

By: Workman

H.B. No. 3665

A BILL TO BE ENTITLED

AN ACT

relating to the commitment of certain juveniles to local post-adjudication secure correctional facilities in certain counties and to the release under supervision of those juveniles.

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

SECTION 1. Sections 51.13 (c) and (d), Family Code, are amended to read as follows:

(c) A child may not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of persons convicted of crime, except:

(1) for temporary detention in a jail or lockup pending juvenile court hearing or disposition under conditions meeting the requirements of Section 51.12;

(2) after transfer for prosecution in criminal court under Section 54.02, unless the juvenile court orders the detention of the child in a certified juvenile detention facility under Section 54.02(h); ~~or~~

(3) after transfer from the Texas Juvenile Justice Department under Section 245.151(c), Human Resources Code; or

(4) after transfer from a post-adjudication secure correctional facility under Section 152.00161(c).

(d) An adjudication under Section 54.03 that a child engaged in conduct that occurred on or after January 1, 1996, and that constitutes a felony offense resulting in commitment to the Texas

Juvenile Justice Department under Section 54.04(d)(2), (d)(3), or (m) or 54.05(f) or commitment to a post-adjudication secure correctional facility under Section 54.04011 for conduct that occurred on or after December 1, 2013, is a final felony conviction only for the purposes of Sections 12.42(a), (b), and (c)(1) or Section 12.425, Penal Code.

SECTION 2. Section 53.045(d), Family Code, is amended to read as follows:

(d) If the grand jury approves of the petition, the fact of approval shall be certified to the juvenile court, and the certification shall be entered in the record of the case. For the purpose of the transfer of a child to the Texas Department of Criminal Justice as provided by Section 245.151(c) or 152.00161(c), Human Resources Code, a juvenile court petition approved by a grand jury under this section is an indictment presented by the grand jury.

SECTION 3. Sections 54.11(a), (b), and (d), Family Code, are amended to read as follows:

(a) On receipt of a referral under Section 244.014(a), Human Resources Code, for the transfer to the Texas Department of Criminal Justice of a person committed to the Texas Juvenile Justice Department under Section 54.04(d)(3), 54.04(m), or 54.05(f), on receipt of a request by the Texas Juvenile Justice Department under Section 245.051(d), Human Resources Code, for approval of the release under supervision of a person committed to the Texas Juvenile Justice Department under Section 54.04(d)(3), 54.04(m), or 54.05(f), or on receipt of a referral under Sections

1 152.0016(g) or (j), Human Resources Code, the court shall set a time
2 and place for a hearing on the possible transfer or release of the
3 person, as applicable.

4 (b) The court shall notify the following of the time and
5 place of the hearing:

6 (1) the person to be transferred or released under
7 supervision;

8 (2) the parents of the person;

9 (3) any legal custodian of the person, including, as
10 applicable, the Texas Juvenile Justice Department or a juvenile
11 probation department under Section 152.0016, Human Resources Code;

12 (4) the office of the prosecuting attorney that
13 represented the state in the juvenile delinquency proceedings;

14 (5) the victim of the offense that was included in the
15 delinquent conduct that was a ground for the disposition, or a
16 member of the victim's family; and

17 (6) any other person who has filed a written request
18 with the court to be notified of a release hearing with respect to
19 the person to be transferred or released under supervision.

20 (d) At a hearing under this section, the court may consider
21 written reports and supporting documents from probation officers,
22 professional court employees, professional consultants, ~~or~~
23 employees of the Texas Juvenile Justice Department, or employees of
24 a facility operated under Section 152.0016, Human Resources Code,
25 in addition to the testimony of witnesses. On or before the fifth
26 day of the hearing, the court shall provide the attorney for the
27 person to be transferred or released under supervision with access

1 to all written matter to be considered by the court. All written
2 matter is admissible in evidence at the hearing.

3 SECTION 4. Section 58.352(a), Family Code, is amended to
4 read as follows:

5 (a) A juvenile court judge in a county to which this
6 subchapter applies shall post a report on the Internet website of
7 the county in which the court is located. The report must include:

8 (1) the total number of children committed by the
9 judge to a correctional facility operated by the Texas ~~Youth~~
10 ~~Commission~~ Juvenile Justice Department; and

11 (2) the total number of children committed by the
12 judge to a facility operated under Section 152.0016, Human
13 Resources Code, if applicable; and

14 ~~(23)~~ (2) for each child committed to a facility described
15 by Subdivision (1) or (2):

16 (A) a general description of the offense
17 committed by the child or the conduct of the child that led to the
18 child's commitment to the facility;

19 (B) the year the child was committed to the
20 facility; and

21 (C) the age range, race, and gender of the child.

22 SECTION 5. Section 499.053, Government Code, is amended to
23 read as follows:

24 Sec. 499.053. TRANSFERS FROM TEXAS JUVENILE JUSTICE
25 DEPARTMENT OR A POST-ADJUDICATION SECURE CORRECTIONAL FACILITY.

26 (a) The department shall accept persons transferred to the
27 department from the Texas Juvenile Justice Department under Section

1 245.151, Human Resources Code, or a post-adjudication secure
2 correctional facility under Section 152.00161, Human Resources
3 Code.

4 (b) A person transferred to the department from the Texas
5 Juvenile Justice Department or a post-adjudication secure
6 correctional facility is entitled to credit on the person's
7 sentence for the time served in the custody of the Texas Juvenile
8 Justice Department or the juvenile probation department, as
9 applicable.

10 (c) All laws relating to good conduct time and eligibility
11 for release on parole or mandatory supervision apply to a person
12 transferred to the department by the Texas Juvenile Justice
13 Department or a post-adjudication secure correctional facility as
14 if the time the person was detained in a detention facility and the
15 time the person served in the custody of the Texas Juvenile Justice
16 Department or the juvenile probation department was time served in
17 the custody of the department.

18 (d) A person transferred from the Texas Juvenile Justice
19 Department or a post-adjudication secure correctional facility for
20 the offense of capital murder shall become eligible for parole as
21 provided in Section 508.145(d) for an offense listed in Section 3g,
22 Article 42.12, Code of Criminal Procedure, or an offense for which a
23 deadly weapon finding has been made.

24 SECTION 6. Section 508.003(c), Government Code, is amended
25 to read as follows:

26 (c) The provisions of this chapter not in conflict with
27 Section 508.156 apply to parole of a person from the Texas ~~Youth~~

1 ~~Commission~~ Juvenile Justice Department or a post-adjudication
2 secure correctional facility under that section.

3 SECTION 7. Sections 508.156 (a), (d), (e), and (f),
4 Government Code, are amended to read as follows:

5 Sec. 508.156. DETERMINATE SENTENCE PAROLE. (a) Before the
6 release of a person who is transferred under Section 245.051(c), ~~or~~
7 245.151(e), 152.0016(g), or 152.00161(e), Human Resources Code, to
8 the department for release on parole, a parole panel shall review
9 the person's records and may interview the person or any other
10 person the panel considers necessary to determine the conditions of
11 parole. The panel may impose any reasonable condition of parole on
12 the person that the panel may impose on an adult inmate under this
13 chapter.

14 (d) The period of parole for a person released on parole
15 under this section is the term for which the person was sentenced
16 less calendar time served at the Texas ~~Youth Commission~~ Juvenile
17 Justice Department or in the custody of a juvenile probation
18 department as a result of a commitment under Section
19 54.04011(c)(2), Family Code, and in a juvenile detention facility
20 in connection with the conduct for which the person was
21 adjudicated.

22 (e) If a parole panel revokes the person's parole, the panel
23 may require the person to serve the remaining portion of the
24 person's sentence in the institutional division. The remaining
25 portion of the person's sentence is computed without credit for the
26 time from the date of the person's release to the date of
27 revocation. The panel may not recommit the person to the Texas

1 ~~Youth Commission~~ Juvenile Justice Department or to a local juvenile
2 probation department.

3 (f) For purposes of this chapter, a person released from the
4 Texas ~~Youth Commission~~ Juvenile Justice Department or from a local
5 juvenile probation department on parole under this section is
6 considered to have been convicted of the offense for which the
7 person has been adjudicated.

8 SECTION 8. Section 152.0016, Human Resources Code, is
9 amended to add Subsections (f-1), (f-2), and (g-1) to read as
10 follows:

11 (f-1) After a child has completed the established minimum
12 length of stay, the juvenile board or local juvenile probation
13 department shall:

14 (1) discharge the child from the custody of the
15 juvenile board or local juvenile probation department;

16 (2) release the child under supervision as provided by
17 Subsection (c)(2); or

18 (3) extend the child's length of stay in the custody of
19 the juvenile board or local juvenile probation department.

20 (f-2) A child's length of stay may only be extended under
21 Subsection (f-1)(3) on the basis of clear and convincing evidence
22 that:

23 (1) the child is in need of additional rehabilitation
24 from the local juvenile probation department; and

25 (2) the post-adjudication secure correctional
26 facility will provide the most suitable environment for that
27 rehabilitation.

1 (g-1) The local juvenile probation department may request
2 the approval of the court under Subsection (g) at any time.

3 SECTION 9. Sections 152.0016(h) and (i), Human Resources
4 Code, are amended to read as follows:

5 (h) The juvenile board or local juvenile probation
6 department may release a child who has been committed to a
7 post-adjudication secure correctional facility with a determinate
8 sentence under Section 54.04011(c)(2), Family Code, under
9 supervision without approval of the juvenile court that entered the
10 order of commitment if not more than nine months remain before the
11 child's discharge ~~as provided by Section 245.051(g)~~ under
12 152.00161(b).

13 (i) The juvenile board or local juvenile probation
14 department may resume the care and custody of any child released
15 under supervision at any time before the final discharge of the
16 child in accordance with the rules governing the Texas Juvenile
17 Justice Department regarding resumption of care. Sections 243.051
18 and 245.051(f), Human Resources Code, are applicable to a child who
19 has been committed to a post-adjudication secure correctional
20 facility under Section 54.04011(c), Family Code, and who has
21 escaped or broken the conditions of release under supervision, as
22 applicable. A hearing examiner who conducts a revocation under this
23 Subsection has the same subpoena authority as provided to a hearing
24 officer at the Texas Juvenile Justice Department under Section
25 203.008, Human Resources Code.

26 SECTION 10. Subchapter A, Chapter 152, Human Resources
27 Code, is amended by adding Section 152.00161 to read as follows:

1 Section 152.00161 TERMINATION OF CONTROL. (a) Except as
2 provided by Subsections (b) and (c), if a person is committed to a
3 post-adjudication secure correctional facility under a determinate
4 sentence as provided by Section 54.04011(c)(2), Family Code, the
5 juvenile board or juvenile probation department may not discharge
6 the person from its custody.

7 (b) The juvenile board or juvenile probation department
8 shall discharge without a court hearing a person committed to the
9 department for a determinate sentence under Section
10 54.04011(c)(2), Family Code, who has not been transferred to the
11 Texas Department of Criminal Justice under a court order on the date
12 the time spent by the person in detention in connection with the
13 committing offense plus the time spent in the custody of the
14 juvenile probation department under the order of commitment equals
15 the period of the sentence.

16 (c) The juvenile board or juvenile probation department
17 shall transfer to the Texas Department of Criminal Justice a person
18 who is the subject of an order under Section 152.0016(j)
19 transferring the person to the custody of the Texas Department
20 Criminal Justice for the completion of the person's sentence.

21 (d) Except as provided by Subsection (e), the juvenile board
22 or juvenile probation department shall discharge from its custody a
23 person not already discharged on the person's 19th birthday.

24 (e) The juvenile board or juvenile probation department
25 shall transfer a person who has been sentenced under a determinate
26 sentence to commitment as provided by Section 54.04011(c)(2),
27 Family Code, or who has been returned to the juvenile probation

1 department under Section 54.11(i)(1), Family Code, to the custody
2 of the Texas Department of Criminal Justice on the person's 19th
3 birthday, if the person has not already been discharged or
4 transferred, to serve the remainder of the person's sentence on
5 parole as provided by Section 508.156, Government Code.

6 SECTION 11. Subchapter A, Chapter 152, Human Resources
7 Code, is amended by adding Section 152.00162 to read as follows:

8 152.00162 DETERMINATE SENTENCE PAROLE. (a) Not later than
9 the 90th day before the date the juvenile probation department
10 transfers a person to the custody of the Texas Department of
11 Criminal Justice for release on parole supervision under Section
12 152.0016(g) or 152.00161(e), the juvenile probation department
13 shall submit to the Texas Department of Criminal Justice all
14 pertinent information relating to the person, including:

15 (1) the juvenile court judgment;
16 (2) the circumstances of the person's offense;
17 (3) the person's previous social history and juvenile
18 court records;

19 (4) the person's physical and mental health record;
20 (5) a record of the person's conduct, employment
21 history, and attitude while committed to the juvenile probation
22 department;

23 (6) a record of the sentence time served by the person
24 at the juvenile probation department as a result of a commitment
25 under Section 54.04011(c)(2), Family Code, and in a juvenile
26 detention facility in connection with the conduct for which the
27 person was committed; and

1 (7) any written comments or information provided by
2 the juvenile probation department, local officials, family members
3 of the person, victims of the offense, or the general public.

4 (b) The juvenile probation department shall provide
5 instruction for parole officers of the Texas Department of Criminal
6 Justice relating to juvenile programs at the juvenile probation
7 department. The juvenile probation department and the Texas
8 Department of Criminal Justice shall enter into a memorandum of
9 understanding relating to the administration of this subsection.

10 (c) The Texas Department of Criminal Justice shall grant
11 credit for sentence time served by a person at the juvenile
12 probation department and in a juvenile detention facility, as
13 recorded by the department under Subsection (a)(6), in computing
14 the person's eligibility for parole and discharge from the Texas
15 Department of Criminal Justice.

16 SECTION 12. Subchapter A, Chapter 152, Human Resources
17 Code, is amended by adding Section 152.00163 to read as follows:

18 152.00163 CHILD WITH MENTAL ILLNESS OR INTELLECTUAL
19 DISABILITY. (a) The juvenile probation department shall accept a
20 child with a mental illness or intellectual disability who is
21 committed to its custody.

22 (b) Unless a child is committed to the juvenile probation
23 department under a determinate sentence under Section 54.04(d)(3),
24 54.04(m), or 54.05(f), Family Code, the department shall discharge
25 a child with a mental illness or intellectual disability from its
26 custody if:

27 (1) the child has completed the minimum length of stay

1 for the child's committing offense; and

2 (2) the juvenile probation department determines that
3 the child is unable to progress in its rehabilitation programs
4 because of the child's mental illness or intellectual disability.

5 (c) If a child who is discharged from the juvenile probation
6 department under Subsection (b) as a result of mental illness is not
7 receiving court-ordered mental health services, the child's
8 discharge is effective on the earlier of:

9 (1) the date the court enters an order regarding an
10 application for mental health services filed under Section
11 152.001631(b); or

12 (2) the 30th day after the date the application is
13 filed.

14 (d) If a child who is discharged from the juvenile probation
15 department under Subsection (b) as a result of mental illness is
16 receiving court-ordered mental health services, the child's
17 discharge is effective immediately. If the child is receiving
18 mental health services outside the child's home county, the
19 juvenile probation department shall notify the mental health
20 authority located in that county of the discharge not later than the
21 30th day after the date that the child's discharge is effective.

22 (e) If a child who is discharged from the juvenile probation
23 department under Subsection (b) as a result of an intellectual
24 disability is not receiving intellectual disability services, the
25 child's discharge is effective on the earlier of:

26 (1) the date the court enters an order regarding an
27 application for intellectual disability services filed under

1 Section 152.001631(b); or

2 (2) the 30th day after the date that the application is
3 filed.

4 (f) If a child who is discharged from the juvenile probation
5 department under Subsection (b) as a result of intellectual
6 disability is receiving intellectual disability services, the
7 child's discharge from the department's custody is effective
8 immediately.

9 (g) If a child with a mental illness or intellectual
10 disability is discharged from the juvenile probation department
11 under Subsection (b), the child is eligible to receive continuity
12 of care services from the Texas Correctional Office on Offenders
13 with Medical or Mental Impairments under Chapter 614, Health and
14 Safety Code.

15 SECTION 13. Subchapter A, Chapter 152, Human Resources
16 Code, is amended by adding Section 152.001631 to read as follows:

17 Sec. 152.001631 EXAMINATION BEFORE DISCHARGE. (a) The
18 juvenile probation department shall establish a system that
19 identifies children with mental illnesses or intellectual
20 disabilities who are in the department's custody.

21 (b) Before a child with a mental illness is discharged from
22 the juvenile probation department's custody under Section
23 152.00163(b), the department shall have a psychiatrist examine the
24 child. The juvenile probation department shall refer a child
25 requiring outpatient psychiatric treatment to the appropriate
26 mental health authority. For a child requiring inpatient
27 psychiatric treatment, the juvenile probation department shall

1 file a sworn application for court-ordered mental health services,
2 as provided in Subchapter C, Chapter 574, Health and Safety Code,
3 if:

4 (1) the child is not receiving court-ordered mental
5 health services; and

6 (2) the psychiatrist who examined the child determines
7 that the child has a mental illness and the child meets at least one
8 of the criteria listed in Section 574.034, Health and Safety Code.

9 (c) Before a child who is identified as having an
10 intellectual disability under Chapter 593, Health and Safety Code,
11 is discharged from the juvenile probation department's custody
12 under Section 152.00163(b), the department shall refer the child
13 for intellectual disability services if the child is not receiving
14 mental health services.

15 SECTION 14. Subchapter A, Chapter 152, Human Resources
16 Code, is amended by adding Section 152.001632 to read as follows:

17 Sec. 152.001632. TRANSFER OF CERTAIN CHILDREN SERVING
18 DETERMINATE SENTENCES FOR MENTAL HEALTH SERVICES. (a) The
19 juvenile probation department may petition the juvenile court that
20 entered the order of commitment for a child for the initiation of
21 mental health commitment proceedings if the child is committed to
22 the department under a determinate sentence under Section
23 54.04(d)(3), 54.04(m), or 54.05(f), Family Code.

24 (b) A petition made by the juvenile probation department
25 shall be treated as a motion under Section 55.11, Family Code, and
26 the juvenile court shall proceed in accordance with Subchapter B,
27 Chapter 55, Family Code.

1 (c) The juvenile probation department shall cooperate with
2 the juvenile court in any proceeding under this section.

3 (d) The juvenile court shall credit to the term of the
4 child's commitment to the juvenile probation department any time
5 the child is committed to an inpatient mental health facility.

6 (e) A child committed to an inpatient mental health facility
7 as a result of a petition filed under this section may not be
8 released from the facility on a pass or furlough.

9 (f) If the term of an order committing a child to an
10 inpatient mental health facility is scheduled to expire before the
11 end of the child's sentence and another order committing the child
12 to an inpatient mental health facility is not scheduled to be
13 entered, the inpatient mental health facility shall notify the
14 juvenile court that entered the order of commitment committing the
15 child to the juvenile probation department. The juvenile court may
16 transfer the child to the custody of the juvenile probation
17 department, transfer the child to the Texas Department of Criminal
18 Justice, or release the child under supervision, as appropriate.

19 SECTION 15. This Act takes effect September 1, 2015.