

BILL ANALYSIS

Senate Research Center

H.B. 1466
By: Puente (Harris)
Criminal Justice
5-13-97
Engrossed

DIGEST

Under current law, the Texas Family Code provides that a child may be placed on probation for any period, except that the probation may not continue on or after the child's 18th birthday. Therefore, a judge or jury may not place a child on probation past his 18th birthday in a determinate sentencing case. A determinate sentencing case is one in which a child is adjudicated for delinquent conduct as described in Section 53.045(a) of the Family Code and is sentenced to commitment in the Texas Youth Commission with a possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice. Extending the term of probation in a determinate sentencing case would give the judge and jury greater control and flexibility in disposition.

H.B. 1466 would provide that a court or jury may place a child on probation as an alternative to making a determinate sentence disposition for a period that may continue on or after the child's 18th birthday, but not to exceed 10 years. After the child becomes 17 but before the child's 18th birthday, the juvenile court would transfer the child to an appropriate district court for placement on adult community supervision for the remainder of the probationary period.

PURPOSE

As proposed, H.B. 1466 provides that a court or jury may place a child on probation as an alternative to making a determinate sentence disposition for a period that may continue on or after the child's 18th birthday, but not to exceed 10 years. After the child becomes 17 but before the child's 18th birthday, the juvenile court will transfer the child to an appropriate district court for placement on adult community supervision for the remainder of the probationary period.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 54.03(a), Family Code, to authorize a child to be found to have engaged in delinquent conduct or conduct indicating a need for supervision by entering a plea of true to the petition in the open court. Authorizes the child to be found to have engaged in delinquent conduct or conduct indicating a need for supervision, if the child chooses not to enter a plea of true, only after an adjudication hearing conducted in accordance with the provisions of this section.

SECTION 2. Amends Section 54.04, Family Code, by amending Subsection (l) and adding Subsection (p), to authorize a court or jury to place a child on probation under Subsection (d)(1) as an alternative to making a disposition under Subsection (d)(3) or Subsection (m) for a period that may continue on or after the child's 18th birthday. Authorizes the court, before the sentence of probation ends, to extend the probationary period to continue on or after the child's 18th birthday. Prohibits a sentence of probation ordered under this subsection and any extension of probation ordered under this subsection and any extension of probation ordered under Section 54.05(a), from exceeding 10 years. Makes conforming and nonsubstantive changes.

SECTION 3. Amends Chapter 61E, Human Resources Code, by adding Section 61.0795, as follows:

Sec. 61.0795. TRANSFER OF VIOLENT AND HABITUAL OFFENDERS PLACED ON PROBATION. Sets forth requirements for a juvenile court that places a child on probation under Section 54.04(d)(1), Family Code, as an alternative to making a disposition under Section 54.04(d)(3) or Section 54.04(m), Family Code. Sets forth requirements regarding a district court that exercises jurisdiction over a child transferred under Subsection (a).

SECTION 4. Amends Section 54.05(b), Family Code, to set forth an exception.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 1997.

SECTION 7. Emergency clause.