

By: Dutton, Goodman

H.B. No. 1575

A BILL TO BE ENTITLED

AN ACT

relating to juvenile delinquency; providing a criminal penalty.

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

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

(16) "Traffic offense" means:

(A) a violation of a penal statute cognizable under Chapter 729, Transportation Code, except for conduct for which the person convicted may be sentenced to imprisonment or confinement in jail~~;~~

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

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

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

~~[(iv) 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

1 ordinance of an incorporated city or town in this state.

2 SECTION 2. Section 51.03(d), Family Code, is amended to
3 read as follows:

4 (d) It is an affirmative defense to an allegation of conduct
5 under Subsection (b)(2) that one or more of the absences required to
6 be proven under that subsection have been excused by a school
7 official or ~~[should be excused]~~ by the court or that one or more of
8 the absences were ~~[was]~~ involuntary, but only if there is an
9 insufficient number of unexcused or voluntary absences remaining to
10 constitute conduct under Subsection (b)(2). The burden is on the
11 respondent to show by a preponderance of the evidence that the
12 absence has been or should be excused or that the absence was
13 involuntary. A decision by the court to excuse an absence for
14 purposes of this subsection does not affect the ability of the
15 school district to determine whether to excuse the absence for
16 another purpose.

17 SECTION 3. Section 51.07, Family Code, is amended to read as
18 follows:

19 Sec. 51.07. TRANSFER TO ANOTHER COUNTY FOR DISPOSITION.
20 ~~[(a)]~~ When a child has been found to have engaged in delinquent
21 conduct or conduct indicating a need for supervision under Section
22 54.03 ~~[of this code]~~, the juvenile court ~~[, with the consent of the~~
23 ~~child and appropriate adult given in accordance with Section 51.09~~
24 ~~of this code,~~] may transfer the case and transcripts of records and
25 documents to the juvenile court of the county where the child
26 resides for disposition of the case under Section 54.04 ~~[of this~~
27 ~~code]~~. Consent by the court of the county where the child resides

1 is not required.

2 ~~[(b) When a child who is on probation moves with his family~~
3 ~~from one county to another, the juvenile court may transfer the case~~
4 ~~to the juvenile court in the county of the child's new residence if~~
5 ~~the transfer is in the best interest of the child. In all other~~
6 ~~cases of transfer, consent of the receiving court is required. The~~
7 ~~transferring court shall forward transcripts of records and~~
8 ~~documents in the case to the judge of the receiving court.]~~

9 SECTION 4. Chapter 51, Family Code, is amended by adding
10 Sections 51.071-51.075 to read as follows:

11 Sec. 51.071. TRANSFER OF PROBATION SUPERVISION BETWEEN
12 COUNTIES: COURTESY SUPERVISION PROHIBITED. Except as provided by
13 Section 51.075, a juvenile court or juvenile probation department
14 may not engage in the practice of courtesy supervision of a child on
15 probation.

16 Sec. 51.072. TRANSFER OF PROBATION SUPERVISION BETWEEN
17 COUNTIES: INTERIM SUPERVISION. (a) In this section:

18 (1) "Receiving county" means the county to which a
19 child on probation has moved or intends to move.

20 (2) "Sending county" means the county that:

21 (A) originally placed the child on probation; or

22 (B) assumed permanent supervision of the child
23 under an inter-county transfer of probation supervision.

24 (b) When a child on probation moves or intends to move from
25 one county to another and intends to remain in the receiving county
26 for at least 60 days, the juvenile probation department of the
27 sending county shall request that the juvenile probation department

1 of the receiving county provide interim supervision of the child.

2 (c) The juvenile probation department of the receiving
3 county may refuse the request to provide interim supervision only
4 if:

5 (1) the residence of the child in the receiving county
6 is in a residential placement facility arranged by the sending
7 county; or

8 (2) the residence of the child in the receiving county
9 is in a foster care placement arranged by the Department of Family
10 and Protective Services.

11 (d) The juvenile probation department of the sending county
12 shall initiate the request for interim supervision by electronic
13 communication to the probation officer designated as the
14 inter-county transfer officer for the juvenile probation
15 department of the receiving county or, in the absence of this
16 designation, to the chief juvenile probation officer.

17 (e) The juvenile probation department of the sending county
18 shall provide the juvenile probation department of the receiving
19 county with the following information in the request for interim
20 supervision initiated under Subsection (d):

21 (1) the child's name, sex, age, and date of birth;

22 (2) the name, address, date of birth, and social
23 security or driver's license number of the person with whom the
24 child proposes to reside or is residing in the receiving county;

25 (3) the offense for which the child is on probation;

26 (4) the length of the child's probation term;

27 (5) a brief summary of the child's history of

1 referrals;

2 (6) a brief statement of any special needs of the
3 child; and

4 (7) the reason for the child moving or intending to
5 move to the receiving county.

6 (f) Not later than five business days after a receiving
7 county has agreed to provide interim supervision of a child, the
8 juvenile probation department of the sending county shall provide
9 the juvenile probation department of the receiving county with a
10 copy of the following documents:

11 (1) the petition and the adjudication and disposition
12 orders for the child, including the child's thumbprint;

13 (2) the child's conditions of probation;

14 (3) the social history report for the child;

15 (4) any psychological or psychiatric reports
16 concerning the child;

17 (5) the Department of Public Safety CR 43J form or
18 tracking incident number concerning the child;

19 (6) any law enforcement incident reports concerning
20 the offense for which the child is on probation;

21 (7) any sex offender registration information
22 concerning the child;

23 (8) any juvenile probation department progress
24 reports concerning the child and any other pertinent documentation
25 for the child's probation officer;

26 (9) case plans concerning the child;

27 (10) the Texas Juvenile Probation Commission standard

1 assessment tool results for the child;

2 (11) the computerized referral and case history for
3 the child, including case disposition;

4 (12) the child's birth certificate;

5 (13) the child's social security number or social
6 security card, if available;

7 (14) the name, address, and telephone number of the
8 contact person in the sending county's juvenile probation
9 department;

10 (15) Title IV-E eligibility screening information for
11 the child, if available;

12 (16) the address in the sending county for forwarding
13 funds collected to which the sending county is entitled;

14 (17) any of the child's school or immunization records
15 that the juvenile probation department of the sending county
16 possesses; and

17 (18) any victim information concerning the case for
18 which the child is on probation.

19 (g) The juvenile probation department of the receiving
20 county shall supervise the child under the probation conditions
21 imposed by the sending county and provide services similar to those
22 provided to a child placed on probation under the same conditions in
23 the receiving county. On request of the juvenile probation
24 department of the receiving county, the juvenile court of the
25 receiving county may modify the original probation conditions and
26 impose new conditions using the procedures in Section 54.05. The
27 juvenile court of the receiving county may not modify a financial

1 probation condition imposed by the juvenile court of the sending
2 county or the length of the child's probation term. The juvenile
3 court of the receiving county shall designate a cause number for
4 identifying the modification proceedings.

5 (h) The juvenile court of the sending county may revoke
6 probation for a violation of a condition imposed by the juvenile
7 court of the sending county only if the condition has not been
8 specifically modified or replaced by the juvenile court of the
9 receiving county. The juvenile court of the receiving county may
10 revoke probation for a violation of a condition of probation that
11 the juvenile court of the receiving county has modified or imposed.

12 (i) If a child is reasonably believed to have violated a
13 condition of probation imposed by the juvenile court of the sending
14 county, the juvenile court of the sending or receiving county may
15 issue a directive to apprehend or detain the child in a certified
16 detention facility, as in other cases of probation violation. In
17 order to respond to a probation violation under this subsection,
18 the juvenile court of the receiving county may:

19 (1) modify the conditions of probation or extend the
20 probation term; or

21 (2) require that the juvenile probation department of
22 the sending county resume direct supervision for the child.

23 (j) On receiving a directive from the juvenile court of the
24 receiving county under Subsection (i)(2), the juvenile probation
25 department of the sending county shall arrange for the prompt
26 transportation of the child back to the sending county at the
27 expense of the sending county.

1 (k) The juvenile probation department of the receiving
2 county is entitled to any probation supervision fees collected from
3 the child or the child's parent while providing interim supervision
4 for the child.

5 (l) The sending county is financially responsible for any
6 special treatment program or placement that the juvenile court of
7 the sending county requires as a condition of probation if the
8 child's family is financially unable to pay for the program or
9 placement.

10 (m) Except as provided by Subsection (n), a period of
11 interim supervision may not exceed 180 days. Permanent supervision
12 automatically transfers to the juvenile probation department of the
13 receiving county after the expiration of the period of interim
14 supervision. The juvenile probation department of the receiving
15 county may request permanent supervision from the juvenile
16 probation department of the sending county at any time before the
17 180-day interim supervision period expires.

18 (n) Notwithstanding Subsection (m), the period of interim
19 supervision of a child who is placed on probation under Section
20 54.04(q) does not expire until the child has satisfactorily
21 completed one-third of the term of probation, including one-third
22 of the term of any extension of the probation term ordered under
23 Section 54.05. Permanent supervision automatically transfers to
24 the probation department of the receiving county after the
25 expiration of the period of interim supervision under this
26 subsection. The juvenile court of the sending county may order
27 transfer of the permanent supervision before the expiration of the

1 period of interim supervision under this subsection.

2 (o) At least once every 90 days during the period of interim
3 supervision, the juvenile probation department of the receiving
4 county shall provide the juvenile probation department of the
5 sending county with a progress report of supervision concerning the
6 child.

7 Sec. 51.073. TRANSFER OF PROBATION SUPERVISION BETWEEN
8 COUNTIES: PERMANENT SUPERVISION. (a) In this section:

9 (1) "Receiving county" means the county to which a
10 child on probation has moved or intends to move.

11 (2) "Sending county" means the county that:

12 (A) originally placed the child on probation; or

13 (B) assumed permanent supervision of the child
14 under an inter-county transfer of probation supervision.

15 (b) On transfer of permanent supervision of a child under
16 Section 51.072(m) or (n), the juvenile court of the sending county
17 shall order the juvenile probation department of the sending county
18 to provide the juvenile probation department of the receiving
19 county with the order of transfer. On receipt of the order of
20 transfer, the juvenile probation department of the receiving county
21 shall ensure that the order of transfer, the petition, the order of
22 adjudication, the order of disposition, and the conditions of
23 probation are filed with the clerk of the juvenile court of the
24 receiving county.

25 (c) The juvenile court of the receiving county shall require
26 that the child be brought before the court in order to impose
27 conditions of probation. The child shall be represented by counsel

1 as provided by Section 51.10.

2 (d) Once permanent supervision is transferred to the
3 juvenile probation department of the receiving county, the
4 receiving county is fully responsible for selecting and imposing
5 conditions of probation, providing supervision, modifying
6 conditions of probation, and revoking probation. The sending
7 county has no further jurisdiction over the child's case.

8 (e) This section does not affect the sending county's
9 jurisdiction over any new offense committed by the child in the
10 sending county.

11 Sec. 51.074. TRANSFER OF PROBATION SUPERVISION BETWEEN
12 COUNTIES: DEFERRED PROSECUTION. A juvenile court may transfer
13 interim supervision, but not permanent supervision, to the county
14 where a child on deferred prosecution resides.

15 Sec. 51.075. COLLABORATIVE SUPERVISION BETWEEN ADJOINING
16 COUNTIES. (a) If a child who is on probation in one county spends
17 substantial time in an adjoining county, including residing,
18 attending school, or working in the adjoining county, the juvenile
19 probation departments of the two counties may enter into a
20 collaborative supervision arrangement regarding the child.

21 (b) Under a collaborative supervision arrangement, the
22 juvenile probation department of the adjoining county may authorize
23 a probation officer for the county to provide supervision and other
24 services for the child as an agent of the juvenile probation
25 department of the county in which the child was placed on probation.
26 The probation officer providing supervision and other services for
27 the child in the adjoining county shall provide the probation

1 officer supervising the child in the county in which the child was
2 placed on probation with periodic oral, electronic, or written
3 reports concerning the child.

4 (c) The juvenile court of the county in which the child was
5 placed on probation retains sole authority to modify, amend,
6 extend, or revoke the child's probation.

7 SECTION 5. Section 51.095, Family Code, is amended by
8 amending Subsection (a) and adding Subsection (f) to read as
9 follows:

10 (a) Notwithstanding Section 51.09, the statement of a child
11 is admissible in evidence in any future proceeding concerning the
12 matter about which the statement was given if:

13 (1) the statement is made in writing under a
14 circumstance described by Subsection (d) and:

15 (A) the statement shows that the child has at
16 some time before the making of the statement received from a
17 magistrate a warning that:

18 (i) the child may remain silent and not make
19 any statement at all and that any statement that the child makes may
20 be used in evidence against the child;

21 (ii) the child has the right to have an
22 attorney present to advise the child either prior to any
23 questioning or during the questioning;

24 (iii) if the child is unable to employ an
25 attorney, the child has the right to have an attorney appointed to
26 counsel with the child before or during any interviews with peace
27 officers or attorneys representing the state; and

1 (iv) the child has the right to terminate
2 the interview at any time;

3 (B) and:

4 (i) the statement must be signed in the
5 presence of a magistrate by the child with no law enforcement
6 officer or prosecuting attorney present, except that a magistrate
7 may require a bailiff or a law enforcement officer if a bailiff is
8 not available to be present if the magistrate determines that the
9 presence of the bailiff or law enforcement officer is necessary for
10 the personal safety of the magistrate or other court personnel,
11 provided that the bailiff or law enforcement officer may not carry a
12 weapon in the presence of the child; and

13 (ii) the magistrate must be fully convinced
14 that the child understands the nature and contents of the statement
15 and that the child is signing the same voluntarily, and if a
16 statement is taken, the magistrate must sign a written statement
17 verifying the foregoing requisites have been met;

18 (C) the child knowingly, intelligently, and
19 voluntarily waives these rights before and during the making of the
20 statement and signs the statement in the presence of a magistrate;
21 and

22 (D) the magistrate certifies that the magistrate
23 has examined the child independent of any law enforcement officer
24 or prosecuting attorney, except as required to ensure the personal
25 safety of the magistrate or other court personnel, and has
26 determined that the child understands the nature and contents of
27 the statement and has knowingly, intelligently, and voluntarily

1 waived these rights;

2 (2) the statement is made orally and the child makes a
3 statement of facts or circumstances that are found to be true and
4 tend to establish the child's guilt, such as the finding of secreted
5 or stolen property, or the instrument with which the child states
6 the offense was committed;

7 (3) the statement was res gestae of the delinquent
8 conduct or the conduct indicating a need for supervision or of the
9 arrest;

10 (4) the statement is made:

11 (A) in open court at the child's adjudication
12 hearing;

13 (B) before a grand jury considering a petition,
14 under Section 53.045, that the child engaged in delinquent conduct;
15 or

16 (C) at a preliminary hearing concerning the child
17 held in compliance with this code, other than at a detention hearing
18 under Section 54.01; or

19 (5) subject to Subsection (f), the statement is made
20 orally under a circumstance described by Subsection (d) and the
21 statement is recorded by an electronic recording device, including
22 a device that records images, and:

23 (A) before making the statement, the child is
24 given the warning described by Subdivision (1)(A) by a magistrate,
25 the warning is a part of the recording, and the child knowingly,
26 intelligently, and voluntarily waives each right stated in the
27 warning;

1 (B) the recording device is capable of making an
2 accurate recording, the operator of the device is competent to use
3 the device, the recording is accurate, and the recording has not
4 been altered;

5 (C) each voice on the recording is identified;
6 and

7 (D) not later than the 20th day before the date of
8 the proceeding, the attorney representing the child is given a
9 complete and accurate copy of each recording of the child made under
10 this subdivision.

11 (f) A magistrate who provides the warnings required by
12 Subsection (a)(5) for a videotaped statement may at the time the
13 warnings are provided request by speaking on the tape recording
14 that the officer return the child and the videotape to the
15 magistrate at the conclusion of the process of questioning. The
16 magistrate may then view the videotape with the child or have the
17 child view the videotape to enable the magistrate to determine
18 whether the child's statements were given voluntarily. If a
19 magistrate uses the procedure described by this subsection, a
20 child's statement is not admissible unless the magistrate
21 determines that the statement was given voluntarily.

22 SECTION 6. Section 51.17, Family Code, is amended by adding
23 Subsection (g) to read as follows:

24 (g) Articles 21.07, 26.07, 26.08, 26.09, and 26.10, Code of
25 Criminal Procedure, relating to the name of an adult defendant in a
26 criminal case, apply to a child in a proceeding held under this
27 title.

1 SECTION 7. Section 51.20, Family Code, is amended by adding
2 Subsections (c), (d), and (e) to read as follows:

3 (c) If, while a child is under deferred prosecution
4 supervision or court-ordered probation, a qualified professional
5 determines that the child has a mental illness or mental
6 retardation and the child is not currently receiving treatment
7 services for the mental illness or mental retardation, the
8 probation department shall refer the child to the local mental
9 health or mental retardation authority for evaluation and services.

10 (d) A probation department shall report each referral of a
11 child to a local mental health or mental retardation authority made
12 under Subsection (b) or (c) to the Texas Juvenile Probation
13 Commission in a format specified by the commission.

14 (e) At any stage of the proceedings under this title, the
15 juvenile court may order a child who has been referred to the
16 juvenile court or who is alleged by the petition or found to have
17 engaged in delinquent conduct or conduct indicating a need for
18 supervision to be subjected to a physical examination by a licensed
19 physician.

20 SECTION 8. Chapter 51, Family Code, is amended by adding
21 Section 51.21 to read as follows:

22 Sec. 51.21. MENTAL HEALTH SCREENING AND REFERRAL. (a) A
23 probation department that administers the mental health screening
24 instrument or clinical assessment required by Section 141.042(e),
25 Human Resources Code, shall refer the child to the local mental
26 health authority for assessment and evaluation if:

27 (1) the child's scores on the screening instrument or

1 clinical assessment indicate a need for further mental health
2 assessment and evaluation; and

3 (2) the department and child do not have access to an
4 internal, contract, or private mental health professional.

5 (b) A probation department shall report each referral of a
6 child to a local mental health authority made under Subsection (a)
7 to the Texas Juvenile Probation Commission in a format specified by
8 the commission.

9 SECTION 9. Section 52.01(a), Family Code, is amended to
10 read as follows:

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

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

14 (2) pursuant to the laws of arrest;

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

19 (A) conduct that violates a penal law of this
20 state or a penal ordinance of any political subdivision of this
21 state;

22 (B) delinquent conduct or conduct indicating a
23 need for supervision; or

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

26 (4) by a probation officer if there is probable cause
27 to believe that the child has violated a condition of probation

1 imposed by the juvenile court; ~~[or]~~

2 (5) pursuant to a directive to apprehend issued as
3 provided by Section 52.015; or

4 (6) by a probation officer if there is probable cause
5 to believe that the child has violated a condition of release
6 imposed by the juvenile court or referee under Section 54.01.

7 SECTION 10. Chapter 52, Family Code, is amended by adding
8 Section 52.0151 to read as follows:

9 Sec. 52.0151. BENCH WARRANT; ATTACHMENT OF WITNESS IN
10 CUSTODY. (a) If a witness is in a placement in the custody of the
11 Texas Youth Commission, a juvenile secure detention facility, or a
12 juvenile secure correctional facility, the court may issue a bench
13 warrant or direct that an attachment issue to require a peace
14 officer or probation officer to secure custody of the person at the
15 placement and produce the person in court. Once the person is no
16 longer needed as a witness, the court shall order the peace officer
17 or probation officer to return the person to the placement from
18 which the person was released.

19 (b) The court may order that the person who is the witness be
20 detained in a certified juvenile detention facility if the person
21 is younger than 17 years of age. If the person is at least 17 years
22 of age, the court may order that the person be detained without bond
23 in an appropriate county facility for the detention of adults
24 accused of criminal offenses.

25 SECTION 11. Section 53.03, Family Code, is amended by
26 adding Subsection (k) to read as follows:

27 (k) In deciding whether to grant deferred prosecution under

1 Subsection (i), the court may consider professional
2 representations by the parties concerning the nature of the case
3 and the background of the respondent. The representations made
4 under this subsection by the child or counsel for the child are not
5 admissible against the child at trial should the court reject the
6 application for deferred prosecution.

7 SECTION 12. Section 54.01, Family Code, is amended by
8 adding Subsection (q-1) to read as follows:

9 (q-1) The juvenile board may impose an earlier deadline than
10 the specified deadlines for filing petitions under Subsection (q)
11 and may specify the consequences of not filing a petition by the
12 deadline the juvenile board has established. The juvenile board
13 may authorize but not require the juvenile court to release a
14 respondent from detention for failure of the prosecutor to file a
15 petition by the juvenile board's deadline.

16 SECTION 13. Section 54.012(a), Family Code, is amended to
17 read as follows:

18 (a) A detention hearing under Section 54.01[~~, other than the~~
19 ~~first detention hearing,~~] may be held using interactive video
20 equipment if:

21 (1) the child and the child's attorney agree to the
22 video hearing; and

23 (2) the parties to the proceeding have the opportunity
24 to cross-examine witnesses.

25 SECTION 14. Chapter 54, Family Code, is amended by adding
26 Section 54.0408 to read as follows:

27 Sec. 54.0408. REFERRAL OF CHILD EXITING PROBATION TO MENTAL

1 HEALTH OR MENTAL RETARDATION AUTHORITY. A juvenile probation
2 officer shall refer a child who has been determined to have a mental
3 illness or mental retardation to an appropriate local mental health
4 or mental retardation authority at least three months before the
5 child is to complete the child's juvenile probation term unless the
6 child is currently receiving treatment from the local mental health
7 or mental retardation authority of the county in which the child
8 resides.

9 SECTION 15. Section 54.05, Family Code, is amended by
10 adding Subsection (m) to read as follows:

11 (m) If the court places the child on probation outside the
12 child's home or commits the child to the Texas Youth Commission, the
13 court:

14 (1) shall include in the court's order a determination
15 that:

16 (A) it is in the child's best interests to be
17 placed outside the child's home;

18 (B) reasonable efforts were made to prevent or
19 eliminate the need for the child's removal from the child's home and
20 to make it possible for the child to return home; and

21 (C) the child, in the child's home, cannot be
22 provided the quality of care and level of support and supervision
23 that the child needs to meet the conditions of probation; and

24 (2) may approve an administrative body to conduct a
25 permanency hearing pursuant to 42 U.S.C. Section 675 if required
26 during the placement or commitment of the child.

27 SECTION 16. Section 58.003, Family Code, is amended by

1 amending Subsections (a) and (o), and adding Subsections (g-1) and
2 (p) to read as follows:

3 (a) Except as provided by Subsections (b) and (c), on the
4 application of a person who has been found to have engaged in
5 delinquent conduct or conduct indicating a need for supervision, or
6 a person taken into custody to determine whether the person engaged
7 in delinquent conduct or conduct indicating a need for supervision,
8 on the juvenile court's own motion [~~or on receipt of a certification~~
9 ~~from the Department of Public Safety of the State of Texas that the~~
10 ~~records of a person are eligible for sealing under this section,~~]
11 the court shall order the sealing of the records in the case if the
12 court finds that:

13 (1) two years have elapsed since final discharge of
14 the person or since the last official action in the person's case if
15 there was no adjudication; and

16 (2) since the time specified in Subdivision (1), the
17 person has not been convicted of a felony or a misdemeanor involving
18 moral turpitude or found to have engaged in delinquent conduct or
19 conduct indicating a need for supervision and no proceeding is
20 pending seeking conviction or adjudication.

21 (g-1) Any records collected or maintained by the Texas
22 Juvenile Probation Commission, including statistical data
23 submitted under Section 141.044, Human Resources Code, are not
24 subject to a sealing order issued under this section.

25 (o) An agency or official named in the order that cannot
26 seal the records because the information required in the order
27 under Subsection (p) [there] is incorrect or insufficient

1 ~~[information in the order]~~ shall notify the court issuing the order
2 before the 61st day after the date the agency or official receives
3 the order. The court shall notify the person who made the
4 application or who is the subject of the records named in the
5 motion, or the attorney for that person, before the 61st day after
6 the date the court receives the notice that the agency or official
7 cannot seal the records because there is incorrect or insufficient
8 information in the order.

9 (p) A person who is eligible to seal records may file an
10 application for the sealing of records in a juvenile court of the
11 county in which the proceedings occurred. The application and
12 sealing order entered on the application must include the following
13 information or an explanation for why one or more of the following
14 is not included:

15 (1) the applicant's:

16 (A) full name;

17 (B) sex;

18 (C) race or ethnicity;

19 (D) date of birth;

20 (E) driver's license or identification card
21 number; and

22 (F) social security number;

23 (2) the offense charged against the applicant or for
24 which the applicant was referred to the juvenile justice system;

25 (3) the date on which and the county where the offense
26 was alleged to have been committed; and

27 (4) if a petition was filed in the juvenile court, the

1 cause number assigned to the petition and the court and county in
2 which the petition was filed.

3 SECTION 17. Subchapter A, Chapter 58, Family Code, is
4 amended by adding Section 58.0072 to read as follows:

5 Sec. 58.0072. DISSEMINATION OF JUVENILE JUSTICE
6 INFORMATION. (a) Except as provided by this section, juvenile
7 justice information collected and maintained by the Texas Juvenile
8 Probation Commission for statistical and research purposes is
9 confidential information for the use of the commission and may not
10 be disseminated by the commission.

11 (b) Juvenile justice information consists of information of
12 the type described by Section 58.104, including statistical data in
13 any form or medium collected, maintained, or submitted to the Texas
14 Juvenile Probation Commission under Section 141.044, Human
15 Resources Code.

16 (c) The Texas Juvenile Probation Commission may grant the
17 following entities access to juvenile justice information for
18 research and statistical purposes or for any other purpose approved
19 by the commission:

20 (1) criminal justice agencies as defined by Section
21 411.082, Government Code;

22 (2) the Texas Education Agency;

23 (3) any agency under the authority of the Health and
24 Human Services Commission; or

25 (4) a public or private university.

26 (d) The Texas Juvenile Probation Commission may grant the
27 following entities access to juvenile justice information only for

1 a purpose approved by the commission:

2 (1) a person working on a research or statistical
3 project that:

4 (A) is funded in whole or in part by state funds;
5 or

6 (B) meets the requirements of 28 C.F.R. Part 22
7 and is approved by the commission; or

8 (2) a governmental entity that has a specific
9 agreement with the commission, if the agreement:

10 (A) specifically authorizes access to
11 information;

12 (B) limits the use of information to the purposes
13 for which the information is given;

14 (C) ensures the security and confidentiality of
15 the information; and

16 (D) provides for sanctions if a requirement
17 imposed under Paragraph (A), (B), or (C) is violated.

18 (e) The Texas Juvenile Probation Commission shall grant
19 access to juvenile justice information for legislative purposes
20 under Section 552.008, Government Code.

21 (f) The Texas Juvenile Probation Commission may not release
22 juvenile justice information in identifiable form, except for
23 information released under Subsection (c)(1), (2), or (3) or under
24 the terms of an agreement entered into under Subsection (d)(2). For
25 purposes of this subsection, identifiable information means
26 information that contains a juvenile offender's name or other
27 personal identifiers or that can, by virtue of sample size or other

1 factors, be reasonably interpreted as referring to a particular
2 juvenile offender.

3 (g) The Texas Juvenile Probation Commission is not required
4 to release or disclose juvenile justice information to any person
5 not identified under this section.

6 SECTION 18. Section 58.104(f), Family Code, is amended to
7 read as follows:

8 (f) Records maintained by the department in the depository
9 are subject to being sealed under Section 58.003. [~~The department~~
10 ~~shall send to the appropriate juvenile court its certification of~~
11 ~~records that the department determines, according to the~~
12 ~~department's records, are eligible for sealing under Section~~
13 ~~58.003(a).~~]

14 SECTION 19. Section 58.203, Family Code, is amended to read
15 as follows:

16 Sec. 58.203. CERTIFICATION. (a) The department shall
17 certify to [~~the juvenile court or~~] the juvenile probation
18 department to which a referral was made that resulted in
19 information being submitted to the juvenile justice information
20 system that the records relating to a person's juvenile case are
21 subject to automatic restriction of access if:

22 (1) the person is at least 21 years of age;

23 (2) the juvenile case did not include violent or
24 habitual felony conduct resulting in proceedings in the juvenile
25 court under Section 53.045;

26 (3) the juvenile case was not certified for trial in
27 criminal court under Section 54.02; and

1 (4) the department has not received a report in its
2 criminal history system that the person was granted deferred
3 adjudication for or convicted of a felony or a misdemeanor
4 punishable by confinement in jail for an offense committed after
5 the person became 17 years of age.

6 (b) If the department's records relate to a juvenile court
7 with multicounty jurisdiction, the department shall issue the
8 certification described by Subsection (a) to each juvenile
9 probation department that serves the court. On receipt of the
10 certification, each juvenile probation department shall determine
11 whether it received the referral and, if it received the referral,
12 take the restrictive action notification required by law.

13 (c) The department may issue the certification described by
14 Subsection (a) by electronic means, including by electronic mail.

15 SECTION 20. Section 58.207(a), Family Code, is amended to
16 read as follows:

17 (a) On certification of records in a case under Section
18 58.203, the juvenile court shall order:

19 (1) that the following records relating to the case
20 may be accessed only as provided by Section 58.204(b):

21 (A) if the respondent was committed to the Texas
22 Youth Commission, records maintained by the commission;

23 (B) records maintained by the juvenile probation
24 department [~~and by any agency that provided care or custody of the~~
25 ~~child under order or arrangement of the juvenile court~~];

26 (C) records maintained by the clerk of the court;

27 (D) records maintained by the prosecutor's

1 office; and

2 (E) records maintained by a law enforcement
3 agency; and

4 (2) the juvenile probation department to make a
5 reasonable effort to notify the person who is the subject of records
6 for which access has been restricted of the action restricting
7 access and the legal significance of the action for the person, but
8 only if the person has requested the notification in writing and has
9 provided the juvenile probation department with a current address.

10 SECTION 21. Section 58.208, Family Code, is amended to read
11 as follows:

12 Sec. 58.208. INFORMATION TO CHILD ON DISCHARGE. On the
13 final discharge of a child from the juvenile system or on the last
14 official action in the case, if there is no adjudication, the
15 appropriate juvenile justice official shall provide to the child:

16 (1) a written explanation of how automatic restricted
17 access under this subchapter works; ~~and~~

18 (2) a copy of this subchapter; and

19 (3) a statement that if the child wishes to receive
20 notification of an action restricting access to the child's records
21 under Section 58.207(a), the child must before the child's 21st
22 birthday provide the juvenile probation department with a current
23 address where the child can receive notification.

24 SECTION 22. Subchapter C, Chapter 58, Family Code, is
25 amended by adding Section 58.211 to read as follows:

26 Sec. 58.211. RESCINDING RESTRICTED ACCESS. (a) If the
27 department has notified a juvenile probation department that a

1 record has been placed on restricted access and the department
2 later receives information in the department's criminal history
3 system that the subject of the records has been convicted of or
4 placed on deferred adjudication for a felony or a misdemeanor
5 punishable by confinement in jail for an offense committed after
6 the person reached the age of 17, the person's juvenile records are
7 no longer subject to restricted access. The department shall
8 notify the appropriate local juvenile probation departments in the
9 manner described by Section 58.203 that the person's records are no
10 longer subject to restricted access.

11 (b) On receipt of the notification described by Subsection
12 (a), the juvenile probation department shall notify the agencies
13 that maintain the person's juvenile records under Section 58.207(b)
14 that the person's records are no longer subject to restricted
15 access.

16 SECTION 23. Section 58.301(5), Family Code, is amended to
17 read as follows:

18 (5) "Partner agency" means a governmental service
19 provider or governmental placement facility that is authorized
20 ~~[required]~~ by this subchapter to be a member of a local juvenile
21 justice information system or that has applied to be a member of a
22 local juvenile justice information system and has been approved by
23 the county juvenile board or regional juvenile board committee as a
24 member of the system.

25 SECTION 24. Sections 58.303(b) and (c), Family Code, are
26 amended to read as follows:

27 (b) A local juvenile justice information system may ~~[must]~~

1 contain the following components:

2 (1) case management resources for juvenile courts,
3 prosecuting attorneys, and county juvenile probation departments;

4 (2) reporting systems to fulfill statutory
5 requirements for reporting in the juvenile justice system;

6 (3) service provider directories and indexes of
7 agencies providing services to children; ~~and~~

8 (4) victim-witness notices required under Chapter
9 57; ~~and~~

10 ~~[(c) A local juvenile justice information system may
11 contain the following components:]~~

12 (5) ~~[(1)]~~ electronic filing of complaints or
13 petitions;

14 (6) ~~[(2)]~~ electronic offense and intake processing;

15 (7) ~~[(3)]~~ case docket management and calendaring;

16 (8) ~~[(4)]~~ communications by email or other electronic
17 communications between partner agencies;

18 (9) ~~[(5)]~~ reporting of charges filed, adjudications
19 and dispositions of juveniles by municipal and justice courts and
20 the juvenile court, and transfers of cases to the juvenile court as
21 authorized or required by Section 51.08;

22 (10) ~~[(6)]~~ reporting to schools under Article 15.27,
23 Code of Criminal Procedure, by law enforcement agencies,
24 prosecuting attorneys, and juvenile courts;

25 (11) ~~[(7)]~~ records of adjudications and dispositions,
26 including probation conditions ordered by the juvenile court; and

27 (12) ~~[(8)]~~ warrant management and confirmation

1 capabilities.

2 SECTION 25. Section 58.305, Family Code, is amended to read
3 as follows:

4 Sec. 58.305. PARTNER AGENCIES. (a) A local juvenile
5 justice information system shall to the extent possible [~~for a~~
6 ~~single county shall~~] include the following partner agencies within
7 that county:

- 8 (1) the juvenile court;
- 9 (2) justice of the peace and municipal courts;
- 10 (3) the county juvenile probation department;
- 11 (4) the prosecuting attorneys who prosecute juvenile
12 cases in juvenile court, municipal court, or justice court;
- 13 (5) law enforcement agencies;
- 14 (6) each public school district in the county;
- 15 (7) governmental service providers approved by the
16 county juvenile board; and
- 17 (8) governmental placement facilities approved by the
18 county juvenile board.

19 (b) A local juvenile justice information system for a
20 multicounty region shall to the extent possible include the partner
21 agencies listed in Subsections (a)(1)-(6) for each county in the
22 region and the following partner agencies from within the
23 multicounty region that have applied for membership in the system
24 and have been approved by the regional juvenile board committee:

- 25 (1) governmental service providers; and
- 26 (2) governmental placement facilities.

27 SECTION 26. Subchapter A, Chapter 61, Family Code, is

1 amended by adding Section 61.0031 to read as follows:

2 Sec. 61.0031. TRANSFER OF ORDER AFFECTING PARENT OR OTHER
3 ELIGIBLE PERSON TO COUNTY OF CHILD'S RESIDENCE. (a) This section
4 applies only when:

5 (1) a juvenile court has placed a parent or other
6 eligible person under a court order under this chapter;

7 (2) the child who was the subject of the juvenile court
8 proceedings in which the order was entered:

9 (A) resides in a county other than the county in
10 which the order was entered;

11 (B) has moved to a county other than the county in
12 which the order was entered and intends to remain in that county for
13 at least 60 days; or

14 (C) intends to move to a county other than the
15 county in which the order was entered and to remain in that county
16 for at least 60 days; and

17 (3) the parent or other eligible person resides or
18 will reside in the same county as the county in which the child now
19 resides or to which the child has moved or intends to move.

20 (b) A juvenile court that enters an order described by
21 Subsection (a)(1) may transfer the order to the juvenile court of
22 the county in which the parent now resides or to which the parent
23 has moved or intends to move.

24 (c) The juvenile court shall provide the parent or other
25 eligible person written notice of the transfer. The notification
26 must identify the court to which the order has been transferred.

27 (d) The juvenile court to which the order has been

1 transferred shall require the parent or other eligible person to
2 appear before the court to notify the person of the existence and
3 terms of the order. Failure to do so renders the order
4 unenforceable.

5 (e) If the notice required by Subsection (d) is provided,
6 the juvenile court to which the order has been transferred may
7 modify, extend, or enforce the order as though the court originally
8 entered the order.

9 SECTION 27. Section 261.101(b), Family Code, is amended to
10 read as follows:

11 (b) If a professional has cause to believe that a child has
12 been abused or neglected or may be abused or neglected, or that a
13 child is a victim of an offense under Section 21.11, Penal Code, and
14 the professional has cause to believe that the child has been abused
15 as defined by Section 261.001 or 261.401, the professional shall
16 make a report not later than the 48th hour after the hour the
17 professional first suspects that the child has been or may be abused
18 or neglected or is a victim of an offense under Section 21.11, Penal
19 Code. A professional may not delegate to or rely on another person
20 to make the report. In this subsection, "professional" means an
21 individual who is licensed or certified by the state or who is an
22 employee of a facility licensed, certified, or operated by the
23 state and who, in the normal course of official duties or duties for
24 which a license or certification is required, has direct contact
25 with children. The term includes teachers, nurses, doctors,
26 day-care employees, employees of a clinic or health care facility
27 that provides reproductive services, juvenile probation officers,

1 and juvenile detention or correctional officers.

2 SECTION 28. Section 261.405, Family Code, is amended by
3 adding Subsection (e) to read as follows:

4 (e) As soon as practicable after a child is taken into
5 custody or placed in a juvenile justice facility or juvenile
6 justice program, the facility or program shall provide the child's
7 parents with:

8 (1) information regarding the reporting of suspected
9 abuse, neglect, or exploitation of a child in a juvenile justice
10 facility or juvenile justice program to the Texas Juvenile
11 Probation Commission; and

12 (2) the commission's toll-free number for this
13 reporting.

14 SECTION 29. Section 106.041(f), Alcoholic Beverage Code, is
15 amended to read as follows:

16 (f) A minor who commits an offense under this section and
17 who has been previously convicted twice or more of offenses under
18 this section is not eligible for deferred disposition or deferred
19 adjudication.

20 SECTION 30. Sections 106.071(f) and (i), Alcoholic Beverage
21 Code, are amended to read as follows:

22 (f) In this section [~~For the purpose of determining whether~~
23 ~~a minor has been previously convicted of an offense to which this~~
24 ~~section applies~~]:

25 (1) a prior [~~an~~] adjudication under Title 3, Family
26 Code, that the minor engaged in conduct described by this section is
27 considered a conviction [~~under this section~~]; and

1 (2) a prior [~~an~~] order of deferred disposition for an
2 offense alleged under this section is considered a conviction [~~of~~
3 ~~an offense under this section~~].

4 (i) A defendant who is not a child and who has been
5 previously convicted at least twice of an offense to which this
6 section applies is not eligible to receive a deferred [~~deferral of~~
7 ~~final~~] disposition or deferred adjudication [~~of a subsequent~~
8 ~~offense~~].

9 SECTION 31. Article 15.27, Code of Criminal Procedure, is
10 amended by adding Subsection (i) to read as follows:

11 (i) A person may substitute electronic notification for
12 oral notification where oral notification is required by this
13 article. If electronic notification is substituted for oral
14 notification, any written notification required by this article is
15 not required.

16 SECTION 32. Article 24.011, Code of Criminal Procedure, is
17 amended by adding Subsections (c), (d), and (e) to read as follows:

18 (c) If the witness is in a placement in the custody of the
19 Texas Youth Commission, a juvenile secure detention facility, or a
20 juvenile secure correctional facility, the court may issue a bench
21 warrant or direct that an attachment issue to require a peace
22 officer or probation officer to secure custody of the person at the
23 placement and produce the person in court. When the person is no
24 longer needed as a witness, the court shall order the peace officer
25 or probation officer to return the person to the placement from
26 which the person was released.

27 (d) The court may order that the person who is the witness be

1 detained in a certified juvenile detention facility if the person
2 is younger than 17 years of age. If the person is at least 17 years
3 of age, the court may order that the person be detained without bond
4 in an appropriate county facility for the detention of adults
5 accused of criminal offenses.

6 (e) In this article, "secure detention facility" and
7 "secure correctional facility" have the meanings assigned by
8 Section 51.02, Family Code.

9 SECTION 33. Article 45.0215, Code of Criminal Procedure, is
10 amended by adding Subsection (d) to read as follows:

11 (d) A justice or municipal court shall endorse on the
12 summons issued to a parent an order to appear personally at a
13 hearing with the child. The summons must include a warning that the
14 failure of the parent to appear may result in arrest and is a Class C
15 misdemeanor.

16 SECTION 34. Article 45.056, Code of Criminal Procedure, is
17 amended by amending Subsection (a) and adding Subsections (c), (d),
18 and (e) to read as follows:

19 (a) On approval of the commissioners court, city council,
20 school district board of trustees, juvenile board, or other
21 appropriate authority, a county court, ~~a~~ justice court, municipal
22 court, school district, juvenile probation department, or other
23 appropriate governmental entity may:

24 (1) employ a case manager to provide services in cases
25 involving juvenile offenders before a court consistent with the
26 court's statutory powers; or

27 (2) agree in accordance with Chapter 791, Government

1 Code, to jointly employ a case manager.

2 (c) A county or justice court on approval of the
3 commissioners court or a municipal court on approval of the city
4 council may employ one or more full-time juvenile case managers to
5 assist the court in administering the court's juvenile docket and
6 in supervising its court orders in juvenile cases.

7 (d) Pursuant to Article 102.0174, the court may pay the
8 salary and benefits of the juvenile case manager from the juvenile
9 case manager fund.

10 (e) A juvenile case manager employed under Subsection (c)
11 shall work primarily on cases brought under Sections 25.093 and
12 25.094, Education Code.

13 SECTION 35. Subchapter A, Chapter 102, Code of Criminal
14 Procedure, is amended by adding Article 102.0174 to read as
15 follows:

16 Art. 102.0174. COURT COSTS; JUVENILE CASE MANAGER FUND.

17 (a) In this article, "fund" means a juvenile case manager fund.

18 (b) The governing body of a municipality by ordinance may
19 create a juvenile case manager fund and may require a defendant
20 convicted of a fine-only misdemeanor offense in a municipal court
21 to pay a juvenile case manager fee not to exceed \$5 as a cost of
22 court.

23 (c) The commissioners court of a county by order may create
24 a juvenile case manager fund and may require a defendant convicted
25 of a fine-only misdemeanor offense in a justice court, county
26 court, or county court at law to pay a juvenile case manager fee not
27 to exceed \$5 as a cost of court.

1 (d) The ordinance or order must authorize the judge or
2 justice to waive the fee required by Subsection (b) or (c) in a case
3 of financial hardship.

4 (e) In this article, a defendant is considered convicted if:

5 (1) a sentence is imposed on the defendant;

6 (2) the defendant receives deferred disposition,
7 including deferred proceedings under Article 45.052 or 45.053; or

8 (3) the defendant receives deferred adjudication in
9 county court.

10 (f) The clerks of the respective courts shall collect the
11 costs and pay them to the county or municipal treasurer, as
12 applicable, or to any other official who discharges the duties
13 commonly delegated to the county or municipal treasurer for deposit
14 in the fund.

15 (g) A fund created under this section may be used only to
16 finance the salary and benefits of a juvenile case manager employed
17 under Article 45.056.

18 (h) A fund must be administered by or under the direction of
19 the commissioners court or under the direction of the governing
20 body of the municipality.

21 SECTION 36. Section 25.094(f), Education Code, is amended
22 to read as follows:

23 (f) It is an affirmative defense to prosecution under this
24 section that one or more of the absences required to be proven under
25 Subsection (a) were ~~[was]~~ excused by a school official or ~~[should be~~
26 ~~excused]~~ by the court or that one or more of the absences were
27 involuntary, but only if there is an insufficient number of

1 unexcused or voluntary absences remaining to constitute an offense
2 under this section. The burden is on the defendant to show by a
3 preponderance of the evidence that the absence has been [~~or should~~
4 ~~be~~] excused or that the absence was involuntary. A decision by the
5 court to excuse an absence for purposes of this section does not
6 affect the ability of the school district to determine whether to
7 excuse the absence for another purpose.

8 SECTION 37. Section 25.0951, Education Code, is amended by
9 amending Subsection (a) and adding Subsection (d) to read as
10 follows:

11 (a) If a student fails to attend school without excuse on 10
12 or more days or parts of days within a six-month period in the same
13 school year, a school district shall within two school days of the
14 student's last absence:

15 (1) file a complaint against the student or the
16 student's parent or both in a county, justice, or municipal court
17 for an offense under Section 25.093 or 25.094, as appropriate, or
18 refer the student to a juvenile court in a county with a population
19 of less than 100,000 for conduct that violates Section 25.094; or

20 (2) refer the student to a juvenile court for conduct
21 indicating a need for supervision under Section 51.03(b)(2), Family
22 Code.

23 (d) A court shall dismiss a complaint or referral made by a
24 school district under this section that is not made in compliance
25 with this section.

26 SECTION 38. Sections 102.061, 102.081, 102.101, and
27 102.121, Government Code, are amended to read as follows:

1 Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN
2 STATUTORY COUNTY COURT. The clerk of a statutory county court shall
3 collect fees and costs on conviction of a defendant as follows:

4 (1) a jury fee (Art. 102.004, Code of Criminal
5 Procedure) . . . \$20;

6 (2) a fee for services of the clerk of the court (Art.
7 102.005, Code of Criminal Procedure) . . . \$40;

8 (3) a records management and preservation services fee
9 (Art. 102.005, Code of Criminal Procedure) . . . \$20;

10 (4) a security fee on a misdemeanor offense (Art.
11 102.017, Code of Criminal Procedure) . . . \$3;

12 (5) a graffiti eradication fee (Art. 102.0171, Code of
13 Criminal Procedure) . . . \$5; ~~and~~

14 (6) a court cost on conviction in Comal County (Sec.
15 152.0522, Human Resources Code) . . . \$4; and

16 (7) a juvenile case manager fee (Art. 102.0174, Code
17 of Criminal Procedure) . . . \$5.

18 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN
19 COUNTY COURT. The clerk of a county court shall collect fees and
20 costs on conviction of a defendant as follows:

21 (1) a jury fee (Art. 102.004, Code of Criminal
22 Procedure) . . . \$20;

23 (2) a fee for clerk of the court services (Art.
24 102.005, Code of Criminal Procedure) . . . \$40;

25 (3) a records management and preservation services fee
26 (Art. 102.005, Code of Criminal Procedure) . . . \$20;

27 (4) a security fee on a misdemeanor offense (Art.

1 102.017, Code of Criminal Procedure) . . . \$3; [~~and~~]

2 (5) a graffiti eradication fee (Art. 102.0171, Code of
3 Criminal Procedure) . . . \$5; and

4 (6) a juvenile case manager fee (Art. 102.0174, Code
5 of Criminal Procedure) . . . \$5.

6 Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN
7 JUSTICE COURT. A clerk of a justice court shall collect fees and
8 costs on conviction of a defendant as follows:

9 (1) a jury fee (Art. 102.004, Code of Criminal
10 Procedure) . . . \$3;

11 (2) a fee for withdrawing request for jury less than 24
12 hours before time of trial (Art. 102.004, Code of Criminal
13 Procedure) . . . \$3;

14 (3) a jury fee for two or more defendants tried jointly
15 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

16 (4) a security fee on a misdemeanor offense (Art.
17 102.017, Code of Criminal Procedure) . . . \$3;

18 (5) a fee for technology fund on a misdemeanor offense
19 (Art. 102.0173, Code of Criminal Procedure) . . . not to exceed \$4;

20 [~~and~~]

21 (6) a court cost on conviction in Comal County (Sec.
22 152.0522, Human Resources Code) . . . \$1.50; and

23 (7) a juvenile case manager fee (Art. 102.0174, Code
24 of Criminal Procedure) . . . \$5.

25 Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN
26 MUNICIPAL COURT. The clerk of a municipal court shall collect fees
27 and costs on conviction of a defendant as follows:

1 (1) a jury fee (Art. 102.004, Code of Criminal
2 Procedure) . . . \$3;

3 (2) a fee for withdrawing request for jury less than 24
4 hours before time of trial (Art. 102.004, Code of Criminal
5 Procedure) . . . \$3;

6 (3) a jury fee for two or more defendants tried jointly
7 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

8 (4) a security fee on a misdemeanor offense (Art.
9 102.017, Code of Criminal Procedure) . . . \$3; ~~and~~

10 (5) a fee for technology fund on a misdemeanor offense
11 (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4;
12 and

13 (6) a juvenile case manager fee (Art. 102.0174, Code
14 of Criminal Procedure) . . . \$5.

15 SECTION 39. Section 61.0432, Human Resources Code, is
16 amended to read as follows:

17 Sec. 61.0432. STUDENT TRUST FUND; CONTRABAND MONEY. (a)
18 Except as provided by Subsection (b), money ~~[Money]~~ belonging to a
19 child committed to the commission in excess of the amount the
20 commission allows in a child's possession shall be deposited in a
21 trust fund established by the facility operated by the commission
22 to which the child is assigned. The commission shall adopt rules
23 governing the administration of the trust fund.

24 (b) Money possessed by a child committed to the commission
25 that is determined to be contraband money as defined by commission
26 rule shall be deposited in the student benefit fund described by
27 Section 61.0431. The commission shall notify each child committed

1 to the commission that the possession of contraband money is
2 subject to confiscation by the commission under this subsection.

3 SECTION 40. Section 61.079(c), Human Resources Code, is
4 amended to read as follows:

5 (c) If a child is released under supervision, a juvenile
6 court adjudication that the child engaged in delinquent conduct
7 constituting a felony offense, a criminal court conviction of the
8 child for a felony offense, or a determination under Section
9 61.075(4) revoking the child's release under supervision is
10 required before referral of the child to the juvenile court under
11 Subsection (a).

12 SECTION 41. Section 61.081, Human Resources Code, is
13 amended by adding Subsection (i) to read as follows:

14 (i) Notwithstanding Subsection (f), if a child is committed
15 to the commission under a determinate sentence under Section
16 54.04(d)(3), Section 54.04(m), or Section 54.05(f), Family Code,
17 the commission may release the child under supervision without
18 approval of the juvenile court that entered the order of commitment
19 if not more than nine months remain before the child's discharge
20 under Section 61.084(b).

21 SECTION 42. Sections 141.042(a) and (e), Human Resources
22 Code, are amended to read as follows:

23 (a) The commission shall adopt reasonable rules that
24 provide:

25 (1) minimum standards for personnel, staffing, case
26 loads, programs, facilities, record keeping, equipment, and other
27 aspects of the operation of a juvenile board that are necessary to

1 provide adequate and effective probation services;

2 (2) a code of ethics for probation and~~[7]~~ detention~~[7]~~
3 ~~and corrections~~] officers and for the enforcement of that code;

4 (3) appropriate educational, preservice and
5 in-service training, and certification standards for probation and
6 ~~[7]~~ detention~~[7]~~~~and corrections~~] officers or court-supervised
7 community-based program personnel;

8 (4) minimum standards for public and private juvenile
9 pre-adjudication secure detention facilities, public juvenile
10 post-adjudication secure correctional facilities that are operated
11 under the authority of a juvenile board, and private juvenile
12 post-adjudication secure correctional facilities, except those
13 facilities exempt from certification by Section 42.052(g); and

14 (5) minimum standards for juvenile justice
15 alternative education programs created under Section 37.011,
16 Education Code, in collaboration and conjunction with the Texas
17 Education Agency, or its designee.

18 (e) Juvenile probation departments shall use the mental
19 health screening instrument selected by the commission for the
20 initial screening of children under the jurisdiction of probation
21 departments who have been formally referred to the department. The
22 commission shall give priority to training in the use of this
23 instrument in any preservice or in-service training that the
24 commission provides for probation officers. A clinical assessment
25 by a licensed mental health professional may be substituted for the
26 mental health screening instrument selected by the commission if
27 the clinical assessment is performed in the time prescribed by the

1 commission. Juvenile probation departments shall report data from
2 the use of the screening instrument or the clinical assessment to
3 the commission in a format and in the time prescribed by the
4 commission.

5 SECTION 43. Subchapter D, Chapter 141, Human Resources
6 Code, is amended by adding Section 141.0611 to read as follows:

7 Sec. 141.0611. MINIMUM STANDARDS FOR DETENTION OFFICERS.
8 To be eligible for appointment as a detention officer, a person who
9 was not employed as a detention officer before September 1, 2005,
10 must:

- 11 (1) be of good moral character;
12 (2) be at least 21 years of age;
13 (3) have acquired a high school diploma or its
14 equivalent;
15 (4) have satisfactorily completed the course of
16 preservice training or instruction required by the commission;
17 (5) have passed the tests or examinations required by
18 the commission; and
19 (6) possess the level of certification required by the
20 commission.

21 SECTION 44. Section 141.065, Human Resources Code, is
22 amended to read as follows:

23 Sec. 141.065. PERSONS WHO MAY NOT ACT AS CHIEF
24 ADMINISTRATIVE, JUVENILE PROBATION, OR DETENTION~~[, OR CORRECTIONS]~~
25 OFFICERS. (a) A peace officer, prosecuting attorney, or other
26 person who is employed by or who reports directly to a law
27 enforcement or prosecution official may not act as a chief

1 administrative, juvenile probation, or detention~~[, or~~
2 ~~corrections]~~ officer or be made responsible for supervising a
3 juvenile on probation.

4 (b) For purposes of this section, a chief administrative
5 officer, regardless of title, is the person who is:

6 (1) hired or appointed by or under contract with the
7 juvenile board; and

8 (2) responsible for the oversight of the operations of
9 the juvenile probation department or any juvenile justice program
10 operated by or under the authority of the juvenile board.

11 SECTION 45. Section 8.07(a), Penal Code, is amended to read
12 as follows:

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

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

19 (2) a violation of a penal statute cognizable under
20 Chapter 729, Transportation Code, except for conduct for which the
21 person convicted may be sentenced to imprisonment or confinement in
22 jail~~;~~

23 ~~[(A) an offense under Section 521.457,~~
24 ~~Transportation Code,~~

25 ~~[(B) an offense under Section 550.021,~~
26 ~~Transportation Code,~~

27 ~~[(C) an offense punishable as a Class B~~

1 ~~misdemeanor under Section 550.022, Transportation Code,~~

2 ~~[(D) an offense punishable as a Class B~~
3 ~~misdemeanor under Section 550.024, Transportation Code, or~~

4 ~~[(E) an offense punishable as a Class B~~
5 ~~misdemeanor under Section 550.025, Transportation Code];~~

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

8 (4) a misdemeanor punishable by fine only other than
9 public intoxication;

10 (5) a violation of a penal ordinance of a political
11 subdivision;

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

18 (7) a capital felony or an offense under Section 19.02
19 for which the person is transferred to the court under Section
20 54.02(j)(2)(A), Family Code.

21 SECTION 46. Section 22.04, Penal Code, is amended by
22 amending Subsection (k) and adding Subsection (l) to read as
23 follows:

24 (k) ~~[(1)]~~ It is a defense to prosecution under this section
25 that the act or omission consisted of:

26 (1) ~~[(A)]~~ reasonable medical care occurring under the
27 direction of or by a licensed physician; or

1 (2) [~~(B)~~] emergency medical care administered in good
2 faith and with reasonable care by a person not licensed in the
3 healing arts.

4 (1) [~~(2)~~] It is an affirmative defense to prosecution under
5 this section:

6 (1) that the act or omission was based on treatment in
7 accordance with the tenets and practices of a recognized religious
8 method of healing with a generally accepted record of efficacy;

9 (2) [~~It is an affirmative defense to prosecution~~]
10 for a person charged with an act of omission [~~under this section~~]
11 causing to a child, elderly individual, or disabled individual a
12 condition described by Subsection (a)(1), (2), or (3) that:

13 (A) there is no evidence that, on the date prior
14 to the offense charged, the defendant was aware of an incident of
15 injury to the child, elderly individual, or disabled individual and
16 failed to report the incident; and

17 (B) the person:

18 (i) was a victim of family violence, as that
19 term is defined by Section 71.004, Family Code, committed by a
20 person who is also charged with an offense against the child,
21 elderly individual, or disabled individual under this section or
22 any other section of this title;

23 (ii) did not cause a condition described by
24 Subsection (a)(1), (2), or (3); and

25 (iii) did not reasonably believe at the
26 time of the omission that an effort to prevent the person also
27 charged with an offense against the child, elderly individual, or

1 disabled individual from committing the offense would have an
2 effect; or

3 (3) that:

4 (A) the actor was not more than three years older
5 than the victim at the time of the offense; and

6 (B) the victim was a child at the time of the
7 offense.

8 SECTION 47. The heading to Section 38.11, Penal Code, is
9 amended to read as follows:

10 Sec. 38.11. PROHIBITED SUBSTANCES AND ITEMS IN ADULT OR
11 JUVENILE CORRECTIONAL OR DETENTION FACILITY OR ON PROPERTY OF TEXAS
12 DEPARTMENT OF CRIMINAL JUSTICE OR TEXAS YOUTH COMMISSION.

13 SECTION 48. Sections 38.11(a), (b), (c), (d), (e), (f),
14 (i), and (j), Penal Code, are amended to read as follows:

15 (a) A person commits an offense if the person provides:

16 (1) an alcoholic beverage, controlled substance, or
17 dangerous drug to an inmate of a correctional facility or to a
18 person in the custody of a secure correctional facility or secure
19 detention facility for juveniles, except on the prescription of a
20 physician or practitioner, as defined in Section 551.003,
21 Occupations Code;

22 (2) a deadly weapon to an inmate of a correctional
23 facility or to a person in the custody of a secure correctional
24 facility or secure detention facility for juveniles; or

25 (3) a cellular telephone, cigarette, tobacco product,
26 or money to an inmate of a correctional facility operated by or
27 under contract with the Texas Department of Criminal Justice or to a

1 person in the custody of a secure correctional facility or secure
2 detention facility for juveniles, except for money that is provided
3 for the benefit of the juvenile in accordance with facility rules.

4 (b) A person commits an offense if the person takes an
5 alcoholic beverage, controlled substance, or dangerous drug into a
6 correctional facility or a secure correctional facility or secure
7 detention facility for juveniles, except for delivery to a
8 [~~correctional~~] facility warehouse, pharmacy, or physician.

9 (c) A person commits an offense if the person takes a
10 controlled substance or dangerous drug on property owned, used, or
11 controlled by the Texas Department of Criminal Justice, the Texas
12 Youth Commission, or a secure correctional facility or secure
13 detention facility for juveniles, except for delivery to a
14 warehouse, pharmacy, or physician on property owned, used, or
15 controlled by the department, the commission, or the facility.

16 (d) A person commits an offense if the person:

17 (1) possesses a controlled substance or dangerous drug
18 while:

19 (A) on property owned, used, or controlled by the
20 Texas Department of Criminal Justice, the Texas Youth Commission,
21 or a secure correctional facility or secure detention facility for
22 juveniles; or

23 (B) in a correctional facility or a secure
24 correctional facility or secure detention facility for juveniles;
25 or

26 (2) possesses a deadly weapon while in a correctional
27 facility or in a secure correctional facility or secure detention

1 facility for juveniles.

2 (e) It is an affirmative defense to prosecution under
3 Subsection (d)(1) of this section that the person possessed the
4 controlled substance or dangerous drug pursuant to a prescription
5 issued by a practitioner or while delivering the substance or drug
6 to a warehouse, pharmacy, or physician on property owned, used, or
7 controlled by the department, the Texas Youth Commission, or by the
8 operator of a secure correctional facility or secure detention
9 facility for juveniles. It is an affirmative defense to
10 prosecution under Subsection (d)(2) of this section that the person
11 possessing the deadly weapon is a peace officer or is an officer or
12 employee of the correctional facility authorized to possess the
13 deadly weapon while on duty or traveling to or from the person's
14 place of assignment.

15 (f) In this section:

16 (1) "Practitioner" has the meaning assigned by Section
17 481.002, Health and Safety Code.

18 (2) "Prescription" has the meaning assigned by Section
19 481.002, Health and Safety Code.

20 (3) "Cigarette" has the meaning assigned by Section
21 154.001, Tax Code.

22 (4) "Tobacco product" has the meaning assigned by
23 Section 155.001, Tax Code.

24 (5) "Secure correctional facility" and "secure
25 detention facility" have the meanings assigned by Section 51.02,
26 Family Code.

27 (i) It is an affirmative defense to prosecution under

1 Subsection (b) that the actor:

2 (1) is a duly authorized member of the clergy with
3 rights and privileges granted by an ordaining authority that
4 includes administration of a religious ritual or ceremony requiring
5 the presence or consumption of an alcoholic beverage; and

6 (2) takes four ounces or less of an alcoholic beverage
7 into the correctional facility or the secure correctional facility
8 or secure detention facility for juveniles and personally consumes
9 all of the alcoholic beverage or departs from the facility with any
10 portion of the beverage not consumed.

11 (j) A person commits an offense if the person while an
12 inmate of a correctional facility operated by or under contract
13 with the Texas Department of Criminal Justice or while in the
14 custody of a secure correctional facility or secure detention
15 facility for juveniles possesses a cellular telephone.

16 SECTION 49. Subchapter O, Chapter 521, Transportation Code,
17 is amended by adding Section 521.3452 to read as follows:

18 Sec. 521.3452. PROCEDURE IN CASES INVOLVING MINORS. (a) A
19 court shall report to the department a person charged with a traffic
20 offense under this chapter who does not appear before the court as
21 required by law.

22 (b) In addition to any other action or remedy provided by
23 law, the department may deny renewal of the person's driver's
24 license under Section 521.317 or Chapter 706.

25 (c) The court shall also report to the department on final
26 disposition of the case.

27 SECTION 50. Section 521.201, Transportation Code, is

1 amended to read as follows:

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

4 (1) is under 15 years of age;

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

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

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

13 (5) has been determined by a judgment of a court to be
14 totally incapacitated or incapacitated to act as the operator of a
15 motor vehicle unless the person has, by the date of the license
16 application, been:

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

18 (B) released from a hospital for the mentally
19 incapacitated on a certificate by the superintendent or
20 administrator of the hospital that the person has regained
21 capacity;

22 (6) the department determines to be afflicted with a
23 mental or physical disability or disease that prevents the person
24 from exercising reasonable and ordinary control over a motor
25 vehicle while operating the vehicle on a highway, except that a
26 person may not be refused a license because of a physical defect if
27 common experience shows that the defect does not incapacitate a

1 person from safely operating a motor vehicle;

2 (7) has been reported by a court under Section
3 521.3452 [~~729.003~~] for failure to appear unless the court has filed
4 an additional report on final disposition of the case; or

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

12 SECTION 51. Section 521.294, Transportation Code, is
13 amended to read as follows:

14 Sec. 521.294. DEPARTMENT'S DETERMINATION FOR LICENSE
15 REVOCATION. The department shall revoke the person's license if
16 the department determines that the person:

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

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

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

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

27 (5) has been reported by a court under Section

1 521.3452 [~~729.003~~] for failure to appear unless the court files an
2 additional report on final disposition of the case;

3 (6) has been reported within the preceding two years
4 by a justice or municipal court for failure to appear or for a
5 default in payment of a fine for a misdemeanor punishable only by
6 fine, other than a failure reported under Section 521.3452
7 [~~729.003~~], committed by a person who is at least 14 years of age but
8 younger than 17 years of age when the offense was committed, unless
9 the court files an additional report on final disposition of the
10 case; or

11 (7) has committed an offense in another state or
12 Canadian province that, if committed in this state, would be
13 grounds for revocation.

14 SECTION 52. The following sections are repealed:

15 (1) Section 106.11, Alcoholic Beverage Code; and

16 (2) Section 729.003, Transportation Code.

17 SECTION 53. The legislature finds in relationship to
18 Section 51.07, Family Code, as amended by this Act, and Sections
19 51.071, 51.072, 51.073, 51.074, and 51.075, Family Code, as added
20 by this Act, that:

21 (1) children and families in Texas are becoming
22 increasingly mobile and children on probation frequently move to
23 other counties in the state;

24 (2) when children on probation move from one county to
25 another, it is in the interests of the child, the child's family,
26 and society that probation supervision continue with as little
27 interruption as possible;

1 (3) if a child on probation in a county to which
2 probation has been transferred violates a condition of probation,
3 the transfer should not impede appropriate legal consequences for
4 the violation;

5 (4) numerous issues are raised by transfer of
6 probation between counties that are not currently addressed by law
7 but that should be resolved;

8 (5) the county to which supervision has been
9 transferred should provide similar supervision and services to
10 transferred children as is provided to children adjudicated in that
11 county; and

12 (6) the current informal system of courtesy
13 supervision provides neither the assistance to the child nor the
14 protection of the public that should be provided.

15 SECTION 54. (a) Except as otherwise provided by this
16 section, this Act applies only to conduct that occurs on or after
17 the effective date of this Act. Conduct violating the penal law of
18 this state occurs on or after the effective date of this Act if any
19 element of the violation occurs on or after that date.

20 (b) Conduct that occurs before the effective date of this
21 Act is governed by the law in effect at the time the conduct
22 occurred, and that law is continued in effect for that purpose.

23 (c) The following sections of this Act apply to a judicial
24 proceeding that occurs or an official action or decision that is
25 made on or after the effective date of this Act without regard to
26 whether any prior event connected to the proceeding, action, or
27 decision occurred before the effective date of this Act:

1 (1) Sections 51.21, 52.0151, 54.0408, and 58.211,
2 Family Code, as added by this Act;

3 (2) Sections 51.20, 53.03, 54.01, 54.012, 54.05,
4 58.003, 58.104, 58.203, and 58.207, Family Code, as amended by this
5 Act;

6 (3) Articles 15.27, 24.011, and 45.0215, Code of
7 Criminal Procedure, as amended by this Act; and

8 (4) Section 61.0432, Human Resources Code, as amended
9 by this Act.

10 SECTION 55. This Act takes effect September 1, 2005.