOR
15 VIOLATION OF CONDITION OF RELEASE. (a) At the request of the Texas
16 Juvenile Justice Department, a prosecuting attorney serving on the
17 unit may participate in a hearing regarding the return of a child to
18 an institution under Section 245.051(f)(1), Human Resources Code.

19 (b) Except as provided by Subsection (c) and with the
20 consent of the Texas Juvenile Justice Department, a prosecuting
21 attorney serving on the unit may serve any role in a hearing
22 described by Subsection (a).

23 (c) A prosecuting attorney serving on the unit may not
24 represent the child under this section.

25 SECTION 10. Section 244.014(a), Human Resources Code, is
26 amended to read as follows:

27 (a) After a child sentenced to commitment under Section

1 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 15 [16]
2 years of age but before the child becomes 19 years of age, the
3 department may refer the child to the juvenile court that entered
4 the order of commitment for approval of the child's transfer to the
5 Texas Department of Criminal Justice for confinement if:

6 (1) the child has not completed the sentence; and

7 (2) the child's conduct, regardless of whether the
8 child was released under supervision under Section 245.051,
9 indicates that the welfare of the community requires the transfer.

10 SECTION 11. Section 245.051, Human Resources Code, is
11 amended by adding Subsection (h) to read as follows:

12 (h) If a child is committed to the department under a
13 determinate sentence under Section 54.04(d)(3), Section 54.04(m),
14 or Section 54.05(f), Family Code, the department may not release
15 the child under supervision if the child:

16 (1) is alleged by a pending petition to have engaged in
17 delinquent conduct violating a penal law of the grade of felony
18 during the child's commitment to the department; or

19 (2) is under indictment for a felony committed during
20 the child's commitment to the department.

21 SECTION 12. Section 245.101, Human Resources Code, is
22 amended by amending Subsection (a) and adding Subsection (a-1) to
23 read as follows:

24 (a) Except as provided by Subsection (a-1), after [After] a
25 child who is committed to the department without a determinate
26 sentence completes the minimum length of stay established by the
27 department for the child under Section 243.002, the department

shall, in the manner provided by this section and Section 245.102:

(1) discharge the child from the custody of the department;

(2) release the child under supervision under Section 245.051; or

(3) extend the length of the child's stay in the custody of the department.

(a-1) The department may not discharge a child from the custody of the department or release a child under supervision as provided by Subsection (a) if the child:

(1) 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 the department; or

(2) is under indictment for a felony committed during the child's commitment to the department.

SECTION 13. Section 245.102(a), Human Resources Code, is amended to read as follows:

(a) A panel may extend the length of the child's stay as provided by Section 245.101(a)(3) only if:

(1) the panel determines by majority vote and on the basis of a preponderance of the ~~[clear and convincing]~~ evidence that:

(A) [(1)] the child is in need of additional rehabilitation from the department; and

(B) [(2)] the department will provide the most suitable environment for that rehabilitation; or

(2) the child:

1 (A) is alleged by a pending petition to have
2 engaged in delinquent conduct violating a penal law of the grade of
3 felony during the child's commitment to the department; or

4 (B) is under indictment for a felony committed
5 during the child's commitment to the department.

6 SECTION 14. Section 38.112(a), Penal Code, is amended to
7 read as follows:

8 (a) A person who is required to submit to electronic
9 monitoring of the person's location as part of an electronic
10 monitoring program under Article 42.035, Code of Criminal
11 Procedure, or as a condition of community supervision, parole,
12 mandatory supervision, ~~[or]~~ release on bail, probation imposed by a
13 juvenile court, release under supervision under Section 245.051,
14 Human Resources Code, or placement in a halfway house operated by or
15 under contract with the Texas Juvenile Justice Department commits
16 an offense if the person knowingly removes or disables, or causes or
17 conspires or cooperates with another person to remove or disable, a
18 tracking device that the person is required to wear to enable the
19 electronic monitoring of the person's location.

20 SECTION 15. Section 51.031(c), Family Code, is repealed.

21 SECTION 16. (a) Except as otherwise provided by this
22 section, this Act applies only to conduct violating a penal law that
23 occurs or an offense committed on or after the effective date of
24 this Act. Conduct that occurred or an offense committed before the
25 effective date of this Act is covered by the law in effect at the
26 time the conduct occurred or the offense was committed, and the
27 former law is continued in effect for that purpose. For the

1 purposes of this section, conduct occurred or an offense was
2 committed before the effective date of this Act if any element of
3 the conduct or offense occurred before that date.

4 (b) Sections 54.05 and 54.051, Family Code, as amended by
5 this Act, apply to a child placed on probation on or after the
6 effective date of this Act, regardless of whether the conduct for
7 which the child was placed on probation was committed before, on, or
8 after the effective date of this Act.

9 (c) Section 41.311, Government Code, as added by this Act,
10 applies only to a hearing that occurs on or after the effective date
11 of this Act. A hearing that occurs before the effective date of
12 this Act is governed by the law in effect at the time the hearing
13 occurred, and the former law is continued in effect for that
14 purpose.

15 (d) Section 38.112, Penal Code, as amended by this Act,
16 applies only to an offense committed under that section or conduct
17 violating that section that occurs on or after the effective date of
18 this Act. An offense committed or conduct that occurred before
19 that date is governed by the law in effect on the date the offense
20 was committed or the conduct occurred, and the former law is
21 continued in effect for that purpose. For purposes of this
22 section, an offense was committed or conduct occurred before the
23 effective date of this Act if any element of the offense or conduct
24 occurred before that date.

25 SECTION 17. This Act takes effect September 1, 2025.