

By: Dutton

H.B. No. 2884

A BILL TO BE ENTITLED

AN ACT

relating to juvenile delinquency.

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

SECTION 1. Section 51.03(b), Family Code, is amended to read as follows:

(b) Conduct indicating a need for supervision is:

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

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

(B) the penal ordinances of any political subdivision of this state;

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

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

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

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

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

7 SECTION 2. Section 51.0412, Family Code, is amended to read
8 as follows:

9 Sec. 51.0412. JURISDICTION OVER INCOMPLETE
10 PROCEEDINGS. The court retains jurisdiction over a person,
11 without regard to the age of the person, who is a respondent in an
12 adjudication proceeding, a disposition proceeding, [~~or~~] a
13 proceeding to modify disposition, or a motion for transfer of
14 determinate sentence probation to appropriate district court if:

15 (1) the petition, [~~or~~] motion to modify, or motion for
16 transfer was filed while the respondent was younger than 18 years of
17 age;

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

20 (3) the court enters a finding in the proceeding that
21 the prosecuting attorney exercised due diligence in an attempt to
22 complete the proceeding before the respondent became 18 years of
23 age.

24 SECTION 3. Section 51.072, Family Code, is amended by
25 amending Subsections (b), (e), (f), (j), (k), (m), and (n) and
26 adding Subsections (f-1) and (m-1) to read as follows:

27 (b) When a child on probation moves or intends to move from

1 one county to another and intends to remain in the receiving county
2 for at least 60 days, the juvenile probation department of the
3 sending county shall request that the juvenile probation department
4 of the receiving county provide interim supervision of the child.
5 If the receiving county and the sending county are member counties
6 within a judicial district served by one juvenile probation
7 department, then a transfer of probation supervision is not
8 required.

9 (e) The juvenile probation department of the sending county
10 shall provide the juvenile probation department of the receiving
11 county with the following information in the request for interim
12 supervision initiated under Subsection (d):

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

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

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

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

21 (5) a brief summary of the child's history of
22 referrals;

23 (6) a brief statement of any special needs of the
24 child; [~~and~~]

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

27 (8) the reason for the child moving or intending to

1 move to the receiving county.

2 (f) Not later than 10 [~~five~~] business days after a receiving
3 county has agreed to provide interim supervision of a child, the
4 juvenile probation department of the sending county shall provide
5 the juvenile probation department of the receiving county with a
6 copy of the following documents:

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

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

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

11 (4) any psychological or psychiatric reports
12 concerning the child;

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

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

17 (7) any sex offender registration information
18 concerning the child;

19 (8) any juvenile probation department progress
20 reports concerning the child and any other pertinent documentation
21 for the child's probation officer;

22 (9) case plans concerning the child;

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

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

27 (12) the child's birth certificate;

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

3 (14) the name, address, and telephone number of the
4 contact person in the sending county's juvenile probation
5 department;

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

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

10 (17) any of the child's school or immunization records
11 that the juvenile probation department of the sending county
12 possesses; and

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

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

21 (j) On receiving a directive from the juvenile court of the
22 receiving county under Subsection (i)(2), the juvenile probation
23 department of the sending county shall arrange for the prompt
24 transportation of the child back to the sending county at the
25 expense of the sending county. The juvenile probation department
26 in the receiving county shall provide the sending county with
27 supporting written documentation of the incidents of violation of

1 probation on which the request to resume direct supervision is
2 based.

3 (k) The juvenile probation department of the receiving
4 county is entitled to any probation supervision fees collected from
5 the child or the child's parent while providing interim supervision
6 for the child. During the period of interim supervision, the
7 receiving county shall collect and distribute to the victim
8 monetary restitution payments in the manner specified by the
9 sending county. At the expiration of the period of interim
10 supervision, the receiving county shall collect and distribute
11 directly to the victim any remaining payments.

12 (m) Except as provided by Subsection (n), a period of
13 interim supervision may not exceed 180 days. Permanent supervision
14 automatically transfers to the juvenile probation department of the
15 receiving county after the expiration of the period of interim
16 supervision. The juvenile probation department of the receiving
17 county may request permanent supervision from the juvenile
18 probation department of the sending county at any time before the
19 180-day interim supervision period expires. After signing and
20 entry of an order of transfer of permanent supervision by the
21 sending county juvenile court, the juvenile probation department
22 shall, in accordance with Section 51.073(b), promptly send the
23 permanent supervision order and related documents to the receiving
24 county.

25 (m-1) If a child on interim supervision moves to another
26 county of residence or is otherwise no longer in the receiving
27 county before the expiration of 180 days, the receiving county

1 shall direct the sending county to resume supervision of the child.

2 (n) Notwithstanding Subsection (m), the period of interim
3 supervision of a child who is placed on probation under Section
4 54.04(q) does not expire until the child has satisfactorily
5 completed the greater of either 180 days or one-third of the term of
6 probation, including one-third of the term of any extension of the
7 probation term ordered under Section 54.05. Permanent supervision
8 automatically transfers to the probation department of the
9 receiving county after the expiration of the period of interim
10 supervision under this subsection. If the state elects to initiate
11 transfer proceedings under Section 54.051, the [The] juvenile court
12 of the sending county may order transfer of the permanent
13 supervision before the expiration of the period of interim
14 supervision under this subsection.

15 SECTION 4. Section 51.073, Family Code, is amended by
16 amending Subsection (c) and adding Subsection (d-1) to read as
17 follows:

18 (c) The juvenile court of the receiving county shall require
19 that the child be brought before the court in order to impose new or
20 different conditions of probation than those originally ordered by
21 the sending county or ordered by the receiving county during the
22 period of interim supervision. The child shall be represented by
23 counsel as provided by Section 51.10.

24 (d-1) On the final transfer of a case involving a child who
25 has been adjudicated as having committed an offense for which
26 registration is required under Chapter 62, Code of Criminal
27 Procedure, the receiving county shall have jurisdiction to conduct

1 a hearing under that chapter. This subsection does not prohibit the
2 receiving county juvenile court from considering the written
3 recommendations of the sending county juvenile court.

4 SECTION 5. Section 51.074, Family Code, is amended to read
5 as follows:

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

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

14 (c) On a violation of the conditions of the original
15 deferred prosecution agreement, the receiving county shall forward
16 the case to the sending county for prosecution or other action in
17 the manner provided by Sections 51.072(i) and (j), except that the
18 original conditions of deferred prosecution may not be modified by
19 the receiving county.

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

22 (f) A magistrate who provides the warnings required by
23 Subsection (a)(5) for a recorded [~~videotaped~~] statement may at the
24 time the warnings are provided request by speaking on the [~~tape~~]
25 recording that the officer return the child and the recording
26 [~~videotape~~] to the magistrate at the conclusion of the process of
27 questioning. The magistrate may then view the recording

1 [videotape] with the child or have the child view the recording
2 [videotape] to enable the magistrate to determine whether the
3 child's statements were given voluntarily. The magistrate's
4 determination of voluntariness shall be reduced to writing and
5 signed and dated by the magistrate. If a magistrate uses the
6 procedure described by this subsection, a child's statement is not
7 admissible unless the magistrate determines that the statement was
8 given voluntarily.

9 SECTION 7. Section 51.12, Family Code, is amended by adding
10 Subsections (b-1) and (m) and amending Subsections (c) and (i) to
11 read as follows:

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

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

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

18 (c) In each county, each judge of the juvenile court and a
19 majority of the members of the juvenile board shall personally
20 inspect all public or private ~~[the]~~ juvenile pre-adjudication
21 secure detention facilities ~~[and any public or private juvenile~~
22 ~~secure correctional facilities used for post-adjudication~~
23 ~~confinement]~~ that are located in the county ~~[and operated under~~
24 ~~authority of the juvenile board]~~ at least annually and shall
25 certify in writing to the authorities responsible for operating and
26 giving financial support to the facilities and to the Texas
27 Juvenile Probation Commission that the facilities ~~[they]~~ are

1 suitable or unsuitable for the detention of children in accordance
2 with:

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

5 (2) minimum professional standards for the detention
6 of children in pre-adjudication [~~or post-adjudication secure~~]
7 confinement promulgated by the Texas Juvenile Probation Commission
8 or, at the election of the juvenile board, the current standards
9 promulgated by the American Correctional Association.

10 (i) Except for a facility operated or certified by the Texas
11 Youth Commission or a facility as provided by Subsection (l), a
12 governmental unit or private entity that operates or contracts for
13 the operation of a juvenile pre-adjudication secure detention
14 facility under Subsection (b-1) [~~or a juvenile post-adjudication~~
15 ~~secure correctional facility~~] in this state shall:

16 (1) register the facility annually with the Texas
17 Juvenile Probation Commission; and

18 (2) adhere to all applicable minimum standards for the
19 facility.

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

23 (1) adhere to all applicable minimum standards for the
24 facility; or

25 (2) timely correct any notice of noncompliance with
26 minimum standards.

27 SECTION 8. Chapter 51, Family Code, is amended by adding

1 Section 51.125 to read as follows:

2 Sec. 51.125. POST-ADJUDICATION CORRECTIONAL FACILITIES.

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

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

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

9 (b) In each county, each judge of the juvenile court and a
10 majority of the members of the juvenile board shall personally
11 inspect all public or private juvenile post-adjudication secure
12 correctional facilities that are located in the county at least
13 annually and shall certify in writing to the authorities
14 responsible for operating and giving financial support to the
15 facilities and to the Texas Juvenile Probation Commission that the
16 facility or facilities are suitable or unsuitable for the detention
17 of children in accordance with minimum professional standards for
18 the detention of children in post-adjudication secure confinement
19 promulgated by the Texas Juvenile Probation Commission or, at the
20 election of the juvenile board, the current standards promulgated
21 by the American Correctional Association.

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

25 (1) register the facility annually with the Texas
26 Juvenile Probation Commission; and

27 (2) adhere to all applicable minimum standards for the

1 facility.

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

5 (1) adhere to all applicable minimum standards for the
6 facility; or

7 (2) timely correct any notice of noncompliance with
8 minimum standards.

9 SECTION 9. Section 51.17, Family Code, is amended by
10 amending Subsection (c) and adding Subsections (h) and (i) to read
11 as follows:

12 (c) Except as otherwise provided by this title, the Texas
13 Rules of Evidence apply [~~apply~~] to criminal cases and Articles
14 33.03 and 37.07 and Chapter 38, Code of Criminal Procedure, apply in
15 a judicial proceeding under this title.

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

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

22 SECTION 10. Sections 53.045(a) and (d), Family Code, are
23 amended to read as follows:

24 (a) Except as provided by Subsection (e), the prosecuting
25 attorney may refer the petition to the grand jury of the county in
26 which the court in which the petition is filed presides if the
27 petition alleges that the child engaged in delinquent conduct that

1 constitutes habitual felony conduct as described by Section 51.031
2 or that included the violation of any of the following provisions:

3 (1) Section 19.02, Penal Code (murder);

4 (2) Section 19.03, Penal Code (capital murder);

5 (3) Section 19.04, Penal Code (manslaughter);

6 (4) Section 20.04, Penal Code (aggravated
7 kidnapping);

8 (5) Section 22.011, Penal Code (sexual assault) or
9 Section 22.021, Penal Code (aggravated sexual assault);

10 (6) Section 22.02, Penal Code (aggravated assault);

11 (7) Section 29.03, Penal Code (aggravated robbery);

12 (8) Section 22.04, Penal Code (injury to a child,
13 elderly individual, or disabled individual), if the offense is
14 punishable as a felony, other than a state jail felony;

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

17 (10) Subchapter D, Chapter 481, Health and Safety
18 Code, if the conduct constitutes a felony of the first degree or an
19 aggravated controlled substance felony (certain offenses involving
20 controlled substances);

21 (11) Section 15.03, Penal Code (criminal
22 solicitation);

23 (12) Section 21.11(a)(1), Penal Code (indecent with a
24 child);

25 (13) Section 15.031, Penal Code (criminal
26 solicitation of a minor);

27 (14) Section 15.01, Penal Code (criminal attempt), if

1 the offense attempted was an offense under Section 19.02, Penal
2 Code (murder), or Section 19.03, Penal Code (capital murder), or an
3 offense listed by Section 3g(a)(1), Article 42.12, Code of Criminal
4 Procedure;

5 (15) Section 28.02, Penal Code (arson), if bodily
6 injury or death is suffered by any person by reason of the
7 commission of the conduct; ~~[or]~~

8 (16) Section 49.08, Penal Code (intoxication
9 manslaughter); or

10 (17) Section 15.02, Penal Code (criminal conspiracy),
11 if the offense made the subject of the criminal conspiracy includes
12 a violation of any of the provisions referenced in Subsections
13 (a)(1) through (16).

14 (d) If the grand jury approves of the petition, the fact of
15 approval shall be certified to the juvenile court, and the
16 certification shall be entered in the record of the case. For the
17 purpose of the transfer of a child to the Texas Department of
18 Criminal Justice ~~[Corrections]~~ as provided by Section 61.084(c),
19 Human Resources Code, a juvenile court petition approved by a grand
20 jury under this section is an indictment presented by the grand
21 jury.

22 SECTION 11. Section 54.04, Family Code, is amended by
23 amending Subsections (a), (b), (d), and (j) and adding Subsection
24 (v) to read as follows:

25 (a) The disposition hearing shall be separate, distinct,
26 and subsequent to the adjudication hearing. There is no right to a
27 jury at the disposition hearing unless the child is in jeopardy of a

1 determinate sentence under Subsection (d)(3) or (m), in which case,
2 the child is entitled to a jury of 12 persons to determine the
3 sentence, but only if the child so elects in writing before the
4 commencement of the voir dire examination of the jury panel. If a
5 finding of delinquent conduct is returned, the child may, with the
6 consent of the attorney for the state, change the child's election
7 of one who assesses the disposition.

8 (b) At the disposition hearing, the juvenile court,
9 notwithstanding the Texas Rules of Evidence or Chapter 37, Code of
10 Criminal Procedure, may consider written reports from probation
11 officers, professional court employees, or professional
12 consultants in addition to the testimony of witnesses. Prior to the
13 disposition hearing, the court shall provide the attorney for the
14 child with access to all written matter to be considered in
15 disposition. The court may order counsel not to reveal items to the
16 child or the child's parent, guardian, or guardian ad litem if such
17 disclosure would materially harm the treatment and rehabilitation
18 of the child or would substantially decrease the likelihood of
19 receiving information from the same or similar sources in the
20 future.

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

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

27 (A) in the child's own home or in the custody of a

1 relative or other fit person; or

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

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

5 (ii) a suitable public or private
6 residential treatment facility licensed by a state governmental
7 entity or exempted from licensure by state law [~~institution or~~
8 ~~agency~~], except a facility operated by the Texas Youth Commission;
9 or

10 (iii) a suitable public or private
11 post-adjudication secure correctional facility that meets the
12 requirements of Section 51.125, except a facility operated by the
13 Texas Youth Commission;

14 (2) if the court or jury found at the conclusion of the
15 adjudication hearing that the child engaged in delinquent conduct
16 that violates a penal law of this state or the United States of the
17 grade of felony or, if the requirements of Subsection (s) or (t) are
18 met, of the grade of misdemeanor, and if the petition was not
19 approved by the grand jury under Section 53.045, the court may
20 commit the child to the Texas Youth Commission without a
21 determinate sentence and such commitment shall be for the period of
22 time until the child becomes the age of 21, unless the person is
23 discharged earlier by the Texas Youth Commission;

24 (3) if the court or jury found at the conclusion of the
25 adjudication hearing that the child engaged in delinquent conduct
26 that included a violation of a penal law listed in Section 53.045(a)
27 and if the petition was approved by the grand jury under Section

1 53.045, the court or jury may sentence the child to commitment in
2 the Texas Youth Commission with a possible transfer to the
3 institutional division or the pardons and paroles division of the
4 Texas Department of Criminal Justice for a term of:

5 (A) not more than 40 years if the conduct
6 constitutes:

7 (i) a capital felony;

8 (ii) a felony of the first degree; or

9 (iii) an aggravated controlled substance
10 felony;

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

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

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

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

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

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

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

27 (v) A child may be detained in an appropriate detention

1 facility following disposition of the child's case under Subsection
2 (d) or (m) pending:

3 (1) transportation of the child to the ordered
4 placement; and

5 (2) the provision of medical or other health care
6 services for the child that may be advisable before transportation,
7 including health care services for children in the late term of
8 pregnancy.

9 SECTION 12. Section 55.43(a), Family Code, is amended to
10 read as follows:

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

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

15 (2) the child:

16 (A) is not:

17 (i) ordered by a court to receive inpatient
18 mental health services;

19 (ii) committed by a court to a residential
20 care facility; or

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

23 (B) is discharged or currently on furlough
24 [~~furloughed~~] from a mental health facility or outpatient center
25 before the child reaches 18 years of age.

26 SECTION 13. Section 55.44(a), Family Code, is amended to
27 read as follows:

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

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

10 (2) the child is alleged to have engaged in delinquent
11 conduct that included a violation of a penal law listed in Section
12 53.045 and no adjudication concerning the alleged conduct has been
13 made.

14 SECTION 14. Section 55.45, Family Code, is amended by
15 adding Subsection (c) to read as follows:

16 (c) If the referred child, as described in Subsection (b),
17 is alleged to have committed an offense listed in Section 3g,
18 Article 42.12, Code of Criminal Procedure, the administrator of the
19 residential care facility shall apply, in writing, by certified
20 mail, return receipt requested, to the juvenile court that ordered
21 commitment of the child or that referred the case to a court that
22 ordered commitment of the child and show good cause for any release
23 of the child from the facility for more than 48 hours. Notice of
24 this request must be provided to the prosecuting attorney
25 responsible for the case. The prosecuting attorney, the juvenile,
26 or the administrator may apply for a hearing on this application.
27 If no one applies for a hearing, the trial court shall resolve the

1 application on the written submission. The rules of evidence do not
2 apply to this hearing. An appeal of the trial court's ruling on the
3 application is not allowed. The release of a child described in
4 this subsection without the express approval of the trial court is
5 punishable by contempt.

6 SECTION 15. Section 58.0051, Family Code, is amended by
7 adding Subsection (e) to read as follows:

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

- 13 (1) Texas Education Agency;
14 (2) Texas Youth Commission; and
15 (3) Texas Department of Criminal Justice.

16 SECTION 16. Sections 58.0072(c) and (d), Family Code, are
17 amended to read as follows:

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

22 (1) criminal justice agencies as defined by Section
23 411.082, Government Code;

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

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

1 (4) a public or private university.

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

5 (1) a person working on a research or statistical
6 project that:

7 (A) is funded in whole or in part by state or
8 federal funds; and [~~or~~]

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

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

13 (A) specifically authorizes access to
14 information;

15 (B) limits the use of information to the purposes
16 for which the information is given;

17 (C) ensures the security and confidentiality of
18 the information; and

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

21 SECTION 17. Section 58.110(e), Family Code, is amended to
22 read as follows:

23 (e) Except as otherwise required by applicable state laws or
24 regulations, information required by this chapter to be reported to
25 the department shall be reported promptly. The information shall
26 be reported not later than the 30th day after the date the
27 information is received by the agency responsible for reporting the

1 information, except that a juvenile offender's custody or [7]
2 detention[~~, or referral~~] without previous custody shall be reported
3 to the department not later than the seventh day after the date of
4 the custody or [7] detention[~~, or referral~~].

5 SECTION 18. Chapter 58, Family Code, is amended by adding
6 Subchapter E to read as follows:

7 SUBCHAPTER E. STATEWIDE JUVENILE INFORMATION AND CASE MANAGEMENT
8 SYSTEM

9 Sec. 58.401. DEFINITIONS. In this subchapter:

10 (1) "Commission" means the Texas Juvenile Probation
11 Commission.

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

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

16 (4) "Partner agencies" means those agencies described
17 in Section 58.305 as well as private service providers to the
18 juvenile justice system.

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

21 Sec. 58.402. PURPOSES OF SYSTEM. The purposes of the system
22 are to:

23 (1) provide accurate information at the statewide
24 level relating to children who come into contact with the juvenile
25 justice system;

26 (2) facilitate communication and information sharing
27 between authorized entities in criminal and juvenile justice

1 agencies and partner agencies regarding effective and efficient
2 identification of and service delivery to juvenile offenders; and
3 (3) provide comprehensive juvenile justice
4 information and case management abilities that will meet the common
5 data collection, reporting, and management needs of juvenile
6 probation departments in this state and provide the flexibility to
7 accommodate individualized requirements.

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

11 (1) aid in processing the cases of children under this
12 title;

13 (2) facilitate the delivery of services to children in
14 the juvenile justice system;

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

17 (4) facilitate cross-jurisdictional sharing of
18 information related to juvenile offenders between authorized
19 criminal and juvenile justice agencies and partner agencies.

20 Sec. 58.404. INFORMATION COLLECTED BY THE COMMISSION. The
21 commission may collect and maintain all information related to
22 juvenile offenders and all offenses committed by a juvenile
23 offender, including all information collected and maintained under
24 Subchapters B and D.

25 Sec. 58.405. AUTHORIZED ACCESS TO SYSTEM. Juvenile justice
26 agencies shall have access to all data in the system and may share
27 information with appropriate partner agencies and other entities

1 authorized by law to receive the information.

2 SECTION 19. Section 59.003(a), Family Code, is amended to
3 read as follows:

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

11 (1) for conduct indicating a need for supervision,
12 other than conduct described in Section 51.03(b)(4) or (5)
13 [~~51.03(b)(5)~~] or a Class A or B misdemeanor, the sanction level is
14 one;

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

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

23 (4) for a felony of the second degree, the sanction
24 level is four;

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

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

5 (7) 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, if
8 the petition has been approved by a grand jury under Section 53.045,
9 or if a petition to transfer the child to criminal court has been
10 filed under Section 54.02, the sanction level is seven.

11 SECTION 20. Sections 261.401(a) and (b), Family Code, are
12 amended to read as follows:

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

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

19 (2) "Exploitation" means the illegal or improper use
20 of a child or of the resources of a child for monetary or personal
21 benefit, profit, or gain by an employee, volunteer, or other
22 individual working under the auspices of a facility or program as
23 further described by rule or policy.

24 (3) "Neglect" means a negligent act or omission by an
25 employee, volunteer, or other individual working under the auspices
26 of a facility or program, including failure to comply with an
27 individual treatment plan, plan of care, or individualized service

1 plan, that causes or may cause substantial emotional harm or
2 physical injury to, or the death of, a child served by the facility
3 as further described by rule or policy.

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

11 SECTION 21. Section 261.405(a), Family Code, is amended to
12 read as follows:

13 (a) In this section:

14 (1) "Juvenile justice facility" means a facility
15 operated wholly or partly by the juvenile board, by another
16 governmental unit, or by a private vendor under a contract with the
17 juvenile board, ~~or~~ county, or other governmental unit that serves
18 juveniles under juvenile court jurisdiction. The term includes:

19 (A) a public or private juvenile
20 pre-adjudication secure detention facility, including a holdover
21 facility;

22 (B) a public or private juvenile
23 post-adjudication secure correctional facility except for a
24 facility operated solely for children committed to the Texas Youth
25 Commission; and

26 (C) a public or private non-secure juvenile
27 post-adjudication residential treatment facility that is not

1 licensed by the Department of Protective and Regulatory Services or
2 the Texas Commission on Alcohol and Drug Abuse.

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

7 (A) a juvenile justice alternative education
8 program; [~~and~~]

9 (B) a non-residential program that serves
10 juvenile offenders under the jurisdiction of the juvenile court;
11 and

12 (C) a juvenile probation department.

13 SECTION 22. Section 25.0951(a), Education Code, is amended
14 to read as follows:

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

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

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

27 SECTION 23. Section 61.0762, Human Resources Code, is

1 amended to read as follows:

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

5 (b) The commission may establish infant care and parenting
6 programs for persons committed to the commission [~~children~~] who are
7 parents.

8 (c) [~~(b)~~] The commission may permit a [~~child who is the~~]
9 mother [~~of an infant younger than 36 months~~] to have possession of
10 her child [~~infant~~] in a residential program that has an infant care
11 and parenting program or to have possession of her child in a
12 commission-funded independent living residence for up to six [~~until~~
13 ~~the infant reaches the age of 36~~] months [~~or the mother is released~~
14 ~~under supervision~~] if:

15 (1) the child's [~~infant's~~] father or another relative
16 or guardian of the child [~~infant~~] agrees in advance of the child's
17 [~~infant's~~] placement with the child's [~~infant's~~] mother to assume
18 possession of the child [~~infant~~] immediately upon notice by the
19 commission to do so;

20 (2) the child's [~~infant's~~] parents and any other
21 person having a duty of support acknowledge that by permitting the
22 mother to have possession of the child [~~infant~~] while the mother is
23 confined in a residential facility or placed in an independent
24 living residence, the commission assumes no responsibility for the
25 child's [~~infant's~~] care beyond the responsibility of care that is
26 ordinarily due the child's [~~infant's~~] mother and the reasonable
27 accommodations that are necessary for the mother's care of her

1 child [~~the infant~~];

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

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

9 SECTION 24. Subchapter C, Chapter 141, Human Resources
10 Code, is amended by adding Section 141.0461 to read as follows:

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

15 (b) The commission may issue a subpoena requiring the
16 attendance of a witness or the production of evidence that the
17 commission considers necessary for the investigation of:

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

19 (2) complaints;

20 (3) financial and programmatic audits of juvenile
21 probation programs services and facilities, including juvenile
22 justice alternative education programs; or

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

24 (c) The commission may issue a subpoena under Subsection (a)
25 only if the subpoena is signed by:

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

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

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

8 (e) A subpoena under this section shall be served and
9 witness fees and mileage paid as in civil cases in the district
10 court in the county to which the witness is called, unless the
11 proceeding for which the service or payment is made is under Chapter
12 2001, Government Code, in which case the service or payment shall be
13 made as provided in that chapter. Witnesses subpoenaed at the
14 instance of the commission shall be paid their fees and mileage by
15 the commission out of funds appropriated for that purpose.

16 (f) On application of the commission, a court of record
17 having original jurisdiction of criminal actions may compel the
18 attendance of a witness, the production of material, or the giving
19 of testimony before the commission, by an attachment for contempt
20 or in the same manner as the court may otherwise compel the
21 production of evidence.

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

25 (h) If a witness in attendance before the commission or
26 before an authorized representative refuses without reasonable
27 cause to be examined or answer a legal or pertinent question, or to

1 produce evidence when ordered by the commission, the commission may
2 apply to the district court for a rule or order returnable in not
3 less than two or in more than five days, directing the witness to
4 show cause before the judge why the witness should not be punished
5 for contempt. The commission may apply to the district court of any
6 county where the witness is in attendance, on proof by affidavit of
7 the fact, unless the order of contempt is sought under Chapter 2001,
8 Government Code, in which case the commission shall apply to a
9 district court of Travis County, as provided by that chapter. On
10 return of the order, the judge hearing the matter shall examine the
11 witness under oath and the witness shall be given an opportunity to
12 be heard. If the judge determines that the witness has refused,
13 without reasonable cause or legal excuse, to be examined or answer a
14 legal or pertinent question, or to produce evidence that the
15 witness was ordered to bring or produce, the judge may immediately
16 find the witness in contempt of court.

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

21 SECTION 25. 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 26. 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 27. 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 28. 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 29. 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 30. 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 31. Sections 141.0432, 141.0433, and 141.0434,
18 Human Resources Code, are repealed.

19 SECTION 32. (a) This Act applies only to conduct that
20 occurs on or after the effective date of this Act. Conduct
21 violating the penal law of this state occurs on or after the
22 effective date of this Act if any element of the violation occurs on
23 or after that date.

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

27 (c) This Act applies only to fingerprints taken on or after

1 the effective date of this Act. Fingerprints taken before the
2 effective date of this Act are governed by the law in effect at the
3 time the fingerprints were taken, and that law is continued in
4 effect for that purpose.

5 (d) This Act applies only to an order by a juvenile court
6 rendered on or after the effective date of this Act. An appeal of an
7 order rendered before the effective date of this Act is governed by
8 the law in effect at the time the order was rendered, and that law is
9 continued in effect for that purpose.

10 SECTION 33. This Act takes effect September 1, 2007.