

CHAPTER 386

H.B. No. 683

AN ACT

relating to the admissibility of certain juvenile court adjudication records in the penalty phase of criminal trials.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (a), Section 3, Article 37.07, Code of Criminal Procedure, is amended to read as follows:

(a) Regardless of the plea and whether the punishment be assessed by the judge or the jury, evidence may, as permitted by the Rules of Evidence, be offered by the state and the defendant as to the prior criminal record of the defendant, his general reputation and his character. The term prior criminal record means a final conviction in a court of record, or a probated or suspended sentence that has occurred prior to trial, or any final conviction material to the offense charged. *Additionally, notwithstanding Rule 609(d), Texas Rules of Criminal Evidence, evidence may be offered by the state and the defendant of an adjudication of delinquency based on a violation by the defendant of a penal law of the grade of felony unless:*

(1) *the adjudication is based on conduct committed more than five years before the commission of the offense for which the person is being tried; and*

(2) *in the five years preceding the date of the commission of the offense for which the person is being tried, the person did not engage in conduct for which the person has been adjudicated as a delinquent child or a child in need of supervision and did not commit an offense for which the person has been convicted.*

SECTION 2. Section 51.14, Family Code, is amended by adding Subsection (e) to read as follows:

(e) *For the purpose of offering a record as evidence in the punishment phase of a criminal proceeding, a prosecuting attorney may obtain the record of a defendant's adjudication that is admissible under Section 3(a), Article 37.07, Code of Criminal Procedure, by submitting a request for the record to the juvenile court. If the court has a record to which the prosecuting attorney is entitled under this section, the court shall certify a copy of the record and issue it to the prosecuting attorney. Otherwise, the court shall notify the prosecuting attorney that it does not have a record to which the attorney is entitled under this section.*

SECTION 3. Subsection (b), Section 54.03, Family Code, is amended to read as follows:

(b) At the beginning of the adjudication hearing, the juvenile court judge shall explain to the child and his parent, guardian, or guardian ad litem:

(1) the allegations made against the child;

(2) the nature and possible consequences of the proceedings, *including the law relating to the admissibility of the record of a juvenile court adjudication in a criminal proceeding;*

(3) the child's privilege against self-incrimination;

- (4) the child's right to trial and to confrontation of witnesses;
- (5) the child's right to representation by an attorney if he is not already represented;
and
- (6) the child's right to trial by jury.

SECTION 4. This Act takes effect September 1, 1987, and applies only to the record of an adjudication of delinquency based on conduct that occurs on or after that date.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 15, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 683 on May 26, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 22, 1987, by a viva-voce vote.

Approved June 17, 1987.

Effective Sept. 1, 1987.