

By: Dutton

H.B. No. 2319

A BILL TO BE ENTITLED

AN ACT

relating to juvenile delinquency.

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 [~~iii~~] 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) and (e) 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 SECTION 8. Sections 52.01(a) and (c), Family Code, are
20 amended to read as follows:

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

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

24 (2) pursuant to the laws of arrest;

25 (3) by a law-enforcement officer, including a school
26 district peace officer commissioned under Section 37.081,
27 Education Code, if there is probable cause to believe that the child

1 has engaged in:

2 (A) conduct that violates a penal law of this
3 state or a penal ordinance of any political subdivision of this
4 state; ~~[or]~~

5 (B) delinquent conduct or conduct indicating a
6 need for supervision; or

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

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

12 (5) pursuant to a directive to apprehend issued as
13 provided by Section 52.015.

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

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

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

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

23 (4) the warning notice identifies the child and
24 describes the child's alleged conduct;

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

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

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

6 (a) Except as provided by Subsection (c), a person taking a
7 child into custody, without unnecessary delay and without first
8 taking the child to any place other than a juvenile processing
9 office designated under Section 52.025, shall do one of the
10 following:

11 (1) release the child to a parent, guardian, custodian
12 of the child, or other responsible adult upon that person's promise
13 to bring the child before the juvenile court as requested by the
14 court;

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

20 (3) bring the child to a detention facility designated
21 by the juvenile board;

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

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

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

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

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

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

10 (d) On referral of the case of a child who has not been taken
11 into custody to the office or official designated by the juvenile
12 board [~~court~~], the office or official designated by the juvenile
13 board [~~court~~] shall promptly give notice of the referral and a
14 statement of the reason for the referral to the child's parent,
15 guardian, or custodian.

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

18 (a) On referral of a person believed to be a child or on
19 referral of the person's case to the office or official designated
20 by the juvenile board, the intake officer, probation officer, or
21 other person authorized by the board [~~court~~] shall conduct a
22 preliminary investigation to determine whether:

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

25 (2) there is probable cause to believe the person
26 engaged in delinquent conduct or conduct indicating a need for
27 supervision.

1 (c) When custody of a child is given to the office or
2 official designated by the juvenile board, the intake officer,
3 probation officer, or other person authorized by the board [~~court~~]
4 shall promptly give notice of the whereabouts of the child and a
5 statement of the reason the child was taken into custody to the
6 child's parent, guardian, or custodian unless the notice given
7 under Section 52.02(b) provided fair notice of the child's present
8 whereabouts.

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

12 (d) The juvenile board [~~court~~] may adopt a fee schedule for
13 deferred prosecution services and rules for the waiver of a fee for
14 financial hardship in accordance with guidelines that the Texas
15 Juvenile Probation Commission shall provide. The maximum fee is
16 \$15 a month. If the board [~~court~~] adopts a schedule and rules for
17 waiver, the probation officer or other designated officer of the
18 court shall collect the fee authorized by the schedule from the
19 parent, guardian, or custodian of a child for whom a deferred
20 prosecution is authorized under this section or waive the fee in
21 accordance with the rules adopted by the board [~~court~~]. The officer
22 shall deposit the fees received under this section in the county
23 treasury to the credit of a special fund that may be used only for
24 juvenile probation or community-based juvenile corrections
25 services or facilities in which a juvenile may be required to live
26 while under court supervision. If the board [~~court~~] does not adopt
27 a schedule and rules for waiver, a fee for deferred prosecution

1 services may not be imposed.

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

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

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

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

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

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

16 (b) Reasonable notice of the detention hearing, either oral
17 or written, shall be given, stating the time, place, and purpose of
18 the hearing. Notice shall be given to the child and, if they can be
19 found, to his parents, guardian, or custodian. Prior to the
20 commencement of the hearing, the court shall inform the parties of
21 the child's right to counsel and to appointed counsel if they are
22 indigent and of the child's right to remain silent with respect to
23 any allegations of delinquent conduct, [or] conduct indicating a
24 need for supervision, or conduct that violates an order of
25 probation imposed by a juvenile court.

26 (m) The detention hearing required in this section may be
27 held in the county of the designated place of detention where the

1 child is being held even though the designated place of detention is
2 outside the county of residence of the child or the county in which
3 the alleged delinquent conduct, ~~or~~ conduct indicating a need for
4 supervision, or probation violation occurred.

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

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

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

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

6 (r) On the conditional release of a child from detention by
7 judicial order under Subsection (f), the court, referee, or
8 detention magistrate may order that the child's parent, guardian,
9 or custodian present in court at the detention hearing engage in
10 acts or omissions specified by the court, referee, or detention
11 magistrate that will assist the child in complying with the
12 conditions of release. The order must be in writing and a copy
13 furnished to the parent, guardian, or custodian. An order entered
14 under this subsection may be enforced as provided by Chapter 61.

15 SECTION 15. Section 54.03(i), Family Code, is amended to
16 read as follows:

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

23 SECTION 16. Sections 54.032(a) and (f), Family Code, are
24 amended to read as follows:

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

27 (1) is alleged to have engaged in conduct indicating a

1 need for supervision that violated a penal law of this state of the
2 grade of misdemeanor that is punishable by fine only or a penal
3 ordinance of a political subdivision of this state;

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

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

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

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

17 SECTION 17. Section 54.041(a), Family Code, is amended to
18 read as follows:

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

25 (1) order any person found by the juvenile court to
26 have, by a wilful act or omission, contributed to, caused, or
27 encouraged the child's delinquent conduct or conduct indicating a

1 need for supervision to do any act that the juvenile court
2 determines to be reasonable and necessary for the welfare of the
3 child or to refrain from doing any act that the juvenile court
4 determines to be injurious to the welfare of the child;

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

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

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

19 SECTION 18. Sections 54.042(c) and (d), Family Code, are
20 amended to read as follows:

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

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

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

27 (2) of 365 days if the court finds the child has been

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

4 SECTION 19. Section 54.05, Family Code, is amended by
5 amending Subsection (k) and adding Subsection (l) to read as
6 follows:

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

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

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

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

25 SECTION 20. Section 54.051, Family Code, is amended by
26 amending Subsection (e) and adding Subsections (e-1), (e-2), (e-3),
27 (g), (h), and (i) to read as follows:

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

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

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

25 (e-3) The time that a child serves on probation ordered
26 under Section 54.04(q) is the same as time served on community
27 supervision ordered under this section [~~subsection~~] for purposes of

1 determining the child's eligibility for early discharge from
2 community supervision under Section 20, Article 42.12, Code of
3 Criminal Procedure.

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

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

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

26 SECTION 21. Section 54.07, Family Code, is amended to read
27 as follows:

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

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

8 (1) an order setting conditions of probation;

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

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

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

1 ~~out the terms of the order. The judgment may be enforced by any~~
2 ~~means available for the enforcement of judgments for other debts].~~

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

6 SECTION 22. Section 54.11, Family Code, is amended by
7 adding Subsections (l)-(n) to read as follows:

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

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

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

24 SECTION 23. Chapter 56, Family Code, is amended by adding
25 Section 56.03 to read as follows:

26 Sec. 56.03. APPEAL BY STATE IN CASES OF VIOLENT OR HABITUAL
27 OFFENDER. (a) In this section, "prosecuting attorney" means the

1 county attorney, district attorney, or criminal district attorney
2 who has the primary responsibility of presenting cases in the
3 juvenile court. The term does not include an assistant prosecuting
4 attorney.

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

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

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

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

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

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

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

27 (f) The state shall pay all costs of appeal under Subsection

1 (b), other than the cost of attorney's fees for the respondent.

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

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

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

27 SECTION 24. Section 58.003(n), Family Code, is amended to

1 read as follows:

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

7 SECTION 25. Section 58.005(a), Family Code, is amended to
8 read as follows:

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

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

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

20 (3) an attorney for the child;

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

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

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

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

8 SECTION 26. Title 3, Family Code, is amended by adding
9 Chapter 61 to read as follows:

10 CHAPTER 61. RIGHTS AND RESPONSIBILITIES OF PARENTS AND OTHER
11 ELIGIBLE PERSONS

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

14 Sec. 61.001. DEFINITIONS. In this chapter:

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

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

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

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

27 (2) for restitution under Sections 54.041(b) and

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

1 act or refrain from acting to aid the child in complying with
2 conditions of release from detention under Section 54.01(r); or

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

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

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

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

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

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

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

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

27 (b) The movant may appeal from a judgment denying requested

1 relief regarding a juvenile court order as provided by law from
2 judgments entered in civil cases.

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

6 [Sections 61.005-61.050 reserved for expansion]

7 SUBCHAPTER B. ENFORCEMENT OF ORDER AGAINST PARENT

8 OR OTHER ELIGIBLE PERSON

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

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

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

16 (3) state the relief requested; and

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

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

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

27 Sec. 61.052. NOTICE AND APPEARANCE. (a) On the filing of a

1 motion for enforcement, the court shall by written notice set the
2 date, time, and place of the hearing and order the person against
3 whom enforcement is sought to appear and respond to the motion.

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

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

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

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

1 right to the appointment of an attorney.

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

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

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

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

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

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

26 Sec. 61.055. CONDUCT OF ENFORCEMENT HEARING. (a) The
27 juvenile court shall require that the enforcement hearing be

1 recorded as provided by Section 54.09.

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

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

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

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

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

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

24 Sec. 61.056. AFFIRMATIVE DEFENSE OF INABILITY TO PAY.

25 (a) In an enforcement hearing in which the motion for enforcement
26 alleges that the person against whom enforcement is sought failed
27 to pay restitution, court costs, supervision fees, or any other

1 payment ordered by the court, it is an affirmative defense that the
2 person was financially unable to pay.

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

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

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

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

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

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

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

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

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

9 [Sections 61.058-61.100 reserved for expansion]

10 SUBCHAPTER C. RIGHTS OF PARENTS

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

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

18 (1) the date and time of the offense;
19 (2) the date and time the child was taken into custody;
20 (3) the name of the offense and its penal category;
21 (4) the type of weapon, if any, that was used;
22 (5) the type of property taken or damaged and the
23 extent of damage, if any;

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

26 (7) whether there is reason to believe that the
27 offense was gang-related;

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

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

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

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

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

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

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

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

25 (d) Information disclosed to a parent under Subsection (a)
26 is not admissible in a judicial proceeding under this title as
27 substantive evidence or as evidence to impeach the testimony of a

1 witness for the state.

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

8 (1) a juvenile processing office;

9 (2) a secure detention facility;

10 (3) a secure correctional facility;

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

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

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

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

25 (b) The parent shall return the statement to the juvenile
26 probation department, which shall transmit the statement to the
27 court along with the discretionary transfer report authorized by

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

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

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

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

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

24 (1) appeal;

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

27 (3) exclusion of evidence against the child in any

1 proceeding or forum.

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

8 SECTION 27. Sections 261.405(b) and (c), Family Code, are
9 amended to read as follows:

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

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

18 SECTION 28. Article 44.47(b), Code of Criminal Procedure,
19 is amended to read as follows:

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

24 SECTION 29. Article 45.045, Code of Criminal Procedure, is
25 amended to read as follows:

26 Art. 45.045. CAPIAS PRO FINE. (a) If the defendant is not
27 in custody when the judgment is rendered or if the defendant fails

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

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

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

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

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

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

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

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

22 (c) This article does not limit the authority of a court to
23 order a child taken into custody under Article 45.058 or 45.049.

24 SECTION 30. Article 45.050, Code of Criminal Procedure, as
25 amended by Chapters 1297 and 1514, Acts of the 77th Legislature,
26 Regular Session, 2001, is reenacted and amended to read as follows:

27 Art. 45.050. FAILURE TO PAY FINE; CONTEMPT: JUVENILES. (a)

1 In this article, "child" has the meaning assigned by Article
2 45.058(h).

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

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

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

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

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

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

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

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

1 court.

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

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

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

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

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

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

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

23 SECTION 31. Article 45.056, Code of Criminal Procedure, is
24 amended to read as follows:

25 Art. 45.056. AUTHORITY TO EMPLOY JUVENILE [~~TRUANCY~~] CASE
26 MANAGERS; REIMBURSEMENT. (a) On approval of the commissioners
27 court, city council, school district board of trustees, juvenile

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

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

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

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

19 SECTION 32. Article 45.057, Code of Criminal Procedure, is
20 amended by amending Subsections (a), (b), (e), and (h) and adding
21 Subsections (i)-(l) to read as follows:

22 (a) In this article:

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

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

27 (3) "Parent" includes a person standing in parental

1 relation, a managing conservator, or a custodian.

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

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

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

18 (3) [~~if the court finds the parent, managing~~
19 ~~conservator, or guardian, by act or omission, contributed to,~~
20 ~~caused, or encouraged the child's conduct,~~] requiring that the
21 child's parent[~~7~~
22 ~~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:

26 (A) attend a parenting class or parental
27 responsibility program; and

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

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

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

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

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

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

27 (2) a peace officer arresting and releasing a child

1 under Article 45.058(a) on release; and

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

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

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

10 SECTION 33. Subchapter B, Chapter 45, Code of Criminal
11 Procedure, is amended by adding Article 45.060 to read as follows:

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

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

25 (c) Failure to appear as ordered by the notice under
26 Subsection (b) is a Class C misdemeanor independent of Section
27 38.10, Penal Code, and Section 543.003, Transportation Code.

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

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

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

16 SECTION 34. Article 62.13, Code of Criminal Procedure, is
17 amended by amending Subsections (b), (j), (n), and (q) and adding
18 Subsection (s) to read as follows:

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

26 (j) After a hearing under Subsection (b) or under a plea
27 agreement under Subsection (f), the juvenile court may enter an

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

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

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

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

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

24 SECTION 35. Chapter 62, Code of Criminal Procedure, is
25 amended by adding Article 62.14 to read as follows:

26 Art. 62.14. REMOVING JUVENILE REGISTRATION INFORMATION
27 WHEN DUTY TO REGISTER EXPIRES. (a) When a person is no longer

1 required to register as a sex offender for an adjudication of
2 delinquent conduct, the department shall remove all information
3 about the person from the sex offender registry.

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

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

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

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

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

25 (d) When a person required to register for an adjudication
26 of delinquent conduct appears before a local law enforcement
27 authority to renew registration information, the authority shall

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

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

16 (f) When the department has removed information under
17 Subsection (a), the department shall notify all public and private
18 agencies or organizations to which it has provided registration
19 information about the person of the removal. On receiving notice,
20 the public or private agency or organization shall remove all
21 registration information about the person from any registry the
22 agency or organization maintains that is accessible to the public
23 with or without charge. Failure to remove registration information
24 on or before the 30th day after the date notice is received from the
25 department automatically bars the agency or organization from
26 obtaining sex offender registration information from any state,
27 county, or local governmental entity in this state in the future.

1 SECTION 36. The heading to Section 25.093, Education Code,
2 is amended to read as follows:

3 Sec. 25.093. PARENT CONTRIBUTING TO NONATTENDANCE
4 [~~TRUANCY~~].

5 SECTION 37. Section 25.094(d), Education Code, as amended
6 by Chapters 1297 and 1514, Acts of the 77th Legislature, Regular
7 Session, 2001, is reenacted and amended to read as follows:

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

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

19 (1) promptly notify the individual's parent, guardian,
20 or custodian of the officer's action and the reason for that action;
21 and

22 (2) without unnecessary delay:

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

27 (B) bring the individual to a justice or

1 municipal court with venue over the offense.

2 SECTION 38. The heading to Section 25.0952, Education Code,
3 is amended to read as follows:

4 Sec. 25.0952. PROCEDURES APPLICABLE TO SCHOOL
5 ATTENDANCE-RELATED [~~TRUANCY-RELATED~~] OFFENSES.

6 SECTION 39. Sections 29.087(d) and (f), Education Code, as
7 added by Chapter 1514, Acts of the 77th Legislature, Regular
8 Session, 2001, are amended to read as follows:

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

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

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

16 (B) take the high school equivalency examination
17 administered under Section 7.111; or

18 (2) the following conditions are satisfied:

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

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

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

25 (D) at least two school years have elapsed since
26 the student first enrolled in ninth grade and the student has
27 accumulated less than one quarter of the credits required to

1 graduate under the minimum graduation requirements of the district
2 or school; and

3 (E) any other conditions specified by the
4 commissioner.

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

19 SECTION 40. Subchapter E, Chapter 30, Education Code, is
20 amended by adding Section 30.104 to read as follows:

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

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

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

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

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

12 SECTION 41. Subchapter C, Chapter 71, Government Code, is
13 amended by adding Section 71.0352 to read as follows:

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

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

20 (A) failure to attend school under Section
21 25.094, Education Code;

22 (B) parent contributing to nonattendance under
23 Section 25.093, Education Code; and

24 (C) violation of a local daytime curfew ordinance
25 adopted under Section 341.905 or 351.903, Local Government Code;
26 and

27 (2) in cases in which a child fails to obey an order of

1 a justice or municipal court under circumstances that would
2 constitute contempt of court, the justice or municipal court shall
3 report the number of incidents in which the child is:

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

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

10 SECTION 42. Section 411.151(a), Government Code, is amended
11 to read as follows:

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

14 (1) notifies the director in writing that the DNA
15 record has been ordered to be expunged under this section or Chapter
16 55, Code of Criminal Procedure, [+] and

17 [~~2~~] provides the director with a certified copy of
18 the court order that expunges the DNA record; or

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

23 SECTION 43. Section 552.028(c), Government Code, is amended
24 to read as follows:

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

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

1 (2) a secure correctional facility and a secure
2 detention facility, as defined by Section 51.02, Family Code [place
3 designated by the law of this state, another state, or the federal
4 government for the confinement of a person arrested for, charged
5 with, or convicted of a criminal offense].

6 SECTION 44. Section 61.073, Human Resources Code, is
7 amended to read as follows:

8 Sec. 61.073. RECORDS OF EXAMINATIONS AND TREATMENT. The
9 commission shall keep written records of all examinations and
10 conclusions based on them and of all orders concerning the
11 disposition or treatment of each child subject to its control.
12 Except as provided by Section 61.093(c), these records and all
13 other information concerning a child, including personally
14 identifiable information, are not public and are available only
15 according to the provisions of Section 58.005, Family Code, Section
16 61.0731, Human Resources Code, and Chapter 61, Code of Criminal
17 Procedure.

18 SECTION 45. Subchapter E, Chapter 61, Human Resources Code,
19 is amended by adding Section 61.0731 to read as follows:

20 Sec. 61.0731. INFORMATION AVAILABLE TO CHILDREN, PARENTS,
21 AND OTHERS. (a) In the interest of achieving the purpose of the
22 commission and protecting the public, the commission may disclose
23 records and other information concerning a child to the child and
24 the child's parent or guardian only if disclosure would not
25 materially harm the treatment and rehabilitation of the child and
26 would not substantially decrease the likelihood of the commission
27 receiving information from the same or similar sources in the

1 future. Information concerning a child who is age 18 or older may
2 not be disclosed to the child's parent or guardian without the
3 child's consent.

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

7 SECTION 46. Section 61.084(e), Human Resources Code, is
8 amended to read as follows:

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

12 SECTION 47. Section 141.042, Human Resources Code, is
13 amended by amending Subsections (a) and (d) and adding Subsection
14 (h) to read as follows:

15 (a) The commission shall adopt reasonable rules that
16 provide:

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

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

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

27 (4) minimum standards for public and private juvenile

1 pre-adjudication secure detention facilities, public juvenile
2 post-adjudication secure correctional facilities that are operated
3 under the authority of a juvenile board, and private juvenile
4 post-adjudication secure correctional facilities, except those
5 facilities exempt from certification by Section 42.052(g)
6 [~~42.052(e)~~]; and

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

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

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

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

25 (h) A juvenile board may elect not to accept state aid
26 funding from the commission under Section 141.081, but the board
27 shall comply with all minimum standards adopted by the commission

1 that are applicable to juvenile probation programs, facilities, and
2 services and also with all juvenile justice data reporting
3 requirements issued by the commission. If a juvenile board elects
4 not to accept state aid funding and operates or contracts for the
5 operation of a public or private juvenile pre-adjudication secure
6 detention facility or a public or private juvenile
7 post-adjudication secure correctional facility that is formally
8 accredited by the American Correctional Association, the juvenile
9 board may elect to comply with American Correctional Association
10 standards and to be exempt from complying with the commission's
11 rules governing juvenile facilities to the extent the commission's
12 rules conflict with American Correctional Association standards.

13 SECTION 48. Section 141.049(a), Human Resources Code, is
14 amended to read as follows:

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

21 SECTION 49. Section 141.061(a), Human Resources Code, is
22 amended to read as follows:

23 (a) To be eligible for appointment as a probation officer, a
24 person who was ~~has~~ not ~~been~~ employed as a probation officer
25 before ~~since~~ September 1, 1981, must:

- 26 (1) be of good moral character;
- 27 (2) have acquired a bachelor's degree conferred by a

1 college or university accredited by an accrediting organization
2 recognized by the Texas Higher Education Coordinating Board;

3 (3) have either:

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

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

9 (i) in a social service, community,
10 corrections, or juvenile agency that deals with offenders or
11 disadvantaged persons; and

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

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

16 (5) have passed the tests or examinations required by
17 the commission; and

18 (6) possess the level of certification required by the
19 commission.

20 SECTION 50. Section 8.07(a), Penal Code, is amended to read
21 as follows:

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

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

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

3 (A) an offense under Section 521.457,
4 Transportation Code;

5 (B) an offense under Section 550.021,
6 Transportation Code;

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

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

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

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

15 (4) a misdemeanor punishable by fine only other than
16 public intoxication;

17 (5) a violation of a penal ordinance of a political
18 subdivision;

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

25 (7) a capital felony or an offense under Section 19.02
26 for which the person is transferred to the court under Section
27 54.02(j)(2)(A), Family Code.

1 SECTION 51. Section 12.42(f), Penal Code, is amended to
2 read as follows:

3 (f) For the purposes of Subsections (a), (b), (c)(1),
4 ~~[(a)-(c)]~~ and (e), an adjudication by a juvenile court under
5 Section 54.03, Family Code, that a child engaged in delinquent
6 conduct on or after January 1, 1996, constituting a felony offense
7 for which the child is committed to the Texas Youth Commission under
8 Section 54.04(d)(2), (d)(3), or (m), Family Code, or Section
9 54.05(f), Family Code, is a final felony conviction.

10 SECTION 52. Section 521.201, Transportation Code, is
11 amended to read as follows:

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

- 14 (1) is under 15 years of age;
- 15 (2) is under 18 years of age unless the person complies
16 with the requirements imposed by Section 521.204;
- 17 (3) is shown to be addicted to the use of alcohol, a
18 controlled substance, or another drug that renders a person
19 incapable of driving;
- 20 (4) holds a driver's license issued by this state or
21 another state or country that is revoked, canceled, or under
22 suspension;
- 23 (5) has been determined by a judgment of a court to be
24 totally incapacitated or incapacitated to act as the operator of a
25 motor vehicle unless the person has, by the date of the license
26 application, been:

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

1 (B) released from a hospital for the mentally
2 incapacitated on a certificate by the superintendent or
3 administrator of the hospital that the person has regained
4 capacity;

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

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

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

23 SECTION 53. Section 521.294, Transportation Code, is
24 amended to read as follows:

25 Sec. 521.294. DEPARTMENT'S DETERMINATION FOR LICENSE
26 REVOCATION. The department shall revoke the person's license if
27 the department determines that the person:

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

2 (2) has not complied with the terms of a citation
3 issued by a jurisdiction that is a party to the Nonresident Violator
4 Compact of 1977 for a traffic violation to which that compact
5 applies;

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

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

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

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

23 (7) has committed an offense in another state or
24 Canadian province that, if committed in this state, would be
25 grounds for revocation.

26 SECTION 54. Subchapter O, Chapter 521, Transportation Code,
27 is amended by adding Section 521.3451 to read as follows:

1 Sec. 521.3451. SUSPENSION OR DENIAL ON ORDER OF JUSTICE OR
2 MUNICIPAL COURT FOR CONTEMPT OF COURT; REINSTATEMENT. (a) The
3 department shall suspend or deny the issuance of a license or
4 instruction permit on receipt of an order to suspend or deny the
5 issuance of the license or permit from a justice or municipal court
6 under Article 45.050, Code of Criminal Procedure.

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

12 SECTION 55. Section 543.117, Transportation Code, is
13 amended to read as follows:

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

18 SECTION 56. Section 729.001(a), Transportation Code, is
19 amended to read as follows:

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

24 (1) Chapter 502, other than Section 502.282 or
25 502.412;

26 (2) Chapter 521, other than an offense under Section
27 521.457;

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

4 (4) Chapter 601;

5 (5) Chapter 621;

6 (6) Chapter 661; and

7 (7) Chapter 681.

8 SECTION 57. The heading to Section 729.003, Transportation
9 Code, is amended to read as follows:

10 Sec. 729.003. PROCEDURE ~~[AND—JURISDICTION]~~ IN CASES
11 INVOLVING MINORS.

12 SECTION 58. Section 729.003(d), Transportation Code, is
13 amended to read as follows:

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

21 SECTION 59. The following laws are repealed:

22 (1) Sections 52.027, 54.023, and 54.06(d), Family
23 Code;

24 (2) Sections 729.003(a), (b), (c), (e), and (g) and
25 729.004, Transportation Code;

26 (3) Sections 61.084(d) and 141.042(f), Human
27 Resources Code; and

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

4 SECTION 60. (a) This Act takes effect September 1, 2003.

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

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

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

19 (e) Sections 20, 34, and 51 of this Act apply to all cases
20 without regard to whether the conduct or proceedings occur before,
21 on, or after the effective date of this Act.

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