

By: Dutton

H.B. No. 2884

Substitute the following for H.B. No. 2884:

By: Hernandez

C.S.H.B. No. 2884

A BILL TO BE ENTITLED

AN ACT

relating to juvenile delinquency; providing penalties.

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

SECTION 1. Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

(1) sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(2) constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

(5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;

(6) law enforcement agents of the Texas Alcoholic Beverage Commission;

1 (7) each member of an arson investigating unit
2 commissioned by a city, a county, or the state;

3 (8) officers commissioned under Section 37.081,
4 Education Code, or Subchapter E, Chapter 51, Education Code;

5 (9) officers commissioned by the General Services
6 Commission;

7 (10) law enforcement officers commissioned by the
8 Parks and Wildlife Commission;

9 (11) airport police officers commissioned by a city
10 with a population of more than 1.18 million that operates an airport
11 that serves commercial air carriers;

12 (12) airport security personnel commissioned as peace
13 officers by the governing body of any political subdivision of this
14 state, other than a city described by Subdivision (11), that
15 operates an airport that serves commercial air carriers;

16 (13) municipal park and recreational patrolmen and
17 security officers;

18 (14) security officers and investigators commissioned
19 as peace officers by the comptroller;

20 (15) officers commissioned by a water control and
21 improvement district under Section 49.216, Water Code;

22 (16) officers commissioned by a board of trustees
23 under Chapter 54, Transportation Code;

24 (17) investigators commissioned by the Texas Medical
25 [~~State~~] Board [~~of Medical Examiners~~];

26 (18) officers commissioned by the board of managers of
27 the Dallas County Hospital District, the Tarrant County Hospital

1 District, or the Bexar County Hospital District under Section
2 281.057, Health and Safety Code;

3 (19) county park rangers commissioned under
4 Subchapter E, Chapter 351, Local Government Code;

5 (20) investigators employed by the Texas Racing
6 Commission;

7 (21) officers commissioned under Chapter 554,
8 Occupations Code;

9 (22) officers commissioned by the governing body of a
10 metropolitan rapid transit authority under Section 451.108,
11 Transportation Code, or by a regional transportation authority
12 under Section 452.110, Transportation Code;

13 (23) investigators commissioned by the attorney
14 general under Section 402.009, Government Code;

15 (24) security officers and investigators commissioned
16 as peace officers under Chapter 466, Government Code;

17 (25) an officer employed by the [~~Texas~~ Department of
18 State Health Services under Section 431.2471, Health and Safety
19 Code;

20 (26) officers appointed by an appellate court under
21 Subchapter F, Chapter 53, Government Code;

22 (27) officers commissioned by the state fire marshal
23 under Chapter 417, Government Code;

24 (28) an investigator commissioned by the commissioner
25 of insurance under Section 701.104 [~~Article 1.10D~~], Insurance Code;

26 (29) apprehension specialists commissioned by the
27 Texas Youth Commission as officers under Section 61.0931, Human

1 Resources Code;

2 (30) officers appointed by the executive director of
3 the Texas Department of Criminal Justice under Section 493.019,
4 Government Code;

5 (31) investigators commissioned by the Commission on
6 Law Enforcement Officer Standards and Education under Section
7 1701.160, Occupations Code;

8 (32) commission investigators commissioned by the
9 Texas [~~Commission on~~] Private Security Board under Section
10 1702.061(f), Occupations Code;

11 (33) the fire marshal and any officers, inspectors, or
12 investigators commissioned by an emergency services district under
13 Chapter 775, Health and Safety Code; [~~and~~]

14 (34) officers commissioned by the State Board of
15 Dental Examiners under Section 254.013, Occupations Code, subject
16 to the limitations imposed by that section; and

17 (35) investigators commissioned by the Texas Juvenile
18 Probation Commission as officers under Section 141.055, Human
19 Resources Code.

20 SECTION 2. Section 51.03(b), Family Code, is amended to
21 read as follows:

22 (b) Conduct indicating a need for supervision is:

23 (1) subject to Subsection (f), conduct, other than a
24 traffic offense, that violates:

25 (A) the penal laws of this state of the grade of
26 misdemeanor that are punishable by fine only; or

27 (B) the penal ordinances of any political

1 subdivision of this state;

2 (2) the absence of a child on 10 or more days or parts
3 of days within a six-month period in the same school year or on
4 three or more days or parts of days within a four-week period from
5 school;

6 (3) the voluntary absence of a child from the child's
7 home without the consent of the child's parent or guardian for a
8 substantial length of time or without intent to return;

9 (4) conduct prohibited by city ordinance or by state
10 law involving the inhalation of the fumes or vapors of paint and
11 other protective coatings or glue and other adhesives and the
12 volatile chemicals itemized in Section 485.001 [~~484.002~~], Health
13 and Safety Code;

14 (5) an act that violates a school district's
15 previously communicated written standards of student conduct for
16 which the child has been expelled under Section 37.007(c),
17 Education Code; or

18 (6) conduct that violates a reasonable and lawful
19 order of a court entered under Section 264.305.

20 SECTION 3. Section 51.0412, Family Code, is amended to read
21 as follows:

22 Sec. 51.0412. JURISDICTION OVER INCOMPLETE
23 PROCEEDINGS. The court retains jurisdiction over a person,
24 without regard to the age of the person, who is a respondent in an
25 adjudication proceeding, a disposition proceeding, [~~or~~] a
26 proceeding to modify disposition, or a motion for transfer of
27 determinate sentence probation to an appropriate district court if:

1 (1) the petition, ~~or~~ motion to modify, or motion for
2 transfer was filed while the respondent was younger than 18 years of
3 age;

4 (2) the proceeding is not complete before the
5 respondent becomes 18 years of age; and

6 (3) the court enters a finding in the proceeding that
7 the prosecuting attorney exercised due diligence in an attempt to
8 complete the proceeding before the respondent became 18 years of
9 age.

10 SECTION 4. Section 51.072, Family Code, is amended by
11 amending Subsections (b), (e), (f), (j), (k), (m), and (n) and
12 adding Subsections (f-1) and (m-1) to read as follows:

13 (b) When a child on probation moves or intends to move from
14 one county to another and intends to remain in the receiving county
15 for at least 60 days, the juvenile probation department of the
16 sending county shall request that the juvenile probation department
17 of the receiving county provide interim supervision of the child.
18 If the receiving county and the sending county are member counties
19 within a judicial district served by one juvenile probation
20 department, then a transfer of probation supervision is not
21 required.

22 (e) The juvenile probation department of the sending county
23 shall provide the juvenile probation department of the receiving
24 county with the following information in the request for interim
25 supervision initiated under Subsection (d):

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

1 (2) the name, address, date of birth, and social
2 security or driver's license number, and telephone number, if
3 available, of the person with whom the child proposes to reside or
4 is residing in the receiving county;

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

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

7 (5) a brief summary of the child's history of
8 referrals;

9 (6) a brief statement of any special needs of the
10 child; ~~and~~

11 (7) the name and telephone number of the child's school
12 in the receiving county, if available; and

13 (8) the reason for the child moving or intending to
14 move to the receiving county.

15 (f) Not later than 10 ~~five~~ business days after a receiving
16 county has agreed to provide interim supervision of a child, the
17 juvenile probation department of the sending county shall provide
18 the juvenile probation department of the receiving county with a
19 copy of the following documents:

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

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

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

24 (4) any psychological or psychiatric reports
25 concerning the child;

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

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

3 (7) any sex offender registration information
4 concerning the child;

5 (8) any juvenile probation department progress
6 reports concerning the child and any other pertinent documentation
7 for the child's probation officer;

8 (9) case plans concerning the child;

9 (10) the Texas Juvenile Probation Commission standard
10 assessment tool results for the child;

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

13 (12) the child's birth certificate;

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

16 (14) the name, address, and telephone number of the
17 contact person in the sending county's juvenile probation
18 department;

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

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

23 (17) any of the child's school or immunization records
24 that the juvenile probation department of the sending county
25 possesses; and

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

1 (f-1) The inter-county transfer officers in the sending and
2 receiving counties shall agree on the official start date for the
3 period of interim supervision, which must begin no later than three
4 business days after the date the documents required under
5 Subsection (f) have been received and accepted by the receiving
6 county.

7 (j) On receiving a directive from the juvenile court of the
8 receiving county under Subsection (i)(2), the juvenile probation
9 department of the sending county shall arrange for the prompt
10 transportation of the child back to the sending county at the
11 expense of the sending county. The juvenile probation department
12 in the receiving county shall provide the sending county with
13 supporting written documentation of the incidents of violation of
14 probation on which the request to resume direct supervision is
15 based.

16 (k) The juvenile probation department of the receiving
17 county is entitled to any probation supervision fees collected from
18 the child or the child's parent while providing interim supervision
19 for the child. During the period of interim supervision, the
20 receiving county shall collect and distribute to the victim
21 monetary restitution payments in the manner specified by the
22 sending county. At the expiration of the period of interim
23 supervision, the receiving county shall collect and distribute
24 directly to the victim any remaining payments.

25 (m) Except as provided by Subsection (n), a period of
26 interim supervision may not exceed 180 days. Permanent supervision
27 automatically transfers to the juvenile probation department of the

1 receiving county after the expiration of the period of interim
2 supervision. The juvenile probation department of the receiving
3 county may request permanent supervision from the juvenile
4 probation department of the sending county at any time before the
5 180-day interim supervision period expires. After signing and
6 entry of an order of transfer of permanent supervision by the
7 sending county juvenile court, the juvenile probation department
8 shall, in accordance with Section 51.073(b), promptly send the
9 permanent supervision order and related documents to the receiving
10 county.

11 (m-1) If a child on interim supervision moves to another
12 county of residence or is otherwise no longer in the receiving
13 county before the expiration of 180 days, the receiving county
14 shall direct the sending county to resume supervision of the child.

15 (n) Notwithstanding Subsection (m), the period of interim
16 supervision of a child who is placed on probation under Section
17 54.04(q) does not expire until the child has satisfactorily
18 completed the greater of either 180 days or one-third of the term of
19 probation, including one-third of the term of any extension of the
20 probation term ordered under Section 54.05. Permanent supervision
21 automatically transfers to the probation department of the
22 receiving county after the expiration of the period of interim
23 supervision under this subsection. If the state elects to initiate
24 transfer proceedings under Section 54.051, the [The] juvenile court
25 of the sending county may order transfer of the permanent
26 supervision before the expiration of the period of interim
27 supervision under this subsection.

1 SECTION 5. Section 51.073, Family Code, is amended by
2 amending Subsection (c) and adding Subsection (d-1) to read as
3 follows:

4 (c) The juvenile court of the receiving county shall require
5 that the child be brought before the court in order to impose new or
6 different conditions of probation than those originally ordered by
7 the sending county or ordered by the receiving county during the
8 period of interim supervision. The child shall be represented by
9 counsel as provided by Section 51.10.

10 (d-1) On the final transfer of a case involving a child who
11 has been adjudicated as having committed an offense for which
12 registration is required under Chapter 62, Code of Criminal
13 Procedure, the receiving county shall have jurisdiction to conduct
14 a hearing under that chapter. This subsection does not prohibit the
15 receiving county juvenile court from considering the written
16 recommendations of the sending county juvenile court.

17 SECTION 6. Section 51.074, Family Code, is amended to read
18 as follows:

19 Sec. 51.074. TRANSFER OF PROBATION SUPERVISION BETWEEN
20 COUNTIES: DEFERRED PROSECUTION. (a) A juvenile court may
21 transfer interim supervision, but not permanent supervision, to the
22 county where a child on deferred prosecution resides.

23 (b) On an extension of a previous order of deferred
24 prosecution authorized under Section 53.03(j), the child shall
25 remain on interim supervision for an additional period not to
26 exceed 180 days.

27 (c) On a violation of the conditions of the original

1 deferred prosecution agreement, the receiving county shall forward
2 the case to the sending county for prosecution or other action in
3 the manner provided by Sections 51.072(i) and (j), except that the
4 original conditions of deferred prosecution may not be modified by
5 the receiving county.

6 SECTION 7. Section 51.095(f), Family Code, is amended to
7 read as follows:

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

22 SECTION 8. Section 51.12, Family Code, is amended by adding
23 Subsections (b-1) and (m) and amending Subsections (c) and (i) to
24 read as follows:

25 (b-1) A pre-adjudication secure detention facility may be
26 operated only by:

27 (1) a governmental unit in this state as defined by

1 Section 101.001, Civil Practice and Remedies Code; or

2 (2) a private entity under a contract with a
3 governmental unit in this state.

4 (c) In each county, each judge of the juvenile court and a
5 majority of the members of the juvenile board shall personally
6 inspect all public or private ~~[the]~~ juvenile pre-adjudication
7 secure detention facilities ~~[and any public or private juvenile~~
8 ~~secure correctional facilities used for post-adjudication~~
9 ~~confinement]~~ that are located in the county ~~[and operated under~~
10 ~~authority of the juvenile board]~~ at least annually and shall
11 certify in writing to the authorities responsible for operating and
12 giving financial support to the facilities and to the Texas
13 Juvenile Probation Commission that the facilities ~~[they]~~ are
14 suitable or unsuitable for the detention of children in accordance
15 with:

16 (1) the requirements of Subsections (a), (f), and (g);

17 and

18 (2) minimum professional standards for the detention
19 of children in pre-adjudication ~~[or post-adjudication secure]~~
20 confinement promulgated by the Texas Juvenile Probation Commission
21 or, at the election of the juvenile board, the current standards
22 promulgated by the American Correctional Association.

23 (i) Except for a facility operated or certified by the Texas
24 Youth Commission or a facility as provided by Subsection (1), a
25 governmental unit or private entity that operates or contracts for
26 the operation of a juvenile pre-adjudication secure detention
27 facility under Subsection (b-1) ~~[or a juvenile post-adjudication~~

1 ~~secure correctional facility]~~ in this state shall:

2 (1) register the facility annually with the Texas
3 Juvenile Probation Commission; and

4 (2) adhere to all applicable minimum standards for the
5 facility.

6 (m) The Texas Juvenile Probation Commission may deny,
7 suspend, or revoke the registration of any facility required to
8 register under Subsection (i) if the facility fails to:

9 (1) adhere to all applicable minimum standards for the
10 facility; or

11 (2) timely correct any notice of noncompliance with
12 minimum standards.

13 SECTION 9. Chapter 51, Family Code, is amended by adding
14 Section 51.125 to read as follows:

15 Sec. 51.125. POST-ADJUDICATION CORRECTIONAL FACILITIES.

16 (a) A post-adjudication secure correctional facility for juvenile
17 offenders may be operated only by:

18 (1) a governmental unit in this state as defined by
19 Section 101.001, Civil Practice and Remedies Code; or

20 (2) a private entity under a contract with a
21 governmental unit in this state.

22 (b) In each county, each judge of the juvenile court and a
23 majority of the members of the juvenile board shall personally
24 inspect all public or private juvenile post-adjudication secure
25 correctional facilities that are located in the county at least
26 annually and shall certify in writing to the authorities
27 responsible for operating and giving financial support to the

1 facilities and to the Texas Juvenile Probation Commission that the
2 facility or facilities are suitable or unsuitable for the detention
3 of children in accordance with minimum professional standards for
4 the detention of children in post-adjudication secure confinement
5 promulgated by the Texas Juvenile Probation Commission or, at the
6 election of the juvenile board, the current standards promulgated
7 by the American Correctional Association.

8 (c) A governmental unit or private entity that operates or
9 contracts for the operation of a juvenile post-adjudication secure
10 correctional facility in this state under Subsection (a) shall:

11 (1) register the facility annually with the Texas
12 Juvenile Probation Commission; and

13 (2) adhere to all applicable minimum standards for the
14 facility.

15 (d) The Texas Juvenile Probation Commission may deny,
16 suspend, or revoke the registration of any facility required to
17 register under Section 51.12(i) if the facility fails to:

18 (1) adhere to all applicable minimum standards for the
19 facility; or

20 (2) timely correct any notice of noncompliance with
21 minimum standards.

22 SECTION 10. Section 51.17, Family Code, is amended by
23 amending Subsection (c) and adding Subsections (h) and (i) to read
24 as follows:

25 (c) Except as otherwise provided by this title, the Texas
26 Rules of Evidence apply [~~applicable~~] to criminal cases and Articles
27 33.03 and 37.07 and Chapter 38, Code of Criminal Procedure, apply in

1 a judicial proceeding under this title.

2 (h) Articles 57.01 and 57.02, Code of Criminal Procedure,
3 relating to the use of a pseudonym by a victim in a criminal case,
4 apply in a proceeding held under this title.

5 (i) Except as provided by Section 56.03(f), the state is not
6 required to pay any cost or fee otherwise imposed for court
7 proceedings in either the trial or appellate courts.

8 SECTION 11. Sections 53.045(a) and (d), Family Code, are
9 amended to read as follows:

10 (a) Except as provided by Subsection (e), the prosecuting
11 attorney may refer the petition to the grand jury of the county in
12 which the court in which the petition is filed presides if the
13 petition alleges that the child engaged in delinquent conduct that
14 constitutes habitual felony conduct as described by Section 51.031
15 or that included the violation of any of the following provisions:

- 16 (1) Section 19.02, Penal Code (murder);
- 17 (2) Section 19.03, Penal Code (capital murder);
- 18 (3) Section 19.04, Penal Code (manslaughter);
- 19 (4) Section 20.04, Penal Code (aggravated
20 kidnapping);
- 21 (5) Section 22.011, Penal Code (sexual assault) or
22 Section 22.021, Penal Code (aggravated sexual assault);
- 23 (6) Section 22.02, Penal Code (aggravated assault);
- 24 (7) Section 29.03, Penal Code (aggravated robbery);
- 25 (8) Section 22.04, Penal Code (injury to a child,
26 elderly individual, or disabled individual), if the offense is
27 punishable as a felony, other than a state jail felony;

1 (9) Section 22.05(b), Penal Code (felony deadly
2 conduct involving discharging a firearm);

3 (10) Subchapter D, Chapter 481, Health and Safety
4 Code, if the conduct constitutes a felony of the first degree or an
5 aggravated controlled substance felony (certain offenses involving
6 controlled substances);

7 (11) Section 15.03, Penal Code (criminal
8 solicitation);

9 (12) Section 21.11(a)(1), Penal Code (indecent with a
10 child);

11 (13) Section 15.031, Penal Code (criminal
12 solicitation of a minor);

13 (14) Section 15.01, Penal Code (criminal attempt), if
14 the offense attempted was an offense under Section 19.02, Penal
15 Code (murder), or Section 19.03, Penal Code (capital murder), or an
16 offense listed by Section 3g(a)(1), Article 42.12, Code of Criminal
17 Procedure;

18 (15) Section 28.02, Penal Code (arson), if bodily
19 injury or death is suffered by any person by reason of the
20 commission of the conduct; ~~or~~

21 (16) Section 49.08, Penal Code (intoxication
22 manslaughter); or

23 (17) Section 15.02, Penal Code (criminal conspiracy),
24 if the offense made the subject of the criminal conspiracy includes
25 a violation of any of the provisions referenced in Subdivisions (1)
26 through (16).

27 (d) If the grand jury approves of the petition, the fact of

1 approval shall be certified to the juvenile court, and the
2 certification shall be entered in the record of the case. For the
3 purpose of the transfer of a child to the Texas Department of
4 Criminal Justice [~~Corrections~~] as provided by Section 61.084(c),
5 Human Resources Code, a juvenile court petition approved by a grand
6 jury under this section is an indictment presented by the grand
7 jury.

8 SECTION 12. Section 54.04, Family Code, is amended by
9 amending Subsections (a), (b), (d), and (j) and adding Subsection
10 (v) to read as follows:

11 (a) The disposition hearing shall be separate, distinct,
12 and subsequent to the adjudication hearing. There is no right to a
13 jury at the disposition hearing unless the child is in jeopardy of a
14 determinate sentence under Subsection (d)(3) or (m), in which case,
15 the child is entitled to a jury of 12 persons to determine the
16 sentence, but only if the child so elects in writing before the
17 commencement of the voir dire examination of the jury panel. If a
18 finding of delinquent conduct is returned, the child may, with the
19 consent of the attorney for the state, change the child's election
20 of one who assesses the disposition.

21 (b) At the disposition hearing, the juvenile court,
22 notwithstanding the Texas Rules of Evidence or Chapter 37, Code of
23 Criminal Procedure, may consider written reports from probation
24 officers, professional court employees, or professional
25 consultants in addition to the testimony of witnesses. Prior to the
26 disposition hearing, the court shall provide the attorney for the
27 child with access to all written matter to be considered in

1 disposition. The court may order counsel not to reveal items to the
2 child or the child's parent, guardian, or guardian ad litem if such
3 disclosure would materially harm the treatment and rehabilitation
4 of the child or would substantially decrease the likelihood of
5 receiving information from the same or similar sources in the
6 future.

7 (d) If the court or jury makes the finding specified in
8 Subsection (c) allowing the court to make a disposition in the case:

9 (1) the court or jury may, in addition to any order
10 required or authorized under Section 54.041 or 54.042, place the
11 child on probation on such reasonable and lawful terms as the court
12 may determine:

13 (A) in the child's own home or in the custody of a
14 relative or other fit person; or

15 (B) subject to the finding under Subsection (c)
16 on the placement of the child outside the child's home, in:

17 (i) a suitable foster home; ~~[or]~~

18 (ii) a suitable public or private
19 residential treatment facility licensed by a state governmental
20 entity or exempted from licensure by state law ~~[institution or~~
21 ~~agency]~~, except a facility operated by the Texas Youth Commission;
22 or

23 (iii) a suitable public or private
24 post-adjudication secure correctional facility that meets the
25 requirements of Section 51.125, except a facility operated by the
26 Texas Youth Commission;

27 (2) if the court or jury found at the conclusion of the

1 adjudication hearing that the child engaged in delinquent conduct
2 that violates a penal law of this state or the United States of the
3 grade of felony or, if the requirements of Subsection (s) or (t) are
4 met, of the grade of misdemeanor, and if the petition was not
5 approved by the grand jury under Section 53.045, the court may
6 commit the child to the Texas Youth Commission without a
7 determinate sentence and such commitment shall be for the period of
8 time until the child becomes the age of 21, unless the person is
9 discharged earlier by the Texas Youth Commission;

10 (3) if the court or jury found at the conclusion of the
11 adjudication hearing that the child engaged in delinquent conduct
12 that included a violation of a penal law listed in Section 53.045(a)
13 and if the petition was approved by the grand jury under Section
14 53.045, the court or jury may sentence the child to commitment in
15 the Texas Youth Commission with a possible transfer to the
16 institutional division or the pardons and paroles division of the
17 Texas Department of Criminal Justice for a term of:

18 (A) not more than 40 years if the conduct
19 constitutes:

- 20 (i) a capital felony;
21 (ii) a felony of the first degree; or
22 (iii) an aggravated controlled substance
23 felony;

24 (B) not more than 20 years if the conduct
25 constitutes a felony of the second degree; or

26 (C) not more than 10 years if the conduct
27 constitutes a felony of the third degree;

1 (4) the court may assign the child an appropriate
2 sanction level and sanctions as provided by the assignment
3 guidelines in Section 59.003; or

4 (5) if applicable, the court or jury may make a
5 disposition under Subsection (m).

6 (j) If the court or jury found that the child engaged in
7 delinquent conduct that included a violation of a penal law of the
8 grade of felony or jailable misdemeanor, the court:

9 (1) shall require that the child's thumbprint be
10 affixed or attached to the order; and

11 (2) may require that a photograph of the child be
12 attached to the order.

13 (v) A child may be detained in an appropriate detention
14 facility following disposition of the child's case under Subsection
15 (d) or (m) pending:

16 (1) transportation of the child to the ordered
17 placement; and

18 (2) the provision of medical or other health care
19 services for the child that may be advisable before transportation,
20 including health care services for children in the late term of
21 pregnancy.

22 SECTION 13. Chapter 54, Family Code, is amended by adding
23 Section 54.0481 to read as follows:

24 Sec. 54.0481. TREATMENT OF RESTITUTION PAYMENTS. (a) A
25 juvenile probation department that receives a payment to a victim
26 as the result of a juvenile court order for restitution shall
27 immediately:

1 (1) deposit the payment in an interest-bearing account
2 in the county treasury; and

3 (2) notify the victim by certified mail, sent to the
4 last known address of the victim, that a payment has been received.

5 (b) The juvenile probation department shall promptly remit
6 the payment to a victim who has been notified under Subsection (a)
7 and makes a claim for payment.

8 (c) On or before the fifth anniversary of the date the
9 juvenile probation department receives a payment for a victim that
10 is not claimed by the victim, the department shall make and document
11 a good faith effort to locate and notify the victim that an
12 unclaimed payment exists, including:

13 (1) confirming, if possible, the victim's most recent
14 address with the Department of Public Safety; and

15 (2) making at least one additional certified mailing
16 to the victim.

17 (d) A juvenile probation department satisfies the good
18 faith requirement under Subsection (c) by sending by certified mail
19 to the victim, during the period the child is required by the
20 juvenile court order to make payments to the victim, a notice that
21 the victim is entitled to an unclaimed payment.

22 (e) If a victim claims a payment on or before the fifth
23 anniversary of the date on which the juvenile probation department
24 mailed a notice to the victim under Subsection (a), the juvenile
25 probation department shall pay the victim the amount of the
26 original payment, less any interest earned while holding the
27 payment.

1 (f) If a victim does not claim a payment on or before the
2 fifth anniversary of the date on which the juvenile probation
3 department mailed a notice to the victim under Subsection (a), the
4 department:

5 (1) has no liability to the victim or anyone else in
6 relation to the payment; and

7 (2) shall transfer the payment from the
8 interest-bearing account to a special fund of the county treasury,
9 the unclaimed juvenile restitution fund.

10 (g) The county may spend money in the unclaimed juvenile
11 restitution fund only for the same purposes for which the county may
12 spend juvenile state aid.

13 SECTION 14. Section 55.43(a), Family Code, is amended to
14 read as follows:

15 (a) The prosecuting attorney may file with the juvenile
16 court a motion for a restoration hearing concerning a child if:

17 (1) the child is found unfit to proceed as a result of
18 mental illness or mental retardation; and

19 (2) the child:

20 (A) is not:

21 (i) ordered by a court to receive inpatient
22 mental health services;

23 (ii) committed by a court to a residential
24 care facility; or

25 (iii) ordered by a court to receive
26 treatment on an outpatient basis; or

27 (B) is discharged or currently on furlough

1 ~~[furloughed]~~ from a mental health facility or outpatient center
2 before the child reaches 18 years of age.

3 SECTION 15. Section 55.44(a), Family Code, is amended to
4 read as follows:

5 (a) The juvenile court shall transfer all pending
6 proceedings from the juvenile court to a criminal court on the 18th
7 birthday of a child for whom the juvenile court or a court to which
8 the child's case is referred has ordered inpatient mental health
9 services or residential care for persons with mental retardation
10 if:

11 (1) the child is not discharged or currently on
12 furlough ~~[furloughed]~~ from the facility before reaching 18 years of
13 age; and

14 (2) the child is alleged to have engaged in delinquent
15 conduct that included a violation of a penal law listed in Section
16 53.045 and no adjudication concerning the alleged conduct has been
17 made.

18 SECTION 16. Section 55.45, Family Code, is amended by
19 adding Subsection (c) to read as follows:

20 (c) If the referred child, as described in Subsection (b),
21 is alleged to have committed an offense listed in Section 3g,
22 Article 42.12, Code of Criminal Procedure, the administrator of the
23 residential care facility shall apply, in writing, by certified
24 mail, return receipt requested, to the juvenile court that ordered
25 commitment of the child or that referred the case to a court that
26 ordered commitment of the child and show good cause for any release
27 of the child from the facility for more than 48 hours. Notice of

1 this request must be provided to the prosecuting attorney
2 responsible for the case. The prosecuting attorney, the juvenile,
3 or the administrator may apply for a hearing on this application.
4 If no one applies for a hearing, the trial court shall resolve the
5 application on the written submission. The rules of evidence do not
6 apply to this hearing. An appeal of the trial court's ruling on the
7 application is not allowed. The release of a child described in
8 this subsection without the express approval of the trial court is
9 punishable by contempt.

10 SECTION 17. Section 58.0051, Family Code, is amended by
11 adding Subsection (e) to read as follows:

12 (e) The Texas Juvenile Probation Commission may, in
13 conformity with Section 58.0072 of this code and Section 37.084,
14 Education Code, enter into an interagency agreement to share
15 educational information for research, audit, and analytical
16 purposes with the:

- 17 (1) Texas Education Agency;
18 (2) Texas Youth Commission; and
19 (3) Texas Department of Criminal Justice.

20 SECTION 18. Sections 58.0072(c) and (d), Family Code, are
21 amended to read as follows:

22 (c) The Texas Juvenile Probation Commission may grant the
23 following entities access to juvenile justice information for
24 research and statistical purposes or for any other purpose approved
25 by the commission:

- 26 (1) criminal justice agencies as defined by Section
27 411.082, Government Code;

1 (2) the Texas Education Agency, as authorized under
2 Section 37.084, Education Code;

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

5 (4) a public or private university.

6 (d) The Texas Juvenile Probation Commission may grant the
7 following entities access to juvenile justice information only for
8 a purpose beneficial to and approved by the commission to:

9 (1) a person working on a research or statistical
10 project that:

11 (A) is funded in whole or in part by state or
12 federal funds; and ~~or~~

13 (B) meets the requirements of ~~[28 C.F.R. Part 22]~~
14 and is approved by the commission; or

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

17 (A) specifically authorizes access to
18 information;

19 (B) limits the use of information to the purposes
20 for which the information is given;

21 (C) ensures the security and confidentiality of
22 the information; and

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

25 SECTION 19. Section 58.110(e), Family Code, is amended to
26 read as follows:

27 (e) Except as otherwise required by applicable state laws or

1 regulations, information required by this chapter to be reported to
2 the department shall be reported promptly. The information shall
3 be reported not later than the 30th day after the date the
4 information is received by the agency responsible for reporting the
5 information, except that a juvenile offender's custody or ~~[7]~~
6 detention ~~[7, or referral]~~ without previous custody shall be reported
7 to the department not later than the seventh day after the date of
8 the custody or ~~[7]~~ detention ~~[7, or referral]~~.

9 SECTION 20. Chapter 58, Family Code, is amended by adding
10 Subchapter E to read as follows:

11 SUBCHAPTER E. STATEWIDE JUVENILE INFORMATION AND CASE MANAGEMENT
12 SYSTEM

13 Sec. 58.401. DEFINITIONS. In this subchapter:

14 (1) "Commission" means the Texas Juvenile Probation
15 Commission.

16 (2) "Criminal justice agency" has the meaning assigned
17 by Section 411.082, Government Code.

18 (3) "Juvenile justice agency" means an agency that has
19 custody or control over juvenile offenders.

20 (4) "Partner agencies" means those agencies described
21 in Section 58.305 as well as private service providers to the
22 juvenile justice system.

23 (5) "System" means an automated statewide juvenile
24 information and case management system.

25 Sec. 58.402. PURPOSES OF SYSTEM. The purposes of the system
26 are to:

27 (1) provide accurate information at the statewide

1 level relating to children who come into contact with the juvenile
2 justice system;

3 (2) facilitate communication and information sharing
4 between authorized entities in criminal and juvenile justice
5 agencies and partner agencies regarding effective and efficient
6 identification of and service delivery to juvenile offenders; and

7 (3) provide comprehensive juvenile justice
8 information and case management abilities that will meet the common
9 data collection, reporting, and management needs of juvenile
10 probation departments in this state and provide the flexibility to
11 accommodate individualized requirements.

12 Sec. 58.403. JUVENILE INFORMATION SYSTEM. The commission
13 in partnership with local counties may participate and assist in
14 the creation and maintenance of a statewide system to:

15 (1) aid in processing the cases of children under this
16 title;

17 (2) facilitate the delivery of services to children in
18 the juvenile justice system;

19 (3) aid in the early identification of at-risk and
20 delinquent children; and

21 (4) facilitate cross-jurisdictional sharing of
22 information related to juvenile offenders between authorized
23 criminal and juvenile justice agencies and partner agencies.

24 Sec. 58.404. INFORMATION COLLECTED BY COMMISSION. The
25 commission may collect and maintain all information related to
26 juvenile offenders and all offenses committed by a juvenile
27 offender, including all information collected and maintained under

1 Subchapters B and D.

2 Sec. 58.405. AUTHORIZED ACCESS TO SYSTEM. Juvenile justice
3 agencies shall have access to all data in the system and may share
4 information with appropriate partner agencies and other entities
5 authorized by law to receive the information.

6 SECTION 21. Section 59.003(a), Family Code, is amended to
7 read as follows:

8 (a) Subject to Subsection (e), after a child's first
9 commission of delinquent conduct or conduct indicating a need for
10 supervision, the probation department or prosecuting attorney may,
11 or the juvenile court may, in a disposition hearing under Section
12 54.04 or a modification hearing under Section 54.05, assign a child
13 one of the following sanction levels according to the child's
14 conduct:

15 (1) for conduct indicating a need for supervision,
16 other than conduct described in Section 51.03(b)(4) or (5)
17 [~~51.03(b)(5)~~] or a Class A or B misdemeanor, the sanction level is
18 one;

19 (2) for conduct indicating a need for supervision
20 under Section 51.03(b)(4) or (5) [~~51.03(b)(5)~~] or a Class A or B
21 misdemeanor, other than a misdemeanor involving the use or
22 possession of a firearm, or for delinquent conduct under Section
23 51.03(a)(2), the sanction level is two;

24 (3) for a misdemeanor involving the use or possession
25 of a firearm or for a state jail felony or a felony of the third
26 degree, the sanction level is three;

27 (4) for a felony of the second degree, the sanction

1 level is four;

2 (5) for a felony of the first degree, other than a
3 felony involving the use of a deadly weapon or causing serious
4 bodily injury, the sanction level is five;

5 (6) for a felony of the first degree involving the use
6 of a deadly weapon or causing serious bodily injury, for an
7 aggravated controlled substance felony, or for a capital felony,
8 the sanction level is six; or

9 (7) for a felony of the first degree involving the use
10 of a deadly weapon or causing serious bodily injury, for an
11 aggravated controlled substance felony, or for a capital felony, if
12 the petition has been approved by a grand jury under Section 53.045,
13 or if a petition to transfer the child to criminal court has been
14 filed under Section 54.02, the sanction level is seven.

15 SECTION 22. Sections 261.401(a) and (b), Family Code, are
16 amended to read as follows:

17 (a) Notwithstanding Section 261.001, in this section:

18 (1) "Abuse" means an intentional, knowing, or reckless
19 act or omission by an employee, volunteer, or other individual
20 working under the auspices of a facility or program that causes or
21 may cause emotional harm or physical injury to, or the death of, a
22 child served by the facility or program as further described by rule
23 or policy.

24 (2) "Exploitation" means the illegal or improper use
25 of a child or of the resources of a child for monetary or personal
26 benefit, profit, or gain by an employee, volunteer, or other
27 individual working under the auspices of a facility or program as

1 further described by rule or policy.

2 (3) "Neglect" means a negligent act or omission by an
3 employee, volunteer, or other individual working under the auspices
4 of a facility or program, including failure to comply with an
5 individual treatment plan, plan of care, or individualized service
6 plan, that causes or may cause substantial emotional harm or
7 physical injury to, or the death of, a child served by the facility
8 or program as further described by rule or policy.

9 (b) A state agency that operates, licenses, certifies, or
10 registers a facility in which children are located or provides
11 oversight of a program that serves children shall make a prompt,
12 thorough investigation of a report that a child has been or may be
13 abused, neglected, or exploited in the facility or program. The
14 primary purpose of the investigation shall be the protection of the
15 child.

16 SECTION 23. Section 261.405(a), Family Code, is amended to
17 read as follows:

18 (a) In this section:

19 (1) "Juvenile justice facility" means a facility
20 operated wholly or partly by the juvenile board, by another
21 governmental unit, or by a private vendor under a contract with the
22 juvenile board, ~~or~~ county, or other governmental unit that serves
23 juveniles under juvenile court jurisdiction. The term includes:

24 (A) a public or private juvenile
25 pre-adjudication secure detention facility, including a holdover
26 facility;

27 (B) a public or private juvenile

1 post-adjudication secure correctional facility except for a
2 facility operated solely for children committed to the Texas Youth
3 Commission; and

4 (C) a public or private non-secure juvenile
5 post-adjudication residential treatment facility that is not
6 licensed by the Department of Protective and Regulatory Services or
7 the Texas Commission on Alcohol and Drug Abuse.

8 (2) "Juvenile justice program" means a program or
9 department operated wholly or partly by the juvenile board or by a
10 private vendor under a contract with a juvenile board that serves
11 juveniles under juvenile court jurisdiction. The term includes:

12 (A) a juvenile justice alternative education
13 program; [~~and~~]

14 (B) a non-residential program that serves
15 juvenile offenders under the jurisdiction of the juvenile court;
16 and

17 (C) a juvenile probation department.

18 SECTION 24. Section 25.0951(a), Education Code, is amended
19 to read as follows:

20 (a) If a student fails to attend school without excuse on 10
21 or more days or parts of days within a six-month period in the same
22 school year, a school district shall within seven school days of the
23 student's 10th [~~last~~] absence:

24 (1) file a complaint against the student or the
25 student's parent or both in a county, justice, or municipal court
26 for an offense under Section 25.093 or 25.094, as appropriate, or
27 refer the student to a juvenile court in a county with a population

1 of less than 100,000 for conduct that violates Section 25.094; or

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

5 SECTION 25. Subchapter C, Chapter 61, Human Resources Code,
6 is amended by adding Sections 61.055 and 61.056 to read as follows:

7 Sec. 61.055. MAXIMUM CAPACITY. (a) Except as provided by
8 Subsection (b), the total maximum capacity for residential
9 facilities, including halfway houses, operated by or under contract
10 with the commission is 3,000.

11 (b) Subject to the approval of the governor, the commission
12 may confine more than 3,000 children in residential facilities
13 operated by or under contract with the commission if the commission
14 determines that the number of children committed to the commission
15 who are in need of placement in residential facilities exceeds
16 3,000.

17 Sec. 61.056. RESIDENTIAL FACILITIES. (a) To ensure that a
18 child committed to the commission is confined in a residential
19 facility located in or near the county in which the child resides,
20 the commission:

21 (1) shall operate one or more community-based
22 residential facilities in each county in this state that has a
23 population of at least 600,000; and

24 (2) may operate a community-based residential
25 facility in any other county.

26 (b) Notwithstanding other law, the commission may confine a
27 child committed to the commission only in a community-based

1 residential facility described by Subsection (a).

2 (c) Except as otherwise provided by this subsection, the
3 commission may confine a child committed to the commission only in a
4 residential facility that is located in the county in which the
5 child resides. A child committed to the commission who resides in a
6 county in which the commission does not operate a residential
7 facility may be confined only in the residential facility that is
8 nearest to the county in which the child resides.

9 (d) The commission may not confine more than 100 children in
10 any residential facility operated by or under contract with the
11 commission.

12 (e) Not later than September 1, 2008, the commission shall
13 transfer to the Texas Department of Criminal Justice any
14 residential facility designed to house more than 100 children that
15 is owned by this state and operated by or under contract with the
16 commission. This subsection expires October 1, 2008.

17 SECTION 26. Section 61.0762, Human Resources Code, is
18 amended to read as follows:

19 Sec. 61.0762. INFANT CARE AND PARENTING PROGRAM. (a) In
20 this section, "child" means the child of a person who is committed
21 to the commission.

22 (b) The commission may establish child [~~infant~~] care and
23 parenting programs for persons committed to the commission
24 [~~children~~] who are parents.

25 (c) [~~(b)~~] The commission may permit a [~~child who is the~~
26 mother [~~of an infant younger than 36 months~~] to have possession of
27 her child [~~infant~~] in a residential program that has an infant care

1 and parenting program or to have possession of her child in a
2 commission-funded independent living residence for up to six ~~[until~~
3 ~~the infant reaches the age of 36]~~ months ~~[or the mother is released~~
4 ~~under supervision]~~ if:

5 (1) the child's ~~[infant's]~~ father or another relative
6 or guardian of the child ~~[infant]~~ agrees in advance of the child's
7 ~~[infant's]~~ placement with the child's ~~[infant's]~~ mother to assume
8 possession of the child ~~[infant]~~ immediately upon notice by the
9 commission to do so;

10 (2) the child's ~~[infant's]~~ parents and any other
11 person having a duty of support acknowledge that by permitting the
12 mother to have possession of the child ~~[infant]~~ while the mother is
13 confined in a residential facility or placed in an independent
14 living residence, the commission assumes no responsibility for the
15 child's ~~[infant's]~~ care beyond the responsibility of care that is
16 ordinarily due the child's ~~[infant's]~~ mother and the reasonable
17 accommodations that are necessary for the mother's care of her
18 child ~~[the infant]~~;

19 (3) the child's ~~[infant's]~~ parents and any other
20 person having a duty of support agree to indemnify and hold the
21 commission harmless from any claims that may be made against the
22 commission for the child's ~~[infant's]~~ support, including medical
23 support; and

24 (4) the commission determines that the placement is in
25 the best interest of both the mother and her child ~~[infant]~~.

26 SECTION 27. Subchapter C, Chapter 141, Human Resources
27 Code, is amended by adding Sections 141.0461 and 141.055 to read as

1 follows:

2 Sec. 141.0461. AUTHORITY TO ISSUE SUBPOENA, ADMINISTER
3 OATH, RECEIVE EVIDENCE, AND GATHER INFORMATION. (a) In this
4 section, "evidence" means any record, book, paper, document, data,
5 or other evidence maintained by electronic or other means.

6 (b) The commission may issue a subpoena requiring the
7 attendance of a witness or the production of evidence that the
8 commission considers necessary for the investigation of:

9 (1) abuse, neglect, or exploitation allegations;

10 (2) complaints;

11 (3) financial and programmatic audits of juvenile
12 probation programs services and facilities, including juvenile
13 justice alternative education programs; or

14 (4) any matter under the authority of the commission.

15 (c) The commission may issue a subpoena under Subsection (b)
16 only if the subpoena is signed by:

17 (1) the chairman of the commission or, if the chairman
18 is unavailable, the vice-chairman of the commission; and

19 (2) at least two other members of the commission,
20 including a member who is a judge.

21 (d) Any peace officer, commission investigator, other
22 commission official, or person authorized under Article 24.01, Code
23 of Criminal Procedure, may serve the subpoena in the same manner
24 that similar process in a court of record having original
25 jurisdiction of criminal actions is served.

26 (e) A subpoena under this section shall be served and
27 witness fees and mileage paid as in civil cases in the district

1 court in the county to which the witness is called, unless the
2 proceeding for which the service or payment is made is under Chapter
3 2001, Government Code, in which case the service or payment shall be
4 made as provided in that chapter. Witnesses subpoenaed at the
5 instance of the commission shall be paid their fees and mileage by
6 the commission out of funds appropriated for that purpose.

7 (f) On application of the commission, a court of record
8 having original jurisdiction of criminal actions may compel the
9 attendance of a witness, the production of material, or the giving
10 of testimony before the commission, by an attachment for contempt
11 or in the same manner as the court may otherwise compel the
12 production of evidence.

13 (g) The chairman or another member of the commission may
14 administer an oath to a witness in attendance before the commission
15 or before an authorized representative of the commission.

16 (h) If a witness in attendance before the commission or
17 before an authorized representative refuses without reasonable
18 cause to be examined or answer a legal or pertinent question, or to
19 produce evidence when ordered by the commission, the commission may
20 apply to the district court for a rule or order returnable in not
21 less than two or in more than five days, directing the witness to
22 show cause before the judge why the witness should not be punished
23 for contempt. The commission may apply to the district court of any
24 county where the witness is in attendance, on proof by affidavit of
25 the fact, unless the order of contempt is sought under Chapter 2001,
26 Government Code, in which case the commission shall apply to a
27 district court of Travis County, as provided by that chapter. On

1 return of the order, the judge hearing the matter shall examine the
2 witness under oath and the witness shall be given an opportunity to
3 be heard. If the judge determines that the witness has refused,
4 without reasonable cause or legal excuse, to be examined or answer a
5 legal or pertinent question, or to produce evidence that the
6 witness was ordered to bring or produce, the judge may immediately
7 find the witness in contempt of court.

8 (i) The commission shall be granted access at any reasonable
9 time to any evidence that is related to any matter the commission or
10 executive director considers necessary to administer the
11 commission's functions, powers, and duties.

12 Sec. 141.055. INVESTIGATORS. (a) The commission may
13 employ and commission investigators as peace officers for the
14 purpose of investigating allegations of abuse, neglect, and
15 exploitation in juvenile justice programs and facilities under
16 Section 261.405, Family Code.

17 (b) Peace officers employed and commissioned under
18 Subsection (a) must be certified by the Commission on Law
19 Enforcement Officer Standards and Education under Chapter 1701,
20 Occupations Code.

21 SECTION 28. Section 38.06(a), Penal Code, is amended to
22 read as follows:

23 (a) A person commits an offense if he escapes from custody
24 when he is:

25 (1) under arrest for, charged with, or convicted of an
26 offense; [~~or~~]

27 (2) in custody pursuant to a lawful order of a court;

1 (3) detained in a secure detention facility, as that
2 term is defined by Section 51.02, Family Code; or

3 (4) in the custody of a juvenile probation officer for
4 violating an order imposed by the juvenile court under Section
5 52.01, Family Code.

6 SECTION 29. Section 38.07, Penal Code, is amended by adding
7 Subsection (f) to read as follows:

8 (f) In this section, "correctional facility" means:

9 (1) any place described by Section 1.07(a)(14); or

10 (2) a "secure correctional facility" or "secure
11 detention facility" as those terms are defined by Section 51.02,
12 Family Code.

13 SECTION 30. Section 38.09, Penal Code, is amended by adding
14 Subsection (c) to read as follows:

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

16 (1) any place described by Section 1.07(a)(14); or

17 (2) a "secure correctional facility" or "secure
18 detention facility" as those terms are defined by Section 51.02,
19 Family Code.

20 SECTION 31. Section 38.111, Penal Code, is amended by
21 adding Subsection (e) to read as follows:

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

23 (1) any place described by Section 1.07(a)(14); or

24 (2) a "secure correctional facility" or "secure
25 detention facility" as those terms are defined by Section 51.02,
26 Family Code.

27 SECTION 32. Section 38.114, Penal Code, is amended by

1 adding Subsection (d) to read as follows:

2 (d) In this section, "correctional facility" means:

3 (1) any place described by Section 1.07(a)(14); or

4 (2) a "secure correctional facility" or "secure
5 detention facility" as those terms are defined by Section 51.02,
6 Family Code.

7 SECTION 33. Section 39.04(f), Penal Code, is amended to
8 read as follows:

9 (f) An employee of the Texas Department of Criminal Justice,
10 the Texas Youth Commission, or a local juvenile probation
11 department commits an offense if the employee engages in sexual
12 contact, sexual intercourse, or deviate sexual intercourse with an
13 individual who is not the employee's spouse and who the employee
14 knows is under the supervision of the department, commission, or
15 probation department but not in the custody of the department,
16 commission, or probation department.

17 SECTION 34. Sections 61.049, 141.0432, 141.0433, and
18 141.0434, Human Resources Code, are repealed.

19 SECTION 35. (a) Not later than September 1, 2008, the Texas
20 Youth Commission shall comply with the requirements prescribed by
21 Sections 61.055 and 61.056, Human Resources Code, as added by this
22 Act.

23 (b) On September 1, 2008:

24 (1) all residential facilities designed to house more
25 than 100 children that are operated by or under contract with the
26 Texas Youth Commission, including any contracts or leases related
27 to those facilities, are transferred to the Texas Department of

1 Criminal Justice; and

2 (2) each employee of a residential facility designed
3 to house more than 100 children that is operated by or under
4 contract with the Texas Youth Commission must reapply to the Texas
5 Youth Commission to continue employment with the commission.

6 (c) The Texas Department of Criminal Justice may use a
7 residential facility transferred to the department under
8 Subsection (b) of this section in a manner determined by the
9 department.

10 SECTION 36. (a) This Act applies only to conduct that
11 occurs on or after the effective date of this Act. Conduct
12 violating the penal law of this state occurs on or after the
13 effective date of this Act if any element of the violation occurs on
14 or after that date.

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

18 (c) This Act applies only to an order by a juvenile court
19 rendered on or after the effective date of this Act. An appeal of an
20 order rendered before the effective date of this Act is governed by
21 the law in effect at the time the order was rendered, and that law is
22 continued in effect for that purpose.

23 (d) Section 54.0481, Family Code, as added by this Act,
24 applies only to a payment of restitution under a juvenile court
25 order received by a juvenile probation department on or after the
26 effective date of this Act.

27 SECTION 37. This Act takes effect September 1, 2007.