

By: Perry, et al.

S.B. No. 1727

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the protection and detention of a juvenile who engages
3 in delinquent conduct or commits a felony offense while committed
4 to the custody of the Texas Juvenile Justice Department; changing
5 the eligibility for community supervision; redefining habitual
6 felony conduct.

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

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

10 Art. 42A.061. PLACEMENT ON COMMUNITY SUPERVISION
11 PROHIBITED FOR CERTAIN OFFENSES. Notwithstanding any other
12 provision of this chapter, a defendant is not eligible for
13 community supervision under this chapter, including deferred
14 adjudication community supervision, if the defendant is charged
15 with or convicted of a felony allegedly committed when the
16 defendant was at least 17 years of age and while the defendant was:

17 (1) committed to the Texas Juvenile Justice
18 Department;

19 (2) residing in a halfway house operated by or under
20 contract with the Texas Juvenile Justice Department; or

21 (3) placed in a secure correctional facility or
22 secure detention facility as defined by Section 51.02, Family Code.

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

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

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

7 [~~(2) [the second previous final adjudication is for~~
8 ~~conduct that occurred after the date the first previous~~
9 ~~adjudication became final; and]~~

10 [~~(3)~~] all appeals relating to the previous
11 adjudication [~~adjudications~~] considered under Subdivision (1)
12 [~~Subdivisions (1) and (2)~~] have been exhausted.

13 SECTION 3. Section 53.045(a), Family Code, is amended to
14 read as follows:

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

19 (1) constitutes habitual felony conduct as described
20 by Section 51.031;

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

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

24 (B) [~~(2)~~] Section 19.03, Penal Code (capital
25 murder);

26 (C) [~~(3)~~] Section 19.04, Penal Code
27 (manslaughter);

- 1 (D) [~~(4)~~] Section 20.04, Penal Code (aggravated
2 kidnapping);
- 3 (E) [~~(5)~~] Section 22.011, Penal Code (sexual
4 assault) or Section 22.021, Penal Code (aggravated sexual assault);
- 5 (F) [~~(6)~~] Section 22.02, Penal Code (aggravated
6 assault);
- 7 (G) [~~(7)~~] Section 29.03, Penal Code (aggravated
8 robbery);
- 9 (H) [~~(8)~~] Section 22.04, Penal Code (injury to a
10 child, elderly individual, or disabled individual), if the offense
11 is punishable as a felony, other than a state jail felony;
- 12 (I) [~~(9)~~] Section 22.05(b), Penal Code (felony
13 deadly conduct involving discharging a firearm);
- 14 (J) [~~(10)~~] Subchapter D, Chapter 481, Health and
15 Safety Code, if the conduct constitutes a felony of the first degree
16 or an aggravated controlled substance felony (certain offenses
17 involving controlled substances);
- 18 (K) [~~(11)~~] Section 15.03, Penal Code (criminal
19 solicitation);
- 20 (L) [~~(12)~~] Section 21.11(a)(1), Penal Code
21 (indecent with a child);
- 22 (M) [~~(13)~~] Section 15.031, Penal Code (criminal
23 solicitation of a minor);
- 24 (N) [~~(14)~~] Section 15.01, Penal Code (criminal
25 attempt), if the offense attempted was an offense under Section
26 19.02, Penal Code (murder), or Section 19.03, Penal Code (capital
27 murder), or an offense listed by Article 42A.054(a), Code of

1 Criminal Procedure;

2 (O) [~~(15)~~] Section 28.02, Penal Code (arson), if
3 bodily injury or death is suffered by any person by reason of the
4 commission of the conduct;

5 (P) [~~(16)~~] Section 49.08, Penal Code
6 (intoxication manslaughter); or

7 (Q) [~~(17)~~] Section 15.02, Penal Code (criminal
8 conspiracy), if the offense made the subject of the criminal
9 conspiracy includes a violation of any of the provisions referenced
10 in Paragraphs (A) through (P); or

11 (3) constitutes a felony of the first, second, or
12 third degree committed while the child was committed to the Texas
13 Juvenile Justice Department, was residing in a halfway house
14 operated by or under contract with the Texas Juvenile Justice
15 Department, or was placed in a secure correctional facility or
16 secure detention facility as defined by Section 51.02, Family Code
17 [Subdivisions (1) through (16)].

18 SECTION 4. Section 54.05, Family Code, is amended by
19 amending Subsection (j) and adding Subsections (k) and (k-1) to
20 read as follows:

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

25 (1) modify the disposition to commit the child to the
26 Texas Juvenile Justice Department under Section 54.04(d)(3) [~~or, if~~
27 ~~applicable, a post-adjudication secure correctional facility~~

1 ~~operated under Section 152.0016, Human Resources Code,~~] for a term
2 that does not exceed the original sentence assessed by the court or
3 jury; or

4 (2) if the court finds the violation occurred on or
5 after the child's 18th birthday, in accordance with Subsection (k),
6 modify the disposition to transfer the child to the Texas
7 Department of Criminal Justice for a term that does not exceed the
8 original sentence assessed by the court or jury; or

9 (3) if the court finds the violation occurred on or
10 after the child's 18th birthday, transfer the child to an
11 appropriate district court. If the court orders such a transfer,
12 the provisions of Section 54.051 apply except that the date of
13 transfer may be before the child's 19th birthday.

14 (k) In imposing a disposition described by Subsection
15 (j)(2), the court may consider the experiences and character of the
16 person before and after disposition to probation, the nature of the
17 penal offense that the person was found to have committed and the
18 manner in which the offense was committed, the ability of the person
19 to contribute to society, the protection of the victim of the
20 offense or any member of the victim's family, the recommendations
21 of the juvenile probation department and prosecuting attorney, the
22 best interests of the person, and any other factor relevant to the
23 issue to be decided.

24 (k-1) A hearing conducted to consider the disposition
25 described by Subsection (j)(2) must be recorded by a court reporter
26 or by audio or video tape recording, and the record of the hearing
27 must be retained by the court for at least two years after the date

1 of the court's order in the hearing.

2 SECTION 5. Section 54.051 Family Code, is amended by
3 amending Subsections (b), (d), (f), and (i) and adding Subsection
4 (f-1) to read as follows:

5 (b) The hearing must be conducted before the person's 19th
6 birthday [~~, or before the person's 18th birthday if the offense for~~
7 ~~which the person was placed on probation occurred before September~~
8 ~~1, 2011,~~] and must be conducted in the same manner as a hearing to
9 modify disposition under Section 54.05.

10 (d) If, after a hearing, the court determines to transfer
11 the child, the court shall transfer the child to an appropriate
12 district court on the child's 19th birthday, unless the transfer is
13 ordered under Subsection (f-1).

14 (f) The juvenile court may transfer a child to an
15 appropriate district court as provided by this section without a
16 showing that the child violated a condition of probation ordered
17 under Section 54.04(q). Any alleged violations of a condition of
18 probation that were known to the juvenile court before the transfer
19 may not be addressed by the district court except as provided by
20 Subsection (f-1).

21 (f-1) If the motion filed under Subsection (a) includes an
22 allegation that the person violated a condition of probation
23 ordered under Section 54.04(q) when the person was age 18 or older,
24 the juvenile court, after providing notice and an opportunity to be
25 heard, may:

26 (1) upon a finding of probable cause to believe the
27 person violated a condition of probation, immediately

1 transfer the case to the appropriate district court, which
2 will have jurisdiction to address any probation violations;
3 or

4 (2) retain the jurisdiction of the case.

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

13 SECTION 6. Section 54.052, Family Code, is amended to read
14 as follows:

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

18 [~~(1)~~] the Texas Juvenile Justice Department under
19 a determinate sentence under Section 54.04(d)(3) or (m) or Section
20 54.05(f) [~~, or~~

21 [~~(2) a post-adjudication secure correctional~~
22 ~~facility under a determinate sentence under Section~~
23 ~~54.04011(c)(2)].~~

24 (b) The judge of the court in which a child is adjudicated
25 shall give the child credit on the child's sentence for the time
26 spent by the child, in connection with the conduct for which the
27 child was adjudicated, in a secure detention facility before the

1 child's transfer to a Texas Juvenile Justice Department facility.
2 The judge may not order credit for any other time [~~or a~~
3 ~~post-adjudication secure correctional facility, as applicable~~].

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

12 (d) The Texas Juvenile Justice Department [~~or the juvenile~~
13 ~~board or local juvenile probation department operating or~~
14 ~~contracting for the operation of the post-adjudication secure~~
15 ~~correctional facility under Section 152.0016, Human Resources~~
16 ~~Code, as applicable,~~] shall grant any credit under this section in
17 computing the child's eligibility for [~~parole and~~] discharge for
18 completion of the sentence. Credit may not be given toward
19 computing the completion of the minimum period of confinement
20 assigned under Section 245.051, Human Resources Code.

21 SECTION 7. Subchapter E, Chapter 41, Government Code, is
22 amended by adding Section 41.3021 to read as follows:

23 Sec. 41.3021. ADDITIONAL FUNCTION OF SPECIAL PROSECUTION
24 UNIT WITH REGARD TO TEXAS JUVENILE JUSTICE DEPARTMENT. (a) At the
25 request of the Texas Juvenile Justice Department, the unit may
26 participate in a hearing regarding the possible return to an
27 institution of a youth who has been released under supervision and

1 alleged to have violated the terms of the conditions of that
2 release, as authorized under Section 245.051(f), Human Resources
3 Code.

4 (b) The unit may serve in any role in the hearing other than
5 defense attorney, as agreed between the unit and the Texas Juvenile
6 Justice Department.

7 SECTION 8. Section 244.014(a), Human Resources Code, is
8 amended to read as follows:

9 (a) After a child sentenced to commitment under Section
10 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 15 [~~16~~]
11 years of age but before the child becomes 19 years of age, the
12 department may refer the child to the juvenile court that entered
13 the order of commitment for approval of the child's transfer to the
14 Texas Department of Criminal Justice for confinement if:

- 15 (1) the child has not completed the sentence; and
16 (2) the child's conduct, regardless of whether the
17 child was released under supervision under Section 245.051,
18 indicates that the welfare of the community requires the transfer.

19 SECTION 9. Section 245.102, Human Resources Code, is
20 amended by amending Subsection (a) and adding Subsection (a-1) to
21 read as follows:

22 (a) A panel may extend the length of the child's stay as
23 provided by Section 245.101(a)(3) only if the panel determines by
24 majority vote and on the basis of a preponderance of the [~~clear and~~
25 ~~convincing~~] evidence that:

- 26 (1) the child is in need of additional rehabilitation
27 from the department; and

1 (2) the department will provide the most suitable
2 environment for that rehabilitation.

3 (a-1) The department shall extend the length of the child's
4 stay in the custody of the department if the child:

5 (1) is alleged by a pending petition to have engaged in
6 delinquent conduct during the child's commitment to the department;
7 or

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

10 SECTION 10. Section 245.151, Human Resources Code, is
11 amended by adding Subsections (f) and (g) to read as follows:

12 (f) Except as provided by Subsection (g), the department may
13 not discharge a child committed to the department if the child:

14 (1) is alleged by a pending petition to have engaged in
15 delinquent conduct constituting a felony that occurred while the
16 child was committed to the department; or

17 (2) is under indictment for a felony allegedly
18 committed while the child was committed to the department.

19 (g) The department may discharge a child to whom Subsection
20 (f) applies if the child has been sentenced to or transferred to the
21 Texas Department of Criminal Justice.

22 SECTION 11. Section 38.112(a), Penal Code, is amended to
23 read as follows:

24 (a) A person who is required to submit to electronic
25 monitoring of the person's location as part of an electronic
26 monitoring program under Article 42.035, Code of Criminal
27 Procedure, or as a condition of community supervision, juvenile

1 probation, Texas Juvenile Justice Department release under
2 supervision, Texas Juvenile Justice Department placement at a
3 halfway house, parole, mandatory supervision, or release on bail
4 commits an offense if the person knowingly removes or disables, or
5 causes or conspires or cooperates with another person to remove or
6 disable, a tracking device that the person is required to wear to
7 enable the electronic monitoring of the person's location.

8 SECTION 12. Section 51.031(c), Family Code, is repealed.

9 SECTION 13. The changes in law made by this Act apply only
10 to an offense committed or conduct that occurs on or after the
11 effective date of this Act. An offense committed or conduct that
12 occurred before that date is governed by the law in effect on the
13 date the offense was committed or the conduct occurred, and the
14 former law is continued in effect for that purpose. For purposes of
15 this section, an offense was committed or conduct occurred before
16 the effective date of this Act if any element of the offense or
17 conduct occurred before that date.

18 SECTION 14. This Act takes effect September 1, 2025.