

By: Dutton, Goodman, Hodge, Pena, et al.

H.B. No. 2319

A BILL TO BE ENTITLED

AN ACT

relating to juvenile delinquency; providing a criminal penalty.

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

SECTION 1. Section 51.02(16), Family Code, is amended to read as follows:

(16) "Traffic offense" means:

(A) a violation of a penal statute cognizable under Chapter 729, Transportation Code, except for:

(i) conduct constituting an offense under Section 521.457, Transportation Code;

(ii) conduct constituting an offense under Section 550.021, Transportation Code;

(iii) [~~(ii)~~] conduct constituting an offense punishable as a Class B misdemeanor under Section 550.022, Transportation Code; ~~or~~

(iv) [~~(iii)~~] conduct constituting an offense punishable as a Class B misdemeanor under Section 550.024, Transportation Code; or

(v) conduct constituting an offense punishable as a Class B misdemeanor under Section 550.025, Transportation Code; or

(B) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state.

SECTION 2. Section 51.041(a), Family Code, is amended to

1 read as follows:

2 (a) The court retains jurisdiction over a person, without
3 regard to the age of the person, for conduct engaged in by the
4 person before becoming 17 years of age if, as a result of an appeal
5 by the person or the state under Chapter 56 or by the person under
6 Article 44.47, Code of Criminal Procedure, of an order of the court,
7 the order is reversed or modified and the case remanded to the court
8 by the appellate court.

9 SECTION 3. Section 51.08(d), Family Code, is amended to
10 read as follows:

11 (d) A court that has implemented a juvenile case manager
12 program under Article 45.056 [~~45.054~~], Code of Criminal Procedure,
13 may, but is not required to, waive its original jurisdiction under
14 Subsection (b)(1).

15 SECTION 4. Section 51.10, Family Code, is amended by adding
16 Subsections (j)-(l) to read as follows:

17 (j) The juvenile board of a county may make available to the
18 public the list of attorneys eligible for appointment to represent
19 children in proceedings under this title as provided in the plan
20 adopted under Section 51.102. The list of attorneys must indicate
21 the level of case for which each attorney is eligible for
22 appointment under Section 51.102(b)(2).

23 (k) Subject to Chapter 61, the juvenile court may order the
24 parent or other person responsible for support of the child to
25 reimburse the county for payments the county made to counsel
26 appointed to represent the child under Subsection (f) or (g). The
27 court may:

1 (1) order payment for each attorney who has
2 represented the child at any hearing, including a detention
3 hearing, discretionary transfer hearing, adjudication hearing,
4 disposition hearing, or modification of disposition hearing;

5 (2) include amounts paid to or on behalf of the
6 attorney by the county for preparation time and investigative and
7 expert witness costs; and

8 (3) require full or partial reimbursement to the
9 county.

10 (1) The court may not order payments under Subsection (k)
11 that exceed the financial ability of the parent or other person
12 responsible for support of the child to meet the payment schedule
13 ordered by the court.

14 SECTION 5. Section 51.101, Family Code, as added by Chapter
15 906, Acts of the 77th Legislature, Regular Session, 2001, is
16 renumbered as Section 51.102 and amended to read as follows:

17 Sec. 51.102 [~~51.101~~]. APPOINTMENT OF COUNSEL PLAN. (a)
18 The juvenile board in each county shall adopt a plan that:

19 (1) specifies the qualifications necessary for an
20 attorney to be included on an appointment list from which attorneys
21 are appointed to represent children in proceedings under this
22 title; and

23 (2) establishes the procedures for:

24 (A) including attorneys on the appointment list
25 and removing attorneys from the list; and

26 (B) appointing attorneys from the appointment
27 list to individual cases.

1 (b) A plan adopted under Subsection (a) must:

2 (1) to the extent practicable, comply with the
3 requirements of Article 26.04, Code of Criminal Procedure, except
4 that:

5 (A) the income and assets of the child's parent
6 or other person responsible for the child's support must be used in
7 determining whether the child is indigent; and

8 (B) any alternative plan for appointing counsel
9 is established by the juvenile board in the county; and

10 (2) recognize the differences in qualifications and
11 experience necessary for appointments to cases in which:

12 (A) the allegation is:

13 (i) conduct indicating a need for
14 supervision or [+

15 [~~(ii)~~] delinquent conduct, and commitment
16 to the Texas Youth Commission is not an authorized disposition; or

17 (ii) [~~(iii)~~] delinquent conduct, and
18 commitment to the Texas Youth Commission without a determinate
19 sentence is an authorized disposition; or

20 (B) determinate sentence proceedings have been
21 initiated[+] or

22 [~~(C)~~] proceedings for discretionary transfer to
23 criminal court have been initiated.

24 SECTION 6. Section 51.13(d), Family Code, is amended to
25 read as follows:

26 (d) An adjudication under Section 54.03 that a child engaged
27 in conduct that occurred on or after January 1, 1996, and that

1 constitutes a felony offense resulting in commitment to the Texas
2 Youth Commission under Section 54.04(d)(2), (d)(3), or (m) or
3 54.05(f) is a final felony conviction only for the purposes of
4 Sections 12.42(a), (b), (c)(1), [12.42(a)-(c)] and (e), Penal Code.

5 SECTION 7. Section 51.17, Family Code, is amended by adding
6 Subsections (d), (e), and (f) to read as follows:

7 (d) When on the motion for appointment of an interpreter by
8 a party or on the motion of the juvenile court, in any proceeding
9 under this title, the court determines that the child, the child's
10 parent or guardian, or a witness does not understand and speak
11 English, an interpreter must be sworn to interpret for the person as
12 provided by Article 38.30, Code of Criminal Procedure.

13 (e) In any proceeding under this title, if a party notifies
14 the court that the child, the child's parent or guardian, or a
15 witness is deaf, the court shall appoint a qualified interpreter to
16 interpret the proceedings in any language, including sign language,
17 that the deaf person can understand, as provided by Article 38.31,
18 Code of Criminal Procedure.

19 (f) Any requirement under this title that a document contain
20 a person's signature, including the signature of a judge or a clerk
21 of the court, is satisfied if the document contains the signature
22 of the person as captured on an electronic device or as a digital
23 signature. Article 2.26, Code of Criminal Procedure, applies in a
24 proceeding held under this title.

25 SECTION 8. Sections 52.01(a) and (c), Family Code, are
26 amended to read as follows:

27 (a) A child may be taken into custody:

1 (1) pursuant to an order of the juvenile court under
2 the provisions of this subtitle;

3 (2) pursuant to the laws of arrest;

4 (3) by a law-enforcement officer, including a school
5 district peace officer commissioned under Section 37.081,
6 Education Code, if there is probable cause to believe that the child
7 has engaged in:

8 (A) conduct that violates a penal law of this
9 state or a penal ordinance of any political subdivision of this
10 state; ~~or~~

11 (B) delinquent conduct or conduct indicating a
12 need for supervision; or

13 (C) conduct that violates a condition of
14 probation imposed by the juvenile court;

15 (4) by a probation officer if there is probable cause
16 to believe that the child has violated a condition of probation
17 imposed by the juvenile court; or

18 (5) pursuant to a directive to apprehend issued as
19 provided by Section 52.015.

20 (c) A law-enforcement officer authorized to take a child
21 into custody under Subdivisions (2) and (3) of Subsection (a) of
22 this section may issue a warning notice to the child in lieu of
23 taking the child into custody if:

24 (1) guidelines for warning disposition have been
25 issued by the law-enforcement agency in which the officer works;

26 (2) the guidelines have been approved by the juvenile
27 board ~~[court]~~ of the county in which the disposition is made;

1 (3) the disposition is authorized by the guidelines;

2 (4) the warning notice identifies the child and
3 describes the child's alleged conduct;

4 (5) a copy of the warning notice is sent to the child's
5 parent, guardian, or custodian as soon as practicable after
6 disposition; and

7 (6) a copy of the warning notice is filed with the
8 law-enforcement agency and the office or official designated by the
9 juvenile board.

10 SECTION 9. Section 52.02(a), Family Code, is amended to
11 read as follows:

12 (a) Except as provided by Subsection (c), a person taking a
13 child into custody, without unnecessary delay and without first
14 taking the child to any place other than a juvenile processing
15 office designated under Section 52.025, shall do one of the
16 following:

17 (1) release the child to a parent, guardian, custodian
18 of the child, or other responsible adult upon that person's promise
19 to bring the child before the juvenile court as requested by the
20 court;

21 (2) bring the child before the office or official
22 designated by the juvenile board if there is probable cause to
23 believe that the child engaged in delinquent conduct, ~~or~~ conduct
24 indicating a need for supervision, or conduct that violates a
25 condition of probation imposed by the juvenile court;

26 (3) bring the child to a detention facility designated
27 by the juvenile board;

1 (4) bring the child to a secure detention facility as
2 provided by Section 51.12(j);

3 (5) bring the child to a medical facility if the child
4 is believed to suffer from a serious physical condition or illness
5 that requires prompt treatment; or

6 (6) dispose of the case under Section 52.03.

7 SECTION 10. Section 52.03(d), Family Code, is amended to
8 read as follows:

9 (d) Statistics indicating the number and kind of
10 dispositions made by a law-enforcement agency under the authority
11 of this section shall be reported at least annually to the office or
12 official designated by the juvenile board, as ordered by the board
13 [~~court~~].

14 SECTION 11. Section 52.04(d), Family Code, is amended to
15 read as follows:

16 (d) On referral of the case of a child who has not been taken
17 into custody to the office or official designated by the juvenile
18 board [~~court~~], the office or official designated by the juvenile
19 board [~~court~~] shall promptly give notice of the referral and a
20 statement of the reason for the referral to the child's parent,
21 guardian, or custodian.

22 SECTION 12. Sections 53.01(a) and (c), Family Code, are
23 amended to read as follows:

24 (a) On referral of a person believed to be a child or on
25 referral of the person's case to the office or official designated
26 by the juvenile board, the intake officer, probation officer, or
27 other person authorized by the board [~~court~~] shall conduct a

1 preliminary investigation to determine whether:

2 (1) the person referred to juvenile court is a child
3 within the meaning of this title; and

4 (2) there is probable cause to believe the person:

5 (A) engaged in delinquent conduct or conduct
6 indicating a need for supervision; or

7 (B) is a nonoffender who has been taken into
8 custody and is being held solely for deportation out of the United
9 States.

10 (c) When custody of a child is given to the office or
11 official designated by the juvenile board, the intake officer,
12 probation officer, or other person authorized by the board [~~court~~]
13 shall promptly give notice of the whereabouts of the child and a
14 statement of the reason the child was taken into custody to the
15 child's parent, guardian, or custodian unless the notice given
16 under Section 52.02(b) provided fair notice of the child's present
17 whereabouts.

18 SECTION 13. Section 53.03, Family Code, is amended by
19 amending Subsection (d) and adding Subsections (i) and (j) to read
20 as follows:

21 (d) The juvenile board [~~court~~] may adopt a fee schedule for
22 deferred prosecution services and rules for the waiver of a fee for
23 financial hardship in accordance with guidelines that the Texas
24 Juvenile Probation Commission shall provide. The maximum fee is
25 \$15 a month. If the board [~~court~~] adopts a schedule and rules for
26 waiver, the probation officer or other designated officer of the
27 court shall collect the fee authorized by the schedule from the

1 parent, guardian, or custodian of a child for whom a deferred
2 prosecution is authorized under this section or waive the fee in
3 accordance with the rules adopted by the board [~~court~~]. The officer
4 shall deposit the fees received under this section in the county
5 treasury to the credit of a special fund that may be used only for
6 juvenile probation or community-based juvenile corrections
7 services or facilities in which a juvenile may be required to live
8 while under court supervision. If the board [~~court~~] does not adopt
9 a schedule and rules for waiver, a fee for deferred prosecution
10 services may not be imposed.

11 (i) The court may defer prosecution for a child at any time:

12 (1) for an adjudication that is to be decided by a jury
13 trial, before the jury is sworn;

14 (2) for an adjudication before the court, before the
15 first witness is sworn; or

16 (3) for an uncontested adjudication, before the child
17 pleads to the petition or agrees to a stipulation of evidence.

18 (j) The court may add the period of deferred prosecution
19 under Subsection (i) to a previous order of deferred prosecution,
20 except that the court may not place the child on deferred
21 prosecution for a combined period longer than one year.

22 SECTION 14. Section 54.01, Family Code, is amended by
23 amending Subsections (b), (m), (o), and (q) and adding Subsection
24 (r) to read as follows:

25 (b) Reasonable notice of the detention hearing, either oral
26 or written, shall be given, stating the time, place, and purpose of
27 the hearing. Notice shall be given to the child and, if they can be

1 found, to his parents, guardian, or custodian. Prior to the
2 commencement of the hearing, the court shall inform the parties of
3 the child's right to counsel and to appointed counsel if they are
4 indigent and of the child's right to remain silent with respect to
5 any allegations of delinquent conduct, ~~[or]~~ conduct indicating a
6 need for supervision, or conduct that violates an order of
7 probation imposed by a juvenile court.

8 (m) The detention hearing required in this section may be
9 held in the county of the designated place of detention where the
10 child is being held even though the designated place of detention is
11 outside the county of residence of the child or the county in which
12 the alleged delinquent conduct, ~~[or]~~ conduct indicating a need for
13 supervision, or probation violation occurred.

14 (o) The court or referee shall find whether there is
15 probable cause to believe that a child taken into custody without an
16 arrest warrant or a directive to apprehend has engaged in
17 delinquent conduct, ~~[or]~~ conduct indicating a need for supervision,
18 or conduct that violates an order of probation imposed by a juvenile
19 court. The court or referee must make the finding within 48 hours,
20 including weekends and holidays, of the time the child was taken
21 into custody. The court or referee may make the finding on any
22 reasonably reliable information without regard to admissibility of
23 that information under the Texas Rules of ~~[Criminal]~~ Evidence. A
24 finding of probable cause is required to detain a child after the
25 48th hour after the time the child was taken into custody. If a
26 court or referee finds probable cause, additional findings of
27 probable cause are not required in the same cause to authorize

1 further detention.

2 (q) If a child has not been released under Section 53.02 or
3 this section and a petition has not been filed under Section 53.04
4 or 54.05 concerning the child, the court shall order the child
5 released from detention not later than:

6 (1) the 30th working day after the date the initial
7 detention hearing is held, if the child is alleged to have engaged
8 in conduct constituting a capital felony, an aggravated controlled
9 substance felony, or a felony of the first degree; or

10 (2) the 15th working day after the date the initial
11 detention hearing is held, if the child is alleged to have engaged
12 in conduct constituting an offense other than an offense listed in
13 Subdivision (1) or conduct that violates an order of probation
14 imposed by a juvenile court.

15 (r) On the conditional release of a child from detention by
16 judicial order under Subsection (f), the court, referee, or
17 detention magistrate may order that the child's parent, guardian,
18 or custodian present in court at the detention hearing engage in
19 acts or omissions specified by the court, referee, or detention
20 magistrate that will assist the child in complying with the
21 conditions of release. The order must be in writing and a copy
22 furnished to the parent, guardian, or custodian. An order entered
23 under this subsection may be enforced as provided by Chapter 61.

24 SECTION 15. The heading to Section 54.011, Family Code, is
25 amended to read as follows:

26 Sec. 54.011. DETENTION HEARINGS FOR STATUS OFFENDERS AND
27 NONOFFENDERS; PENALTY.

1 SECTION 16. Section 54.011, Family Code, is amended by
2 adding Subsection (f) to read as follows:

3 (f) Except as provided by Subsection (a), a nonoffender,
4 including a person who has been taken into custody and is being held
5 solely for deportation out of the United States, may not be detained
6 for any period of time in a secure detention facility or secure
7 correctional facility, regardless of whether the facility is
8 publicly or privately operated. A nonoffender who is detained in
9 violation of this subsection is entitled to immediate release from
10 the facility and may bring a civil action for compensation for the
11 illegal detention against any person responsible for the detention.
12 A person commits an offense if the person knowingly detains or
13 assists in detaining a nonoffender in a secure detention facility
14 or secure correctional facility in violation of this subsection.
15 An offense under this subsection is a Class B misdemeanor.

16 SECTION 17. Section 54.03(i), Family Code, is amended to
17 read as follows:

18 (i) In order to preserve for appellate or collateral review
19 the failure of the court to provide the child the explanation
20 required by Subsection (b), the attorney for the child must comply
21 with Rule 33.1 [~~52(a)~~], Texas Rules of Appellate Procedure, before
22 testimony begins or, if the adjudication is uncontested, before the
23 child pleads to the petition or agrees to a stipulation of evidence.

24 SECTION 18. Sections 54.032(a) and (f), Family Code, are
25 amended to read as follows:

26 (a) A juvenile court may defer adjudication proceedings
27 under Section 54.03 for not more than 180 days if the child:

1 (1) is alleged to have engaged in conduct indicating a
2 need for supervision that violated a penal law of this state of the
3 grade of misdemeanor that is punishable by fine only or a penal
4 ordinance of a political subdivision of this state;

5 (2) waives, under Section 51.09, the privilege against
6 self-incrimination and testifies under oath that the allegations
7 are true;

8 (3) presents to the court an oral or written request to
9 attend a teen court program; and

10 (4) has not successfully completed a teen court
11 program [~~for the violation of the same penal law or ordinance~~] in
12 the two years preceding the date that the alleged conduct occurred.

13 (f) A court may transfer a case in which proceedings have
14 been deferred as provided by this section to a court in another [~~a~~
15 ~~contiguous~~] county if the court to which the case is transferred
16 consents. A case may not be transferred unless it is within the
17 jurisdiction of the court to which it is transferred.

18 SECTION 19. Section 54.041(a), Family Code, is amended to
19 read as follows:

20 (a) When a child has been found to have engaged in
21 delinquent conduct or conduct indicating a need for supervision and
22 the juvenile court has made a finding that the child is in need of
23 rehabilitation or that the protection of the public or the child
24 requires that disposition be made, the juvenile court, on notice by
25 any reasonable method to all persons affected, may:

26 (1) order any person found by the juvenile court to
27 have, by a wilful act or omission, contributed to, caused, or

1 encouraged the child's delinquent conduct or conduct indicating a
2 need for supervision to do any act that the juvenile court
3 determines to be reasonable and necessary for the welfare of the
4 child or to refrain from doing any act that the juvenile court
5 determines to be injurious to the welfare of the child;

6 (2) enjoin all contact between the child and a person
7 who is found to be a contributing cause of the child's delinquent
8 conduct or conduct indicating a need for supervision; ~~or~~

9 (3) after notice and a hearing of all persons affected
10 order any person living in the same household with the child to
11 participate in social or psychological counseling to assist in the
12 rehabilitation of the child and to strengthen the child's family
13 environment; or

14 (4) after notice and a hearing of all persons affected
15 order the child's parent or other person responsible for the child's
16 support to pay all or part of the reasonable costs of treatment
17 programs in which the child is required to participate during the
18 period of probation if the court finds the child's parent or person
19 responsible for the child's support is able to pay the costs.

20 SECTION 20. Sections 54.042(c) and (d), Family Code, are
21 amended to read as follows:

22 (c) The order under Subsection (a)(1) shall specify a period
23 of suspension or denial [~~that is until the child reaches the age of~~
24 ~~19 or for a period~~] of 365 days [~~, whichever is longer~~].

25 (d) The order under Subsection (b) shall specify a period of
26 suspension or denial [~~that is~~]:

27 (1) [~~for a period~~] not to exceed 365 days; or

1 (2) of 365 days if the court finds the child has been
2 previously adjudicated as having engaged in conduct violating
3 Section 28.08, Penal Code [~~, until the child reaches the age of 19 or~~
4 ~~for a period not to exceed 365 days, whichever is longer~~].

5 SECTION 21. Section 54.05, Family Code, is amended by
6 amending Subsection (k) and adding Subsection (l) to read as
7 follows:

8 (k) The court may modify a disposition under Subsection (f)
9 that is based on an adjudication [~~a finding~~] that the child engaged
10 in delinquent conduct that violates a penal law of the grade of
11 misdemeanor if:

12 (1) the child has been adjudicated as having engaged
13 in delinquent conduct violating a penal law of the grade of felony
14 or misdemeanor on at least one [~~two~~] previous occasion before the
15 adjudication that prompted the disposition that is being modified
16 [~~occasions~~]; and

17 (2) [~~of the previous adjudications,~~] the conduct that
18 was the basis [~~for one~~] of the adjudication that prompted the
19 disposition that is being modified [~~adjudications~~] occurred after
20 the date of the [~~another~~] previous adjudication.

21 (l) The court may extend a period of probation under this
22 section at any time during the period of probation or, if a motion
23 for revocation or modification of probation is filed before the
24 period of supervision ends, before the first anniversary of the
25 date on which the period of probation expires.

26 SECTION 22. Section 54.051, Family Code, is amended by
27 amending Subsection (e) and adding Subsections (e-1), (e-2), (e-3),

1 (g), (h), and (i) to read as follows:

2 (e) A district court that exercises jurisdiction over a
3 child transferred under Subsection (d) shall place the child on
4 community supervision under Article 42.12, Code of Criminal
5 Procedure, for the remainder of the child's probationary period and
6 under conditions consistent with those ordered by the juvenile
7 court.

8 (e-1) The restrictions on a judge placing a defendant on
9 community supervision imposed by Section 3g, Article 42.12, Code of
10 Criminal Procedure, do not apply to a case transferred from the
11 juvenile court. The minimum period of community supervision
12 imposed by Section 3(b), Article 42.12, Code of Criminal Procedure,
13 does not apply to a case transferred from the juvenile court.

14 (e-2) If a child who is placed on community supervision
15 under this section [~~subsection~~] violates a condition of that
16 supervision or if the child violated a condition of probation
17 ordered under Section 54.04(q) and that probation violation was not
18 discovered by the state before the child's 18th birthday, the
19 district court shall dispose of the violation of community
20 supervision or probation, as appropriate, in the same manner as if
21 the court had originally exercised jurisdiction over the case. If
22 the judge revokes community supervision, the judge may reduce the
23 prison sentence to any length without regard to the minimum term
24 imposed by Section 23(a), Article 42.12, Code of Criminal
25 Procedure.

26 (e-3) The time that a child serves on probation ordered
27 under Section 54.04(q) is the same as time served on community

1 supervision ordered under this section [~~subsection~~] for purposes of
2 determining the child's eligibility for early discharge from
3 community supervision under Section 20, Article 42.12, Code of
4 Criminal Procedure.

5 (g) If the juvenile court places the child on probation for
6 an offense for which registration as a sex offender is required by
7 Chapter 62, Code of Criminal Procedure, and defers the registration
8 requirement until completion of treatment for the sex offense under
9 Article 62.13, Code of Criminal Procedure, the authority under that
10 article to reexamine the need for registration on completion of
11 treatment is transferred to the court to which probation is
12 transferred.

13 (h) If the juvenile court places the child on probation for
14 an offense for which registration as a sex offender is required by
15 Chapter 62, Code of Criminal Procedure, and the child registers,
16 the authority of the court to excuse further compliance with the
17 registration requirement under Articles 62.13(l)-(r), Code of
18 Criminal Procedure, is transferred to the court to which probation
19 is transferred.

20 (i) If the juvenile court exercises jurisdiction over a
21 person who is 18 years of age or older under Section 51.041 or
22 51.0412, the court or jury may, if the person is otherwise eligible,
23 place the person on probation under Section 54.04(q). The juvenile
24 court shall set the conditions of probation and immediately
25 transfer supervision of the person to the appropriate court
26 exercising criminal jurisdiction under Subsection (e).

27 SECTION 23. Section 54.07, Family Code, is amended to read

1 as follows:

2 Sec. 54.07. ENFORCEMENT OF ORDER. (a) Except as provided
3 by Subsection (b) or a juvenile court child support order, any [~~Any~~]
4 order of the juvenile court may be enforced as provided by Chapter
5 61 [~~by contempt~~].

6 (b) A violation of any of the following orders of the [~~The~~]
7 juvenile court may not be enforced by contempt of court proceedings
8 against the child:

9 (1) an order setting conditions of probation;

10 (2) an order setting conditions of deferred
11 prosecution; and

12 (3) an order setting conditions of release from
13 detention [~~enforce its order for support or for the payment of~~
14 ~~restitution or probation fees by civil contempt proceedings after~~
15 ~~10 days' notice to the defaulting person of his failure or refusal~~
16 ~~to carry out the terms of the order~~].

17 (c) This section and Chapter 61 do not preclude a [~~On the~~
18 ~~motion of the~~] juvenile court from summarily finding [~~or any person~~
19 ~~or agency entitled to receive restitution or probation payments or~~
20 ~~payments for the benefit of~~] a child or other [~~, the juvenile court~~
21 ~~may render judgment against a defaulting~~] person in direct contempt
22 of the juvenile court for conduct occurring in the presence of the
23 judge of the court. Direct contempt of the juvenile court by a
24 child is punishable by a maximum of [~~for any amount unpaid and owing~~
25 ~~after~~] 10 days' confinement in a secure juvenile detention facility
26 or by a maximum of 40 hours of community service, or both. The
27 juvenile court may not impose a fine on a child for direct contempt

1 ~~[notice to the defaulting person of his failure or refusal to carry~~
2 ~~out the terms of the order. The judgment may be enforced by any~~
3 ~~means available for the enforcement of judgments for other debts].~~

4 (d) This section and Chapter 61 do not preclude a juvenile
5 court in an appropriate case from using a civil or coercive contempt
6 proceeding to enforce an order.

7 SECTION 24. Section 54.11, Family Code, is amended by
8 adding Subsections (l)-(n) to read as follows:

9 (l) Pending the conclusion of a transfer hearing, the
10 juvenile court shall order that the person who is referred for
11 transfer be detained in a certified juvenile detention facility as
12 provided by Subsection (m). If the person is at least 17 years of
13 age, the juvenile court may order that the person be detained
14 without bond in an appropriate county facility for the detention of
15 adults accused of criminal offenses.

16 (m) The detention of a person in a certified juvenile
17 detention facility must comply with the detention requirements
18 under this title, except that, to the extent practicable, the
19 person must be kept separate from children detained in the same
20 facility.

21 (n) If the juvenile court orders that a person who is
22 referred for transfer be detained in a county facility under
23 Subsection (l), the county sheriff shall take custody of the person
24 under the juvenile court's order.

25 SECTION 25. Chapter 56, Family Code, is amended by adding
26 Section 56.03 to read as follows:

27 Sec. 56.03. APPEAL BY STATE IN CASES OF VIOLENT OR HABITUAL

1 OFFENDER. (a) In this section, "prosecuting attorney" means the
2 county attorney, district attorney, or criminal district attorney
3 who has the primary responsibility of presenting cases in the
4 juvenile court. The term does not include an assistant prosecuting
5 attorney.

6 (b) The state is entitled to appeal an order of a court in a
7 juvenile case in which the grand jury has approved of the petition
8 under Section 53.045 if the order:

9 (1) dismisses a petition or any portion of a petition;
10 (2) arrests or modifies a judgment;
11 (3) grants a new trial;
12 (4) sustains a claim of former jeopardy; or
13 (5) grants a motion to suppress evidence, a
14 confession, or an admission and if:

15 (A) jeopardy has not attached in the case;
16 (B) the prosecuting attorney certifies to the
17 trial court that the appeal is not taken for the purpose of delay;
18 and

19 (C) the evidence, confession, or admission is of
20 substantial importance in the case.

21 (c) The prosecuting attorney may not bring an appeal under
22 Subsection (b) later than the 15th day after the date on which the
23 order or ruling to be appealed is entered by the court.

24 (d) The state is entitled to a stay in the proceedings
25 pending the disposition of an appeal under Subsection (b).

26 (e) The court of appeals shall give preference in its docket
27 to an appeal filed under Subsection (b).

1 (f) The state shall pay all costs of appeal under Subsection
2 (b), other than the cost of attorney's fees for the respondent.

3 (g) If the respondent is represented by appointed counsel,
4 the counsel shall continue to represent the respondent as appointed
5 counsel on the appeal. If the respondent is not represented by
6 appointed counsel, the respondent may seek the appointment of
7 counsel to represent the respondent on appeal. The juvenile court
8 shall determine whether the parent or other person responsible for
9 support of the child is financially able to obtain an attorney to
10 represent the respondent on appeal. If the court determines that
11 the parent or other person is financially unable to obtain counsel
12 for the appeal, the court shall appoint counsel to represent the
13 respondent on appeal.

14 (h) If the state appeals under this section and the
15 respondent is not detained, the court shall permit the respondent
16 to remain at large subject only to the condition that the respondent
17 appear in court for further proceedings when required by the court.
18 If the respondent is detained, on the state's filing of notice of
19 appeal under this section, the respondent is entitled to immediate
20 release from detention on the allegation that is the subject of the
21 appeal. The court shall permit the respondent to remain at large
22 regarding that allegation subject only to the condition that the
23 respondent appear in court for further proceedings when required by
24 the court.

25 (i) The Texas Rules of Appellate Procedure apply to a
26 petition by the state to the supreme court for review of a decision
27 of a court of appeals in a juvenile case.

1 SECTION 26. Section 58.003(n), Family Code, is amended to
2 read as follows:

3 (n) A record created or maintained under Chapter 62, Code of
4 Criminal Procedure [~~Article 6252-13c.1, Revised Statutes~~], may not
5 be sealed under this section if the person who is the subject of the
6 record has a continuing obligation to register under that chapter
7 [~~article~~].

8 SECTION 27. Section 58.005(a), Family Code, is amended to
9 read as follows:

10 (a) Records and files concerning a child, including
11 personally identifiable information, and information [~~Information~~]
12 obtained for the purpose of diagnosis, examination, evaluation, or
13 treatment or for making a referral for treatment of a child by a
14 public or private agency or institution providing supervision of a
15 child by arrangement of the juvenile court or having custody of the
16 child under order of the juvenile court may be disclosed only to:

17 (1) the professional staff or consultants of the
18 agency or institution;

19 (2) the judge, probation officers, and professional
20 staff or consultants of the juvenile court;

21 (3) an attorney for the child;

22 (4) a governmental agency if the disclosure is
23 required or authorized by law;

24 (5) a person or entity to whom the child is referred
25 for treatment or services if the agency or institution disclosing
26 the information has entered into a written confidentiality
27 agreement with the person or entity regarding the protection of the

1 disclosed information;

2 (6) the Texas Department of Criminal Justice and the
3 Texas Juvenile Probation Commission for the purpose of maintaining
4 statistical records of recidivism and for diagnosis and
5 classification; or

6 (7) with leave of the juvenile court, any other
7 person, agency, or institution having a legitimate interest in the
8 proceeding or in the work of the court.

9 SECTION 28. Title 3, Family Code, is amended by adding
10 Chapter 61 to read as follows:

11 CHAPTER 61. RIGHTS AND RESPONSIBILITIES OF PARENTS AND OTHER

12 ELIGIBLE PERSONS

13 SUBCHAPTER A. ENTRY OF ORDERS AGAINST PARENTS AND OTHER ELIGIBLE

14 PERSONS

15 Sec. 61.001. DEFINITIONS. In this chapter:

16 (1) "Juvenile court order" means an order by a
17 juvenile court in a proceeding to which this chapter applies
18 requiring a parent or other eligible person to act or refrain from
19 acting.

20 (2) "Other eligible person" means the respondent's
21 guardian, the respondent's custodian, or any other person described
22 in a provision under this title authorizing the court order.

23 Sec. 61.002. APPLICABILITY. (a) Except as provided by
24 Subsection (b), this chapter applies to a proceeding to enter a
25 juvenile court order:

26 (1) for payment of probation fees under Section
27 54.061;

- 1 (2) for restitution under Sections 54.041(b) and
2 54.048;
- 3 (3) for payment of graffiti eradication fees under
4 Section 54.0461;
- 5 (4) for community service under Section 54.044(b);
6 (5) for payment of costs of court under Section
7 54.0411 or other provisions of law;
- 8 (6) requiring the person to refrain from doing any act
9 injurious to the welfare of the child under Section 54.041(a)(1);
- 10 (7) enjoining contact between the person and the child
11 who is the subject of a proceeding under Section 54.041(a)(2);
- 12 (8) ordering a person living in the same household
13 with the child to participate in counseling under Section
14 54.041(a)(3);
- 15 (9) requiring a parent or guardian of a child found to
16 be truant to participate in an available program addressing truancy
17 under Section 54.041(g);
- 18 (10) requiring a parent or other eligible person to
19 pay reasonable attorney's fees for representing the child under
20 Section 51.10(e);
- 21 (11) requiring the parent or other eligible person to
22 reimburse the county for payments the county has made to an attorney
23 appointed to represent the child under Section 51.10(j);
- 24 (12) requiring payment of deferred prosecution
25 supervision fees under Section 53.03(d);
- 26 (13) requiring a parent or other eligible person to
27 attend a court hearing under Section 51.115;

1 (14) requiring a parent or other eligible person to
2 act or refrain from acting to aid the child in complying with
3 conditions of release from detention under Section 54.01(r); or

4 (15) requiring a parent or other eligible person to
5 act or refrain from acting under any law imposing an obligation of
6 action or omission on a parent or other eligible person because of
7 the parent's or person's relation to the child who is the subject of
8 a proceeding under this title.

9 (b) This subchapter does not apply to the entry and
10 enforcement of a child support order under Section 54.06.

11 Sec. 61.003. ENTRY OF JUVENILE COURT ORDER AGAINST PARENT
12 OR OTHER ELIGIBLE PERSON. (a) To comply with the requirements of
13 due process of law, the juvenile court shall:

14 (1) provide sufficient notice in writing or orally in
15 a recorded court hearing of a proposed juvenile court order; and

16 (2) provide a sufficient opportunity for the parent or
17 other eligible person to be heard regarding the proposed order.

18 (b) A juvenile court order must be in writing and a copy
19 promptly furnished to the parent or other eligible person.

20 (c) The juvenile court may require the parent or other
21 eligible person to provide suitable identification to be included
22 in the court's file. Suitable identification includes
23 fingerprints, a driver's license number, a social security number,
24 or similar indicia of identity.

25 Sec. 61.004. APPEAL. (a) The parent or other eligible
26 person against whom a final juvenile court order has been entered
27 may appeal as provided by law from judgments entered in civil cases.

1 (b) The movant may appeal from a judgment denying requested
2 relief regarding a juvenile court order as provided by law from
3 judgments entered in civil cases.

4 (c) The pendency of an appeal initiated under this section
5 does not abate or otherwise affect the proceedings in juvenile
6 court involving the child.

7 [Sections 61.005-61.050 reserved for expansion]

8 SUBCHAPTER B. ENFORCEMENT OF ORDER AGAINST PARENT

9 OR OTHER ELIGIBLE PERSON

10 Sec. 61.051. MOTION FOR ENFORCEMENT. (a) A party initiates
11 enforcement of a juvenile court order by filing a written motion.
12 In ordinary and concise language, the motion must:

13 (1) identify the provision of the order allegedly
14 violated and sought to be enforced;

15 (2) state specifically and factually the manner of the
16 person's alleged noncompliance;

17 (3) state the relief requested; and

18 (4) contain the signature of the party filing the
19 motion.

20 (b) The movant must allege in the same motion for
21 enforcement each violation by the person of the juvenile court
22 orders described by Section 61.002(a) that the movant had a
23 reasonable basis for believing the person was violating when the
24 motion was filed.

25 (c) The juvenile court retains jurisdiction to enter a
26 contempt order if the motion for enforcement is filed not later than
27 six months after the child's 18th birthday.

1 Sec. 61.052. NOTICE AND APPEARANCE. (a) On the filing of a
2 motion for enforcement, the court shall by written notice set the
3 date, time, and place of the hearing and order the person against
4 whom enforcement is sought to appear and respond to the motion.

5 (b) The notice must be given by personal service or by
6 certified mail, return receipt requested, on or before the 10th day
7 before the date of the hearing on the motion. The notice must
8 include a copy of the motion for enforcement. Personal service must
9 comply with the Code of Criminal Procedure.

10 (c) If a person moves to strike or specially excepts to the
11 motion for enforcement, the court shall rule on the exception or
12 motion to strike before the court hears evidence on the motion for
13 enforcement. If an exception is sustained, the court shall give the
14 movant an opportunity to replead and continue the hearing to a
15 designated date and time without the requirement of additional
16 service.

17 (d) If a person who has been personally served with notice
18 to appear at the hearing does not appear, the juvenile court may not
19 hold the person in contempt, but may issue a capias for the arrest
20 of the person. The court shall set and enforce bond as provided by
21 Subchapter C, Chapter 157. If a person served by certified mail,
22 return receipt requested, with notice to appear at the hearing does
23 not appear, the juvenile court may require immediate personal
24 service of notice.

25 Sec. 61.053. ATTORNEY FOR THE PERSON. (a) In a proceeding
26 on a motion for enforcement against a person who is not represented
27 by an attorney, the court shall inform the person of the right to be

1 represented by an attorney and, if the person is indigent, of the
2 right to the appointment of an attorney.

3 (b) If the person claims indigency and requests the
4 appointment of an attorney, the juvenile court may require the
5 person to file an affidavit of indigency. The court may hear
6 evidence to determine the issue of indigency.

7 (c) The court shall appoint an attorney to represent the
8 person if the court determines that the person is indigent.

9 (d) The court shall allow an appointed or retained attorney
10 at least 10 days after the date of the attorney's appointment or
11 retention to respond to the movant's pleadings and to prepare for
12 the hearing. The attorney may waive the preparation time or agree
13 to a shorter period for preparation.

14 Sec. 61.054. COMPENSATION OF APPOINTED ATTORNEY. (a) An
15 attorney appointed to represent an indigent person is entitled to a
16 reasonable fee for services to be paid from the general fund of the
17 county according to the schedule for compensation adopted by the
18 county juvenile board. The attorney must meet the qualifications
19 required of attorneys for appointment to Class B misdemeanor cases
20 in juvenile court.

21 (b) For purposes of compensation, a proceeding in the
22 supreme court is the equivalent of a proceeding in the court of
23 criminal appeals.

24 (c) The juvenile court may order the parent or other
25 eligible person for whom it has appointed counsel to reimburse the
26 county for the fees the county pays to appointed counsel.

27 Sec. 61.055. CONDUCT OF ENFORCEMENT HEARING. (a) The

1 juvenile court shall require that the enforcement hearing be
2 recorded as provided by Section 54.09.

3 (b) The movant must prove beyond a reasonable doubt that the
4 person against whom enforcement is sought engaged in conduct
5 constituting contempt of a reasonable and lawful court order as
6 alleged in the motion for enforcement.

7 (c) The person against whom enforcement is sought has a
8 privilege not to be called as a witness or otherwise to incriminate
9 himself or herself.

10 (d) The juvenile court shall conduct the enforcement
11 hearing without a jury.

12 (e) The juvenile court shall include in its judgment
13 findings as to each violation alleged in the motion for enforcement
14 and the punishment, if any, to be imposed.

15 (f) If the person against whom enforcement is sought was not
16 represented by counsel during any previous court proceeding
17 involving a motion for enforcement, the person may through counsel
18 raise any defense or affirmative defense to the proceeding that
19 could have been lodged in the previous court proceeding but was not
20 because the person was not represented by counsel.

21 (g) It is an affirmative defense to enforcement of a
22 juvenile court order that the juvenile court did not provide the
23 parent or other eligible person with due process of law in the
24 proceeding in which the court entered the order.

25 Sec. 61.056. AFFIRMATIVE DEFENSE OF INABILITY TO PAY. (a)
26 In an enforcement hearing in which the motion for enforcement
27 alleges that the person against whom enforcement is sought failed

1 to pay restitution, court costs, supervision fees, or any other
2 payment ordered by the court, it is an affirmative defense that the
3 person was financially unable to pay.

4 (b) The burden of proof to establish the affirmative defense
5 of inability to pay is on the person asserting it.

6 (c) In order to prevail on the affirmative defense of
7 inability to pay, the person asserting it must show that the person
8 could not have reasonably paid the court-ordered obligation after
9 the person discharged the person's other important financial
10 obligations, including payments for housing, food, utilities,
11 necessary clothing, education, and preexisting debts.

12 Sec. 61.057. PUNISHMENT FOR CONTEMPT. (a) On a finding of
13 contempt, the juvenile court may commit the person to the county
14 jail for a term not to exceed six months or may impose a fine in an
15 amount not to exceed \$500, or both.

16 (b) The court may impose only a single jail sentence not to
17 exceed six months or a single fine not to exceed \$500, or both,
18 during an enforcement proceeding, without regard to whether the
19 court has entered multiple findings of contempt.

20 (c) On a finding of contempt in an enforcement proceeding,
21 the juvenile court may, instead of issuing a commitment to jail,
22 enter an order requiring the person's future conduct to comply with
23 the court's previous orders.

24 (d) Violation of an order entered under Subsection (c) may
25 be the basis of a new enforcement proceeding.

26 (e) The juvenile court may assign a juvenile probation
27 officer to assist a person in complying with a court order issued

1 under Subsection (c).

2 (f) A juvenile court may reduce a term of incarceration or
3 reduce payment of all or part of a fine at any time before the
4 sentence is fully served or the fine fully paid.

5 (g) A juvenile court may reduce the burden of complying with
6 a court order issued under Subsection (c) at any time before the
7 order is fully satisfied, but may not increase the burden except
8 following a new finding of contempt in a new enforcement
9 proceeding.

10 [Sections 61.058-61.100 reserved for expansion]

11 SUBCHAPTER C. RIGHTS OF PARENTS

12 Sec. 61.101. DEFINITION. In this subchapter, "parent"
13 includes the guardian or custodian of a child.

14 Sec. 61.102. RIGHT TO BE INFORMED OF PROCEEDING. (a) The
15 parent of a child referred to a juvenile court is entitled as soon
16 as practicable after the referral to be informed by staff
17 designated by the juvenile board, based on the information
18 accompanying the referral to the juvenile court, of:

19 (1) the date and time of the offense;

20 (2) the date and time the child was taken into custody;

21 (3) the name of the offense and its penal category;

22 (4) the type of weapon, if any, that was used;

23 (5) the type of property taken or damaged and the
24 extent of damage, if any;

25 (6) the physical injuries, if any, to the victim of the
26 offense;

27 (7) whether there is reason to believe that the

1 offense was gang-related;

2 (8) whether there is reason to believe that the
3 offense was related to consumption of alcohol or use of an illegal
4 controlled substance;

5 (9) if the child was taken into custody with adults or
6 other juveniles, the names of those persons;

7 (10) the aspects of the juvenile court process that
8 apply to the child;

9 (11) if the child is in detention, the visitation
10 policy of the detention facility that applies to the child;

11 (12) the child's right to be represented by an attorney
12 and the local standards and procedures for determining whether the
13 parent qualifies for appointment of counsel to represent the child;
14 and

15 (13) the methods by which the parent can assist the
16 child with the legal process.

17 (b) If the child was released on field release citation, or
18 from the law enforcement station by the police, by intake, or by the
19 judge or associate judge at the initial detention hearing, the
20 information required by Subsection (a) may be communicated to the
21 parent in person, by telephone, or in writing.

22 (c) If the child is not released before or at the initial
23 detention hearing, the information required by Subsection (a) shall
24 be communicated in person to the parent unless that is not feasible,
25 in which event it may be communicated by telephone or in writing.

26 (d) Information disclosed to a parent under Subsection (a)
27 is not admissible in a judicial proceeding under this title as

1 substantive evidence or as evidence to impeach the testimony of a
2 witness for the state.

3 Sec. 61.103. RIGHT OF ACCESS TO CHILD. (a) The parent of a
4 child taken into custody for delinquent conduct, conduct indicating
5 a need for supervision, or conduct that violates a condition of
6 probation imposed by the juvenile court has the right to
7 communicate in person privately with the child for reasonable
8 periods of time while the child is in:

9 (1) a juvenile processing office;

10 (2) a secure detention facility;

11 (3) a secure correctional facility;

12 (4) a court-ordered placement facility; or

13 (5) the custody of the Texas Youth Commission.

14 (b) The time, place, and conditions of the private,
15 in-person communication may be regulated to prevent disruption of
16 scheduled activities and to maintain the safety and security of the
17 facility.

18 Sec. 61.104. PARENTAL WRITTEN STATEMENT. (a) When a
19 petition for adjudication, a motion or petition to modify
20 disposition, or a motion or petition for discretionary transfer to
21 criminal court is served on a parent of the child, the parent must
22 be provided with a form prescribed by the Texas Juvenile Probation
23 Commission on which the parent can make a written statement about
24 the needs of the child or family or any other matter relevant to
25 disposition of the case.

26 (b) The parent shall return the statement to the juvenile
27 probation department, which shall transmit the statement to the

1 court along with the discretionary transfer report authorized by
2 Section 54.02(e), the disposition report authorized by Section
3 54.04(b), or the modification of disposition report authorized by
4 Section 54.05(e), as applicable. The statement shall be disclosed
5 to the parties as appropriate and may be considered by the court at
6 the disposition, modification, or discretionary transfer hearing.

7 Sec. 61.105. PARENTAL ORAL STATEMENT. (a) After all the
8 evidence has been received but before the arguments of counsel at a
9 hearing for discretionary transfer to criminal court, a disposition
10 hearing without a jury, or a modification of disposition hearing,
11 the court shall give a parent who is present in court a reasonable
12 opportunity to address the court about the needs or strengths of the
13 child or family or any other matter relevant to disposition of the
14 case.

15 (b) The parent may not be required to make the statement
16 under oath and may not be subject to cross-examination, but the
17 court may seek clarification or expansion of the statement from the
18 person giving the statement.

19 (c) The court may consider and act on the statement as the
20 court considers appropriate.

21 Sec. 61.106. APPEAL OR COLLATERAL CHALLENGE. The failure
22 or inability of a person to perform an act or to provide a right or
23 service listed under this subchapter may not be used by the child or
24 any party as a ground for:

25 (1) appeal;

26 (2) an application for a post-adjudication writ of
27 habeas corpus; or

1 (3) exclusion of evidence against the child in any
2 proceeding or forum.

3 Sec. 61.107. LIABILITY. The Texas Youth Commission, a
4 juvenile board, a court, a person appointed by the court, an
5 employee of a juvenile probation department, an attorney for the
6 state, a peace officer, or a law enforcement agency is not liable
7 for a failure or inability to provide a right listed in this
8 chapter.

9 SECTION 29. Sections 261.405(b) and (c), Family Code, are
10 amended to read as follows:

11 (b) A report of alleged abuse, ~~[or]~~ neglect, or exploitation
12 in any juvenile justice program or facility shall be made to the
13 Texas Juvenile Probation Commission and a local law enforcement
14 agency for investigation.

15 (c) The Texas Juvenile Probation Commission shall conduct
16 an investigation as provided by this chapter if the commission
17 receives a report of alleged abuse, ~~[or]~~ neglect, or exploitation
18 in any juvenile justice program or facility.

19 SECTION 30. Article 44.47(b), Code of Criminal Procedure,
20 is amended to read as follows:

21 (b) A defendant may appeal a transfer under Subsection (a)
22 only in conjunction with the appeal of a conviction of or an order
23 of deferred adjudication for the offense for which the defendant
24 was transferred to criminal court.

25 SECTION 31. Article 45.045, Code of Criminal Procedure, is
26 amended to read as follows:

27 Art. 45.045. CAPIAS PRO FINE. (a) If the defendant is not

1 in custody when the judgment is rendered or if the defendant fails
2 to satisfy the judgment according to its terms, the court may order
3 a capias pro fine issued for the defendant's arrest. The capias pro
4 fine shall state the amount of the judgment and sentence, and
5 command the appropriate peace officer to bring the defendant before
6 the court or place the defendant in jail until the defendant can be
7 brought before the court.

8 (b) A capias pro fine may not be issued for an individual
9 convicted for an offense committed before the individual's 17th
10 birthday unless:

11 (1) the individual is 17 years of age or older;

12 (2) the court finds that the issuance of the capias pro
13 fine is justified after considering:

14 (A) the sophistication and maturity of the
15 individual;

16 (B) the criminal record and history of the
17 individual; and

18 (C) the reasonable likelihood of bringing about
19 the discharge of the judgment through the use of procedures and
20 services currently available to the court; and

21 (3) the court has proceeded under Article 45.050 to
22 compel the individual to discharge the judgment.

23 (c) This article does not limit the authority of a court to
24 order a child taken into custody under Article 45.058 or 45.059.

25 SECTION 32. Article 45.050, Code of Criminal Procedure, as
26 amended by Chapters 1297 and 1514, Acts of the 77th Legislature,
27 Regular Session, 2001, is reenacted and amended to read as follows:

1 Art. 45.050. FAILURE TO PAY FINE; CONTEMPT: JUVENILES. (a)
2 In this article, "child" has the meaning assigned by Article
3 45.058(h).

4 (b) A justice or municipal court may not order the
5 confinement of a child for:

6 (1) the failure to pay all or any part of a fine or
7 costs imposed for the conviction of an offense punishable by fine
8 only; or

9 (2) contempt of another order of a justice or
10 municipal court.

11 (c) If a child fails to obey an order of a justice or
12 municipal court under circumstances that would constitute contempt
13 of court, the justice or municipal court, after providing notice
14 and an opportunity to be heard, may:

15 (1) [~~has jurisdiction to~~] refer the child to the
16 appropriate juvenile court for delinquent conduct for contempt of
17 the justice or municipal court order; or

18 (2) [~~may~~] retain jurisdiction of the case, hold the
19 child in contempt of the justice or municipal court, and order
20 either or both of the following [and]:

21 (A) that the contemnor pay [~~hold the child in~~
22 ~~contempt of the justice or municipal court order and impose~~] a fine
23 not to exceed \$500; or

24 (B) that [~~order~~] the Department of Public Safety
25 [~~to~~] suspend the contemnor's [~~child's~~] driver's license or permit
26 or, if the contemnor [~~child~~] does not have a license or permit, to
27 deny the issuance of a license or permit to the contemnor [~~child~~]

1 until the contemnor [~~child~~] fully complies with the orders of the
2 court.

3 (d) A justice or municipal court may hold a person in
4 contempt and impose a remedy authorized by Subsection (c)(2) if:

5 (1) the person was convicted for an offense committed
6 before the person's 17th birthday;

7 (2) the person failed to obey the order while the
8 person was 17 years of age or older; and

9 (3) the failure to obey occurred under circumstances
10 that constitute contempt of court.

11 (e) A justice or municipal court may hold a person in
12 contempt and impose a remedy authorized by Subsection (c)(2) if the
13 person, while younger than 17 years of age, engaged in conduct in
14 contempt of an order issued by the justice or municipal court, but
15 contempt proceedings could not be held before the person's 17th
16 birthday.

17 (f) A court that orders suspension or denial of a driver's
18 license or permit under Subsection (c)(2)(B) shall notify the
19 Department of Public Safety on receiving proof of compliance [~~that~~
20 ~~the child has fully complied~~] with the orders of the court.

21 (g) A justice or municipal court may not refer a child who
22 violates a court order while 17 years of age or older to a juvenile
23 court for delinquency proceedings for contempt of court.

24 SECTION 33. Article 45.056, Code of Criminal Procedure, is
25 amended to read as follows:

26 Art. 45.056. AUTHORITY TO EMPLOY JUVENILE [~~TRUANCY~~] CASE
27 MANAGERS; REIMBURSEMENT. (a) On approval of the commissioners

1 court, city council, school district board of trustees, juvenile
2 board, or other appropriate authority, a justice court, municipal
3 court, school district, juvenile probation department, or other
4 appropriate governmental entity may:

5 (1) employ a case manager to provide services in
6 ~~[truancy]~~ cases involving juvenile offenders before a court
7 consistent with the court's statutory powers; or

8 (2) agree in accordance with Chapter 791, Government
9 Code, to jointly employ a case manager ~~[to provide services in~~
10 ~~truancy cases]~~.

11 (b) A local entity may apply or more than one local entity
12 may jointly apply to the criminal justice division of the
13 governor's office for reimbursement of all or part of the costs of
14 employing one or more juvenile ~~[truancy]~~ case managers from funds
15 appropriated to the governor's office or otherwise available for
16 that purpose. To be eligible for reimbursement, the entity
17 applying must present to the governor's office a comprehensive plan
18 to reduce juvenile crimes ~~[truancy]~~ in the entity's jurisdiction
19 that addresses the role of the case manager in that effort.

20 SECTION 34. Article 45.057, Code of Criminal Procedure, is
21 amended by amending Subsections (a), (b), (e), and (h) and adding
22 Subsections (i)-(l) to read as follows:

23 (a) In this article:

24 (1) "Child" ~~["child"]~~ has the meaning assigned by
25 Article 45.058(h).

26 (2) "Residence" means any place where the child lives
27 or resides for a period of at least 30 days.

1 (3) "Parent" includes a person standing in parental
2 relation, a managing conservator, or a custodian.

3 (b) On a finding by a justice or municipal court that a child
4 committed an offense that the court has jurisdiction of under
5 Article 4.11 or 4.14, [~~other than a traffic offense,~~] the court has
6 jurisdiction to enter an order:

7 (1) referring the child or the child's parent[~~7~~
8 ~~managing conservator, or guardian~~] for services under Section
9 264.302, Family Code;

10 (2) requiring that the child attend a special program
11 that the court determines to be in the best interest of the child
12 and, if the program involves the expenditure of county funds, that
13 is approved by the county commissioners court, including a
14 rehabilitation, counseling, self-esteem and leadership, work and
15 job skills training, job interviewing and work preparation,
16 self-improvement, parenting, manners, violence avoidance,
17 tutoring, sensitivity training, parental responsibility, community
18 service, restitution, advocacy, or mentoring program; or

19 (3) [~~if the court finds the parent, managing~~
20 ~~conservator, or guardian, by act or omission, contributed to,~~
21 ~~caused, or encouraged the child's conduct,~~] requiring that the
22 child's parent[~~7~~~~managing conservator, or guardian~~] do any act or
23 refrain from doing any act that the court determines will increase
24 the likelihood that the child will comply with the orders of the
25 court and that is reasonable and necessary for the welfare of the
26 child, including:

27 (A) attend a parenting class or parental

1 responsibility program; and

2 (B) attend the child's school classes or
3 functions.

4 (e) A justice or municipal court shall endorse on the
5 summons issued to a parent [~~, managing conservator, or guardian~~] an
6 order to appear personally at the hearing with the child. The
7 summons must include a warning that the failure of the parent [~~,
8 managing conservator, or guardian~~] to appear may result in arrest
9 and is [~~be punishable as~~] a Class C misdemeanor.

10 (h) A child and parent required to appear before the court
11 have an obligation to provide the court in writing with the current
12 address and residence of the child. The obligation does not end
13 when the child reaches age 17. On or before the seventh day after
14 the date the child or parent changes residence, the child or parent
15 shall notify the court of the current address in the manner directed
16 by the court. A violation of this subsection may result in arrest
17 and is a Class C misdemeanor. The obligation to provide notice
18 terminates on discharge and satisfaction of the judgment or final
19 disposition not requiring a finding of guilt.

20 (i) If an appellate court accepts an appeal for a trial de
21 novo, the child and parent shall provide the notice under
22 Subsection (h) to the appellate court.

23 (j) The child and parent are entitled to written notice of
24 their obligation under Subsections (h) and (i), which may be
25 satisfied by being given a copy of those subsections by:

26 (1) the court during their initial appearance before
27 the court;

1 (2) a peace officer arresting and releasing a child
2 under Article 45.058(a) on release; and

3 (3) a peace officer that issues a citation under
4 Section 543.003, Transportation Code, or Article 14.06(b) of this
5 code.

6 (k) It is an affirmative defense to prosecution under
7 Subsection (h) that the child and parent were not informed of their
8 obligation under this article.

9 (l) Any [~~other~~] order under this article is enforceable by
10 the justice or municipal court by contempt.

11 SECTION 35. Subchapter B, Chapter 45, Code of Criminal
12 Procedure, is amended by adding Article 45.060 to read as follows:

13 Art. 45.060. UNADJUDICATED CHILDREN, NOW ADULTS; NOTICE ON
14 REACHING AGE OF MAJORITY; OFFENSE. (a) Except as provided by
15 Articles 45.058 and 45.059, an individual may not be taken into
16 secured custody for offenses alleged to have occurred before the
17 individual's 17th birthday.

18 (b) On or after an individual's 17th birthday, if the court
19 has used all available procedures under this chapter to secure the
20 individual's appearance to answer allegations made before the
21 individual's 17th birthday, the court may issue a notice of
22 continuing obligation to appear by personal service or by mail to
23 the last known address and residence of the individual. The notice
24 must order the individual to appear at a designated time, place, and
25 date to answer the allegations detailed in the notice.

26 (c) Failure to appear as ordered by the notice under
27 Subsection (b) is a Class C misdemeanor independent of Section

1 38.10, Penal Code, and Section 543.003, Transportation Code.

2 (d) It is an affirmative defense to prosecution under
3 Subsection (c) that the individual was not informed of the
4 individual's obligation under Articles 45.057(h) and (i) or did not
5 receive notice as required by Subsection (b).

6 (e) A notice of continuing obligation to appear issued under
7 this article must contain the following statement provided in
8 boldfaced type or capital letters:

9 "WARNING: COURT RECORDS REVEAL THAT BEFORE YOUR 17TH
10 BIRTHDAY YOU WERE ACCUSED OF A CRIMINAL OFFENSE AND
11 HAVE FAILED TO MAKE AN APPEARANCE OR ENTER A PLEA IN
12 THIS MATTER. AS AN ADULT, YOU ARE NOTIFIED THAT YOU
13 HAVE A CONTINUING OBLIGATION TO APPEAR IN THIS CASE.
14 FAILURE TO APPEAR AS REQUIRED BY THIS NOTICE MAY BE AN
15 ADDITIONAL CRIMINAL OFFENSE AND RESULT IN A WARRANT
16 BEING ISSUED FOR YOUR ARREST."

17 SECTION 36. Article 62.13, Code of Criminal Procedure, is
18 amended by amending Subsections (b), (j), (n), and (q) and adding
19 Subsection (s) to read as follows:

20 (b) During or after ~~After~~ disposition of a case under
21 Section 54.04, Family Code, for adjudication of an offense for
22 which registration is required under this chapter, the juvenile
23 court on motion of the respondent shall conduct a hearing to
24 determine whether the interests of the public require registration
25 under this chapter. The motion may be filed and the hearing held
26 regardless of whether the respondent is under 18 years of age.

27 (j) After a hearing under Subsection (b) or under a plea

1 agreement under Subsection (f), the juvenile court may enter an
2 order deferring decision on requiring registration until the
3 respondent has completed [~~a sex offender~~] treatment for the
4 respondent's sexual offense [program] as a condition of probation
5 or while committed to the Texas Youth Commission. The court retains
6 discretion to require or to excuse registration at any time during
7 the treatment [~~program~~] or on its successful or unsuccessful
8 completion. During the period of deferral, registration may not be
9 required. Following successful completion of treatment,
10 registration is excused unless a hearing under this article is held
11 on motion of the state and the court determines the interests of the
12 public require registration. Not later than the 10th day after the
13 date of the respondent's successful completion of treatment, the
14 treatment provider shall notify the juvenile court and prosecuting
15 attorney of the completion.

16 (n) Only one [A] motion may be filed under Subsection (l)
17 [~~only~~] if a previous motion under this article has [~~not~~] been filed
18 concerning that case.

19 (q) If the court grants the motion, [~~a copy of~~] the clerk of
20 the court [~~court's order~~] shall by certified mail, return receipt
21 requested, send a copy of the order to the department, to each local
22 law enforcement authority that the person has proved to the
23 juvenile court has registration information about the person, and
24 [~~be sent~~] to each public or [~~and~~] private agency or organization
25 that the person has proved to the juvenile court has information
26 about the person that is currently available to the public with or
27 without payment of a fee. The clerk of the court shall by certified

1 mail, return receipt requested, send a copy of the order to any
2 other agency or organization designated by the person. The person
3 shall identify the agency or organization and its address and pay a
4 fee of \$20 to the court for each agency or organization the person
5 designates [~~determines may be in possession of sex offender~~
6 ~~registration information. The order shall require the recipient to~~
7 ~~conform its records to the court's orders either by deleting the~~
8 ~~information or changing its status to nonpublic, as the order~~
9 ~~requires~~].

10 (s) A person required to register as a sex offender in this
11 state because of an out-of-state adjudication of delinquent conduct
12 may file in the juvenile court of the person's county of residence a
13 petition under Subsection (a) for an order to excuse compliance
14 with this chapter. If the person is already registered as a sex
15 offender in this state because of an out-of-state adjudication of
16 delinquent conduct, the person may file in the juvenile court of the
17 person's county of residence a petition under Subsection (l) for an
18 order removing the person from sex offender registries in this
19 state. On receipt of a petition to excuse compliance or for
20 removal, the juvenile court shall conduct a hearing and make
21 rulings as in other cases under this article. An order entered
22 under this subsection requiring removal of registration
23 information applies only to registration information derived from
24 registration in this state.

25 SECTION 37. Chapter 62, Code of Criminal Procedure, is
26 amended by adding Article 62.14 to read as follows:

27 Art. 62.14. REMOVING JUVENILE REGISTRATION INFORMATION

1 WHEN DUTY TO REGISTER EXPIRES. (a) When a person is no longer
2 required to register as a sex offender for an adjudication of
3 delinquent conduct, the department shall remove all information
4 about the person from the sex offender registry.

5 (b) The duty to remove information under Subsection (a)
6 arises if:

7 (1) the department has received notice from a local
8 law enforcement authority under Subsection (c) or (d) that the
9 person is no longer required to register or will no longer be
10 required to renew registration and the department verifies the
11 correctness of that information;

12 (2) the juvenile court that adjudicated the case for
13 which registration is required requests removal and the department
14 determines that the duty to register has expired; or

15 (3) the person or the person's representative requests
16 removal and the department determines that the duty to register has
17 expired.

18 (c) When a person required to register for an adjudication
19 of delinquent conduct appears before a local law enforcement
20 authority to renew or modify registration information, the
21 authority shall determine whether the duty to register has expired.
22 If the authority determines that the duty to register has expired,
23 the authority shall remove all information about the person from
24 the sex offender registry and notify the department that the
25 person's duty to register has expired.

26 (d) When a person required to register for an adjudication
27 of delinquent conduct appears before a local law enforcement

1 authority to renew registration information, the authority shall
2 determine whether the renewal is the final annual renewal of
3 registration required by law. If the authority determines that the
4 person's duty to register will expire before the next annual
5 renewal is scheduled, the authority shall automatically remove all
6 information about the person from the sex offender registry on
7 expiration of the duty to register and notify the department that
8 the information about the person has been removed from the
9 registry.

10 (e) When the department has removed information under
11 Subsection (a), the department shall notify all local law
12 enforcement authorities that have provided registration
13 information to the department about the person of the removal. A
14 local law enforcement authority that receives notice from the
15 department under this subsection shall remove all registration
16 information about the person from its registry.

17 (f) When the department has removed information under
18 Subsection (a), the department shall notify all public and private
19 agencies or organizations to which it has provided registration
20 information about the person of the removal. On receiving notice,
21 the public or private agency or organization shall remove all
22 registration information about the person from any registry the
23 agency or organization maintains that is accessible to the public
24 with or without charge.

25 SECTION 38. The heading to Section 25.093, Education Code,
26 is amended to read as follows:

27 Sec. 25.093. PARENT CONTRIBUTING TO NONATTENDANCE

1 ~~[TRUANCY]~~.

2 SECTION 39. Section 25.094(d), Education Code, as amended
3 by Chapters 1297 and 1514, Acts of the 77th Legislature, Regular
4 Session, 2001, is reenacted and amended to read as follows:

5 (d) If the justice or municipal court believes that a child
6 has violated an order issued under Subsection (c), the court may
7 proceed as authorized by Article 45.050, Code of Criminal Procedure
8 ~~[Section 54.023, Family Code, by holding the child in contempt and~~
9 ~~imposing a fine not to exceed \$500 or by referring the child to~~
10 ~~juvenile court for delinquent conduct]~~.

11 (d-1) Pursuant to an order of the justice or municipal court
12 based on an affidavit showing probable cause to believe that an
13 individual has committed an offense under this section, a peace
14 officer may take the individual into custody. A peace officer
15 taking an individual into custody under this subsection shall:

16 (1) promptly notify the individual's parent, guardian,
17 or custodian of the officer's action and the reason for that action;
18 and

19 (2) without unnecessary delay:

20 (A) release the individual to the individual's
21 parent, guardian, or custodian or to another responsible adult, if
22 the person promises to bring the individual to the justice or
23 municipal court as requested by the court; or

24 (B) bring the individual to a justice or
25 municipal court with venue over the offense.

26 SECTION 40. The heading to Section 25.0952, Education Code,
27 is amended to read as follows:

1 Sec. 25.0952. PROCEDURES APPLICABLE TO SCHOOL
2 ATTENDANCE-RELATED [~~TRUANCY-RELATED~~] OFFENSES.

3 SECTION 41. Sections 29.087(d) and (f), Education Code, as
4 added by Chapter 1514, Acts of the 77th Legislature, Regular
5 Session, 2001, are amended to read as follows:

6 (d) A student is eligible to participate in a program
7 authorized by this section if:

8 (1) the student has been ordered by a court under
9 Article 45.054, Code of Criminal Procedure, or by the Texas Youth
10 Commission to:

11 (A) participate in a preparatory class for the
12 high school equivalency examination; or

13 (B) take the high school equivalency examination
14 administered under Section 7.111; or

15 (2) the following conditions are satisfied:

16 (A) the student is at least 16 years of age at the
17 beginning of the school year or semester;

18 (B) the student is a student at risk of dropping
19 out of school, as defined by Section 29.081;

20 (C) the student and the student's parent or
21 guardian agree in writing to the student's participation;

22 (D) at least two school years have elapsed since
23 the student first enrolled in ninth grade and the student has
24 accumulated less than one quarter of the credits required to
25 graduate under the minimum graduation requirements of the district
26 or school; and

27 (E) any other conditions specified by the

1 commissioner.

2 (f) Except as otherwise provided by this subsection, a
 3 student participating in a program authorized by this section,
 4 other than a student ordered to participate under Subsection
 5 (d)(1), must have taken the exit-level assessment instruments
 6 specified by Section 39.025(a) before entering the program or must
 7 take those assessment instruments during the first year in which
 8 the student is enrolled in the program. The commissioner may
 9 authorize a student to take the assessment instruments required by
 10 Section 39.023(a) to be administered to students in grade 10
 11 instead of the exit-level assessment instruments. Except for a
 12 student ordered to participate under Subsection (d)(1), a [A]
 13 student participating in the program may not take the high school
 14 equivalency examination unless the student has taken the assessment
 15 instruments required by this subsection.

16 SECTION 42. Subchapter E, Chapter 30, Education Code, is
 17 amended by adding Section 30.104 to read as follows:

18 Sec. 30.104. CREDIT FOR COMPLETION OF EDUCATIONAL PROGRAMS;
 19 HIGH SCHOOL DIPLOMA AND CERTIFICATE. (a) A school district shall
 20 grant to a student credit toward the academic course requirements
 21 for high school graduation for courses the student successfully
 22 completes in Texas Youth Commission educational programs.

23 (b) A student may graduate and receive a diploma from a
 24 Texas Youth Commission educational program if:

25 (1) the student successfully completes the curriculum
 26 requirements identified by the State Board of Education under
 27 Section 28.025(a) and complies with Section 39.025(a); or

1 (2) the student successfully completes the curriculum
2 requirements under Section 28.025(a) as modified by an
3 individualized education program developed under Section 29.005.

4 (c) A Texas Youth Commission educational program may issue a
5 certificate of course-work completion to a student who successfully
6 completes the curriculum requirements identified by the State Board
7 of Education under Section 28.025(a) but who fails to comply with
8 Section 39.025(a).

9 SECTION 43. Subchapter C, Chapter 71, Government Code, is
10 amended by adding Section 71.0352 to read as follows:

11 Sec. 71.0352. JUVENILE DATA: JUSTICE, MUNICIPAL, AND
12 JUVENILE COURTS. As a component of the official monthly report
13 submitted to the Office of Court Administration of the Texas
14 Judicial System:

15 (1) justice and municipal courts shall report the
16 number of cases filed for the following offenses:

17 (A) failure to attend school under Section
18 25.094, Education Code;

19 (B) parent contributing to nonattendance under
20 Section 25.093, Education Code; and

21 (C) violation of a local daytime curfew ordinance
22 adopted under Section 341.905 or 351.903, Local Government Code;
23 and

24 (2) in cases in which a child fails to obey an order of
25 a justice or municipal court under circumstances that would
26 constitute contempt of court, the justice or municipal court shall
27 report the number of incidents in which the child is:

1 (A) referred to the appropriate juvenile court
2 for delinquent conduct as provided by Article 45.050(c)(1), Code of
3 Criminal Procedure, and Section 51.03(a)(2), Family Code; or

4 (B) held in contempt, fined, or denied driving
5 privileges as provided by Article 45.050(c)(2), Code of Criminal
6 Procedure.

7 SECTION 44. Section 411.151(a), Government Code, is amended
8 to read as follows:

9 (a) The director shall expunge a DNA record of a person from
10 the DNA database if the person:

11 (1) notifies the director in writing that the DNA
12 record has been ordered to be expunged under this section or Chapter
13 55, Code of Criminal Procedure, [+] and

14 ~~[(2)]~~ provides the director with a certified copy of
15 the court order that expunges the DNA record; or

16 (2) provides the director with a certified copy of a
17 court order issued under Section 58.003, Family Code, that seals
18 the juvenile record of the adjudication that resulted in the DNA
19 record.

20 SECTION 45. Section 552.028(c), Government Code, is amended
21 to read as follows:

22 (c) In this section, "correctional facility" means:

23 (1) a secure correctional facility, as defined by
24 Section 1.07, Penal Code; and

25 (2) a secure correctional facility and a secure
26 detention facility, as defined by Section 51.02, Family Code [place
27 designated by the law of this state, another state, or the federal

1 ~~government for the confinement of a person arrested for, charged~~
2 ~~with, or convicted of a criminal offense].~~

3 SECTION 46. Section 61.073, Human Resources Code, is
4 amended to read as follows:

5 Sec. 61.073. RECORDS OF EXAMINATIONS AND TREATMENT. The
6 commission shall keep written records of all examinations and
7 conclusions based on them and of all orders concerning the
8 disposition or treatment of each child subject to its control.
9 Except as provided by Section 61.093(c), these records and all
10 other information concerning a child, including personally
11 identifiable information, are not public and are available only
12 according to the provisions of Section 58.005, Family Code, Section
13 61.0731, Human Resources Code, and Chapter 61, Code of Criminal
14 Procedure.

15 SECTION 47. Subchapter E, Chapter 61, Human Resources Code,
16 is amended by adding Section 61.0731 to read as follows:

17 Sec. 61.0731. INFORMATION AVAILABLE TO CHILDREN, PARENTS,
18 AND OTHERS. (a) In the interest of achieving the purpose of the
19 commission and protecting the public, the commission may disclose
20 records and other information concerning a child to the child and
21 the child's parent or guardian only if disclosure would not
22 materially harm the treatment and rehabilitation of the child and
23 would not substantially decrease the likelihood of the commission
24 receiving information from the same or similar sources in the
25 future. Information concerning a child who is age 18 or older may
26 not be disclosed to the child's parent or guardian without the
27 child's consent.

1 (b) The commission may disclose information regarding a
2 child's location and committing court to a person having a
3 legitimate need for the information.

4 SECTION 48. Section 61.084(e), Human Resources Code, is
5 amended to read as follows:

6 (e) Except as provided by Subsection [~~(d)~~] (f)[~~r~~] or (g),
7 the commission shall discharge from its custody a person not
8 already discharged on the person's 21st birthday.

9 SECTION 49. Section 141.042, Human Resources Code, is
10 amended by amending Subsections (a) and (d) and adding Subsection
11 (h) to read as follows:

12 (a) The commission shall adopt reasonable rules that
13 provide:

14 (1) minimum standards for personnel, staffing, case
15 loads, programs, facilities, record keeping, equipment, and other
16 aspects of the operation of a juvenile board that are necessary to
17 provide adequate and effective probation services;

18 (2) a code of ethics for probation, detention, and
19 corrections officers and for the enforcement of that code;

20 (3) appropriate educational, preservice and
21 in-service training, and certification standards for probation,
22 detention, and corrections officers or court-supervised
23 community-based program personnel;

24 (4) minimum standards for public and private juvenile
25 pre-adjudication secure detention facilities, public juvenile
26 post-adjudication secure correctional facilities that are operated
27 under the authority of a juvenile board, and private juvenile

1 post-adjudication secure correctional facilities, except those
2 facilities exempt from certification by Section 42.052(g)
3 [~~42.052(e)~~]; and

4 (5) [~~procedures for the implementation of a~~
5 ~~progressive sanctions program under Chapter 59, Family Code.~~

6 [~~(5) procedures for implementation of the progressive~~
7 ~~sanctions guidelines in Chapter 59, Family Code; and~~

8 [~~(6)~~] minimum standards for juvenile justice
9 alternative education programs created under Section 37.011,
10 Education Code, in collaboration and conjunction with the Texas
11 Education Agency, or its designee.

12 (d) The commission shall biennially [~~annually~~] inspect all
13 public and private juvenile pre-adjudication secure detention
14 facilities and all public and private juvenile post-adjudication
15 secure correctional facilities except a facility operated or
16 certified by the Texas Youth Commission and shall biennially
17 [~~annually~~] monitor compliance with the standards established under
18 Subsection (a)(4) if the juvenile board has elected to comply with
19 those standards or shall biennially [~~annually~~] ensure that the
20 facility is certified by the American Correctional Association if
21 the juvenile board has elected to comply with those standards.

22 (h) A juvenile board may elect not to accept state aid
23 funding from the commission under Section 141.081, but the board
24 shall comply with all minimum standards adopted by the commission
25 that are applicable to juvenile facilities and also with all
26 juvenile justice data reporting requirements issued by the
27 commission. If a juvenile board elects not to accept state aid

1 funding and operates or contracts for the operation of a public or
2 private juvenile pre-adjudication secure detention facility or a
3 public or private juvenile post-adjudication secure correctional
4 facility that is formally accredited by the American Correctional
5 Association, the juvenile board may elect to comply with American
6 Correctional Association standards and to be exempt from complying
7 with the commission's rules governing juvenile facilities to the
8 extent the commission's rules conflict with American Correctional
9 Association standards.

10 SECTION 50. Section 141.049(a), Human Resources Code, is
11 amended to read as follows:

12 (a) The commission shall keep an information file about each
13 complaint filed with the commission relating to a juvenile board
14 funded by the commission. The commission shall investigate the
15 allegations in the complaint and make a determination of whether
16 there has been a violation of the commission's rules relating to
17 juvenile probation programs, services, or facilities.

18 SECTION 51. Section 141.061(a), Human Resources Code, is
19 amended to read as follows:

20 (a) To be eligible for appointment as a probation officer, a
21 person who was [~~has~~] not [~~been~~] employed as a probation officer
22 before [~~since~~] September 1, 1981, must:

23 (1) be of good moral character;

24 (2) have acquired a bachelor's degree conferred by a
25 college or university accredited by an accrediting organization
26 recognized by the Texas Higher Education Coordinating Board;

27 (3) have either:

1 (A) one year of graduate study in criminology,
2 corrections, counseling, law, social work, psychology, sociology,
3 or other field of instruction approved by the commission; or

4 (B) one year of experience in full-time case
5 work, counseling, or community or group work:

6 (i) in a social service, community,
7 corrections, or juvenile agency that deals with offenders or
8 disadvantaged persons; and

9 (ii) that the commission determines
10 provides the kind of experience necessary to meet this requirement;

11 (4) have satisfactorily completed the course of
12 preservice training or instruction required by the commission;

13 (5) have passed the tests or examinations required by
14 the commission; and

15 (6) possess the level of certification required by the
16 commission.

17 SECTION 52. Section 8.07(a), Penal Code, is amended to read
18 as follows:

19 (a) A person may not be prosecuted for or convicted of any
20 offense that the person committed when younger than 15 years of age
21 except:

22 (1) perjury and aggravated perjury when it appears by
23 proof that the person had sufficient discretion to understand the
24 nature and obligation of an oath;

25 (2) a violation of a penal statute cognizable under
26 Chapter 729, Transportation Code, except for:

27 (A) an offense under Section 521.457,

1 Transportation Code;

2 (B) an offense under Section 550.021,
3 Transportation Code;

4 (C) [~~(B)~~] an offense punishable as a Class B
5 misdemeanor under Section 550.022, Transportation Code; [~~or~~]

6 (D) [~~(C)~~] an offense punishable as a Class B
7 misdemeanor under Section 550.024, Transportation Code; or

8 (E) an offense punishable as a Class B
9 misdemeanor under Section 550.025, Transportation Code;

10 (3) a violation of a motor vehicle traffic ordinance
11 of an incorporated city or town in this state;

12 (4) a misdemeanor punishable by fine only other than
13 public intoxication;

14 (5) a violation of a penal ordinance of a political
15 subdivision;

16 (6) a violation of a penal statute that is, or is a
17 lesser included offense of, a capital felony, an aggravated
18 controlled substance felony, or a felony of the first degree for
19 which the person is transferred to the court under Section 54.02,
20 Family Code, for prosecution if the person committed the offense
21 when 14 years of age or older; or

22 (7) a capital felony or an offense under Section 19.02
23 for which the person is transferred to the court under Section
24 54.02(j)(2)(A), Family Code.

25 SECTION 53. Section 12.42(f), Penal Code, is amended to
26 read as follows:

27 (f) For the purposes of Subsections (a), (b), (c)(1),

1 [~~(a)~~-(c)] and (e), an adjudication by a juvenile court under
2 Section 54.03, Family Code, that a child engaged in delinquent
3 conduct on or after January 1, 1996, constituting a felony offense
4 for which the child is committed to the Texas Youth Commission under
5 Section 54.04(d)(2), (d)(3), or (m), Family Code, or Section
6 54.05(f), Family Code, is a final felony conviction.

7 SECTION 54. Section 521.201, Transportation Code, is
8 amended to read as follows:

9 Sec. 521.201. LICENSE INELIGIBILITY IN GENERAL. The
10 department may not issue any license to a person who:

11 (1) is under 15 years of age;

12 (2) is under 18 years of age unless the person complies
13 with the requirements imposed by Section 521.204;

14 (3) is shown to be addicted to the use of alcohol, a
15 controlled substance, or another drug that renders a person
16 incapable of driving;

17 (4) holds a driver's license issued by this state or
18 another state or country that is revoked, canceled, or under
19 suspension;

20 (5) has been determined by a judgment of a court to be
21 totally incapacitated or incapacitated to act as the operator of a
22 motor vehicle unless the person has, by the date of the license
23 application, been:

24 (A) restored to capacity by judicial decree; or

25 (B) released from a hospital for the mentally
26 incapacitated on a certificate by the superintendent or
27 administrator of the hospital that the person has regained

1 capacity;

2 (6) the department determines to be afflicted with a
3 mental or physical disability or disease that prevents the person
4 from exercising reasonable and ordinary control over a motor
5 vehicle while operating the vehicle on a highway, except that a
6 person may not be refused a license because of a physical defect if
7 common experience shows that the defect does not incapacitate a
8 person from safely operating a motor vehicle;

9 (7) has been reported by a court under Section 729.003
10 for failure to appear [~~or for default in payment of a fine~~] unless
11 the court has filed an additional report on final disposition of the
12 case; or

13 (8) has been reported by a court for failure to appear
14 or default in payment of a fine for a misdemeanor that is not
15 covered under Subdivision (7) and that is punishable by a fine only,
16 including a misdemeanor under a municipal ordinance, committed by a
17 person who was under 17 years of age at the time of the alleged
18 offense, unless the court has filed an additional report on final
19 disposition of the case.

20 SECTION 55. Section 521.294, Transportation Code, is
21 amended to read as follows:

22 Sec. 521.294. DEPARTMENT'S DETERMINATION FOR LICENSE
23 REVOCATION. The department shall revoke the person's license if
24 the department determines that the person:

25 (1) is incapable of safely operating a motor vehicle;

26 (2) has not complied with the terms of a citation
27 issued by a jurisdiction that is a party to the Nonresident Violator

1 Compact of 1977 for a traffic violation to which that compact
2 applies;

3 (3) has failed to provide medical records or has
4 failed to undergo medical or other examinations as required by a
5 panel of the medical advisory board;

6 (4) has failed to pass an examination required by the
7 director under this chapter;

8 (5) has been reported by a court under Section 729.003
9 for failure to appear [~~or for default in payment of a fine~~] unless
10 the court files an additional report on final disposition of the
11 case;

12 (6) has been reported within the preceding two years
13 by a justice or municipal court for failure to appear or for a
14 default in payment of a fine for a misdemeanor punishable only by
15 fine, other than a failure [~~or default~~] reported under Section
16 729.003, committed by a person who is at least 14 years of age but
17 younger than 17 years of age when the offense was committed, unless
18 the court files an additional report on final disposition of the
19 case; or

20 (7) has committed an offense in another state or
21 Canadian province that, if committed in this state, would be
22 grounds for revocation.

23 SECTION 56. Subchapter O, Chapter 521, Transportation Code,
24 is amended by adding Section 521.3451 to read as follows:

25 Sec. 521.3451. SUSPENSION OR DENIAL ON ORDER OF JUSTICE OR
26 MUNICIPAL COURT FOR CONTEMPT OF COURT; REINSTATEMENT. (a) The
27 department shall suspend or deny the issuance of a license or

1 instruction permit on receipt of an order to suspend or deny the
2 issuance of the license or permit from a justice or municipal court
3 under Article 45.050, Code of Criminal Procedure.

4 (b) The department shall reinstate a license or permit
5 suspended or reconsider a license or permit denied under Subsection
6 (a) on receiving notice from the justice or municipal court that
7 ordered the suspension or denial that the contemnor has fully
8 complied with the court's order.

9 SECTION 57. Section 543.117, Transportation Code, is
10 amended to read as follows:

11 Sec. 543.117. OFFENSE IN CONSTRUCTION OR MAINTENANCE WORK
12 ZONE. A charge may not be dismissed under this subchapter for an
13 offense to which Section 542.404 [~~or 729.004~~] applies except upon
14 motion of the attorney representing the state.

15 SECTION 58. Section 729.001(a), Transportation Code, is
16 amended to read as follows:

17 (a) A person who is younger than 17 years of age commits an
18 offense if the person operates a motor vehicle on a public road or
19 highway, a street or alley in a municipality, or a public beach in
20 violation of any traffic law of this state, including:

21 (1) Chapter 502, other than Section 502.282 or
22 502.412;

23 (2) Chapter 521, other than an offense under Section
24 521.457;

25 (3) Subtitle C, other than an offense punishable by
26 imprisonment or by confinement in jail under Section 550.021,
27 550.022, [~~or~~] 550.024, or 550.025;

- 1 (4) Chapter 601;
- 2 (5) Chapter 621;
- 3 (6) Chapter 661; and
- 4 (7) Chapter 681.

5 SECTION 59. The heading to Section 729.003, Transportation
6 Code, is amended to read as follows:

7 Sec. 729.003. PROCEDURE [~~AND JURISDICTION~~] IN CASES
8 INVOLVING MINORS.

9 SECTION 60. Section 729.003(d), Transportation Code, is
10 amended to read as follows:

11 [~~(d)~~] A court shall report to the Department of Public
12 Safety a person charged with a traffic offense under this chapter
13 who does not appear before the court as required by law. In
14 addition to any other action or remedy provided by law, the
15 department may deny renewal of the person's driver's license under
16 Section 521.310 or Chapter 706. The court also shall report to the
17 department on final disposition of the case.

18 SECTION 61. The following laws are repealed:

19 (1) Sections 52.027, 54.023, and 54.06(d), Family
20 Code;

21 (2) Sections 729.003(a), (b), (c), (e), (f), and (g)
22 and 729.004, Transportation Code;

23 (3) Sections 61.084(d) and 141.042(f), Human
24 Resources Code; and

25 (4) Section 45.054, Code of Criminal Procedure, as
26 added by Chapter 1297, Acts of the 77th Legislature, Regular
27 Session, 2001.

1 SECTION 62. (a) This Act takes effect September 1, 2003.

2 (b) Except as provided by Subsections (d), (e), and (g) of
3 this section, this Act applies only to conduct that occurs on or
4 after the effective date of this Act. Conduct violating the penal
5 law of this state occurs on or after the effective date of this Act
6 if any element of the violation occurs on or after that date.

7 (c) Conduct that occurs before the effective date of this
8 Act is governed by the law in effect at the time the conduct
9 occurred, and that law is continued in effect for that purpose.

10 (d) This Act applies only to an appeal by the state under
11 Section 56.01, Family Code, of an order by a juvenile court rendered
12 on or after the effective date of this Act. An appeal of an order
13 rendered before the effective date of this Act is governed by the
14 law in effect at the time the order was rendered, and that law is
15 continued in effect for that purpose.

16 (e) Section 54.051, Family Code, Article 62.13, Code of
17 Criminal Procedure, and Section 12.42, Penal Code, as amended by
18 this Act apply to all cases without regard to whether the conduct or
19 proceedings occur before, on, or after the effective date of this
20 Act.

21 (f) The section of this Act amending Section 29.087,
22 Education Code, as added by Chapter 1514, Acts of the 77th
23 Legislature, Regular Session, 2001, takes effect only if that
24 section of the Education Code does not expire September 1, 2003.

25 (g) Section 54.011(f), Family Code, as added by this Act,
26 applies only to a nonoffender who is detained in a secure detention
27 facility or secure correctional facility on or after the effective

1 date of this Act. A nonoffender who is detained in a secure
2 detention facility or secure correctional facility before the
3 effective date of this Act is not entitled to bring a civil action
4 under Section 54.011(f), Family Code, as added by this Act.