

1-1 By: Dutton (Senate Sponsor - West) H.B. No. 2884
1-2 (In the Senate - Received from the House May 14, 2007;
1-3 May 15, 2007, read first time and referred to Committee on Criminal
1-4 Justice; May 18, 2007, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 18, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to juvenile delinquency; providing penalties.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Article 2.12, Code of Criminal Procedure, is
1-11 amended to read as follows:

1-12 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace
1-13 officers:

1-14 (1) sheriffs, their deputies, and those reserve
1-15 deputies who hold a permanent peace officer license issued under
1-16 Chapter 1701, Occupations Code;

1-17 (2) constables, deputy constables, and those reserve
1-18 deputy constables who hold a permanent peace officer license issued
1-19 under Chapter 1701, Occupations Code;

1-20 (3) marshals or police officers of an incorporated
1-21 city, town, or village, and those reserve municipal police officers
1-22 who hold a permanent peace officer license issued under Chapter
1-23 1701, Occupations Code;

1-24 (4) rangers and officers commissioned by the Public
1-25 Safety Commission and the Director of the Department of Public
1-26 Safety;

1-27 (5) investigators of the district attorneys', criminal
1-28 district attorneys', and county attorneys' offices;

1-29 (6) law enforcement agents of the Texas Alcoholic
1-30 Beverage Commission;

1-31 (7) each member of an arson investigating unit
1-32 commissioned by a city, a county, or the state;

1-33 (8) officers commissioned under Section 37.081,
1-34 Education Code, or Subchapter E, Chapter 51, Education Code;

1-35 (9) officers commissioned by the General Services
1-36 Commission;

1-37 (10) law enforcement officers commissioned by the
1-38 Parks and Wildlife Commission;

1-39 (11) airport police officers commissioned by a city
1-40 with a population of more than 1.18 million that operates an airport
1-41 that serves commercial air carriers;

1-42 (12) airport security personnel commissioned as peace
1-43 officers by the governing body of any political subdivision of this
1-44 state, other than a city described by Subdivision (11), that
1-45 operates an airport that serves commercial air carriers;

1-46 (13) municipal park and recreational patrolmen and
1-47 security officers;

1-48 (14) security officers and investigators commissioned
1-49 as peace officers by the comptroller;

1-50 (15) officers commissioned by a water control and
1-51 improvement district under Section 49.216, Water Code;

1-52 (16) officers commissioned by a board of trustees
1-53 under Chapter 54, Transportation Code;

1-54 (17) investigators commissioned by the Texas Medical
1-55 [~~State~~] Board [~~of Medical Examiners~~];

1-56 (18) officers commissioned by the board of managers of
1-57 the Dallas County Hospital District, the Tarrant County Hospital
1-58 District, or the Bexar County Hospital District under Section
1-59 281.057, Health and Safety Code;

1-60 (19) county park rangers commissioned under
1-61 Subchapter E, Chapter 351, Local Government Code;

1-62 (20) investigators employed by the Texas Racing
1-63 Commission;

1-64 (21) officers commissioned under Chapter 554,

2-1 Occupations Code;

2-2 (22) officers commissioned by the governing body of a

2-3 metropolitan rapid transit authority under Section 451.108,

2-4 Transportation Code, or by a regional transportation authority

2-5 under Section 452.110, Transportation Code;

2-6 (23) investigators commissioned by the attorney

2-7 general under Section 402.009, Government Code;

2-8 (24) security officers and investigators commissioned

2-9 as peace officers under Chapter 466, Government Code;

2-10 (25) an officer employed by the [~~Texas~~] Department of

2-11 State Health Services under Section 431.2471, Health and Safety

2-12 Code;

2-13 (26) officers appointed by an appellate court under

2-14 Subchapter F, Chapter 53, Government Code;

2-15 (27) officers commissioned by the state fire marshal

2-16 under Chapter 417, Government Code;

2-17 (28) an investigator commissioned by the commissioner

2-18 of insurance under Section 701.104 [~~Article 1.10D~~], Insurance Code;

2-19 (29) apprehension specialists commissioned by the

2-20 Texas Youth Commission as officers under Section 61.0931, Human

2-21 Resources Code;

2-22 (30) officers appointed by the executive director of

2-23 the Texas Department of Criminal Justice under Section 493.019,

2-24 Government Code;

2-25 (31) investigators commissioned by the Commission on

2-26 Law Enforcement Officer Standards and Education under Section

2-27 1701.160, Occupations Code;

2-28 (32) commission investigators commissioned by the

2-29 Texas [~~Commission on~~] Private Security Board under Section

2-30 1702.061(f), Occupations Code;

2-31 (33) the fire marshal and any officers, inspectors, or

2-32 investigators commissioned by an emergency services district under

2-33 Chapter 775, Health and Safety Code; [~~and~~]

2-34 (34) officers commissioned by the State Board of

2-35 Dental Examiners under Section 254.013, Occupations Code, subject

2-36 to the limitations imposed by that section; and

2-37 (35) investigators commissioned by the Texas Juvenile

2-38 Probation Commission as officers under Section 141.055, Human

2-39 Resources Code.

2-40 SECTION 2. Section 51.03(b), Family Code, is amended to

2-41 read as follows:

2-42 (b) Conduct indicating a need for supervision is:

2-43 (1) subject to Subsection (f), conduct, other than a

2-44 traffic offense, that violates:

2-45 (A) the penal laws of this state of the grade of

2-46 misdemeanor that are punishable by fine only; or

2-47 (B) the penal ordinances of any political

2-48 subdivision of this state;

2-49 (2) the absence of a child on 10 or more days or parts

2-50 of days within a six-month period in the same school year or on

2-51 three or more days or parts of days within a four-week period from

2-52 school;

2-53 (3) the voluntary absence of a child from the child's

2-54 home without the consent of the child's parent or guardian for a

2-55 substantial length of time or without intent to return;

2-56 (4) conduct prohibited by city ordinance or by state

2-57 law involving the inhalation of the fumes or vapors of paint and

2-58 other protective coatings or glue and other adhesives and the

2-59 volatile chemicals itemized in Section 485.001 [~~484.002~~], Health

2-60 and Safety Code;

2-61 (5) an act that violates a school district's

2-62 previously communicated written standards of student conduct for

2-63 which the child has been expelled under Section 37.007(c),

2-64 Education Code; or

2-65 (6) conduct that violates a reasonable and lawful

2-66 order of a court entered under Section 264.305.

2-67 SECTION 3. Section 51.0412, Family Code, is amended to read

2-68 as follows:

2-69 Sec. 51.0412. JURISDICTION OVER INCOMPLETE

3-1 PROCEEDINGS. The court retains jurisdiction over a person,
 3-2 without regard to the age of the person, who is a respondent in an
 3-3 adjudication proceeding, a disposition proceeding, ~~or~~ a
 3-4 proceeding to modify disposition, or a motion for transfer of
 3-5 determinate sentence probation to an appropriate district court if:

3-6 (1) the petition, ~~or~~ motion to modify, or motion for
 3-7 transfer was filed while the respondent was younger than 18 years of
 3-8 age;

3-9 (2) the proceeding is not complete before the
 3-10 respondent becomes 18 years of age; and

3-11 (3) the court enters a finding in the proceeding that
 3-12 the prosecuting attorney exercised due diligence in an attempt to
 3-13 complete the proceeding before the respondent became 18 years of
 3-14 age.

3-15 SECTION 4. Section 51.072, Family Code, is amended by
 3-16 amending Subsections (b), (e), (f), (j), (k), (m), and (n) and
 3-17 adding Subsections (f-1) and (m-1) to read as follows:

3-18 (b) When a child on probation moves or intends to move from
 3-19 one county to another and intends to remain in the receiving county
 3-20 for at least 60 days, the juvenile probation department of the
 3-21 sending county shall request that the juvenile probation department
 3-22 of the receiving county provide interim supervision of the child.
 3-23 If the receiving county and the sending county are member counties
 3-24 within a judicial district served by one juvenile probation
 3-25 department, then a transfer of probation supervision is not
 3-26 required.

3-27 (e) The juvenile probation department of the sending county
 3-28 shall provide the juvenile probation department of the receiving
 3-29 county with the following information in the request for interim
 3-30 supervision initiated under Subsection (d):

3-31 (1) the child's name, sex, age, race, and date of
 3-32 birth;

3-33 (2) the name, address, date of birth, and social
 3-34 security or driver's license number, and telephone number, if
 3-35 available, of the person with whom the child proposes to reside or
 3-36 is residing in the receiving county;

3-37 (3) the offense for which the child is on probation;

3-38 (4) the length of the child's probation term;

3-39 (5) a brief summary of the child's history of
 3-40 referrals;

3-41 (6) a brief statement of any special needs of the
 3-42 child; ~~and~~

3-43 (7) the name and telephone number of the child's school
 3-44 in the receiving county, if available; and

3-45 (8) the reason for the child moving or intending to
 3-46 move to the receiving county.

3-47 (f) Not later than 10 ~~five~~ business days after a receiving
 3-48 county has agreed to provide interim supervision of a child, the
 3-49 juvenile probation department of the sending county shall provide
 3-50 the juvenile probation department of the receiving county with a
 3-51 copy of the following documents:

3-52 (1) the petition and the adjudication and disposition
 3-53 orders for the child, including the child's thumbprint;

3-54 (2) the child's conditions of probation;

3-55 (3) the social history report for the child;

3-56 (4) any psychological or psychiatric reports
 3-57 concerning the child;

3-58 (5) the Department of Public Safety CR 43J form or
 3-59 tracking incident number concerning the child;

3-60 (6) any law enforcement incident reports concerning
 3-61 the offense for which the child is on probation;

3-62 (7) any sex offender registration information
 3-63 concerning the child;

3-64 (8) any juvenile probation department progress
 3-65 reports concerning the child and any other pertinent documentation
 3-66 for the child's probation officer;

3-67 (9) case plans concerning the child;

3-68 (10) the Texas Juvenile Probation Commission standard
 3-69 assessment tool results for the child;

4-1 (11) the computerized referral and case history for
4-2 the child, including case disposition;

4-3 (12) the child's birth certificate;

4-4 (13) the child's social security number or social
4-5 security card, if available;

4-6 (14) the name, address, and telephone number of the
4-7 contact person in the sending county's juvenile probation
4-8 department;

4-9 (15) Title IV-E eligibility screening information for
4-10 the child, if available;

4-11 (16) the address in the sending county for forwarding
4-12 funds collected to which the sending county is entitled;

4-13 (17) any of the child's school or immunization records
4-14 that the juvenile probation department of the sending county
4-15 possesses; and

4-16 (18) any victim information concerning the case for
4-17 which the child is on probation.

4-18 (f-1) The inter-county transfer officers in the sending and
4-19 receiving counties shall agree on the official start date for the
4-20 period of interim supervision, which must begin no later than three
4-21 business days after the date the documents required under
4-22 Subsection (f) have been received and accepted by the receiving
4-23 county.

4-24 (j) On receiving a directive from the juvenile court of the
4-25 receiving county under Subsection (i)(2), the juvenile probation
4-26 department of the sending county shall arrange for the prompt
4-27 transportation of the child back to the sending county at the
4-28 expense of the sending county. The juvenile probation department
4-29 in the receiving county shall provide the sending county with
4-30 supporting written documentation of the incidents of violation of
4-31 probation on which the request to resume direct supervision is
4-32 based.

4-33 (k) The juvenile probation department of the receiving
4-34 county is entitled to any probation supervision fees collected from
4-35 the child or the child's parent while providing interim supervision
4-36 for the child. During the period of interim supervision, the
4-37 receiving county shall collect and distribute to the victim
4-38 monetary restitution payments in the manner specified by the
4-39 sending county. At the expiration of the period of interim
4-40 supervision, the receiving county shall collect and distribute
4-41 directly to the victim any remaining payments.

4-42 (m) Except as provided by Subsection (n), a period of
4-43 interim supervision may not exceed 180 days. Permanent supervision
4-44 automatically transfers to the juvenile probation department of the
4-45 receiving county after the expiration of the period of interim
4-46 supervision. The juvenile probation department of the receiving
4-47 county may request permanent supervision from the juvenile
4-48 probation department of the sending county at any time before the
4-49 180-day interim supervision period expires. After signing and
4-50 entry of an order of transfer of permanent supervision by the
4-51 sending county juvenile court, the juvenile probation department
4-52 shall, in accordance with Section 51.073(b), promptly send the
4-53 permanent supervision order and related documents to the receiving
4-54 county.

4-55 (m-1) If a child on interim supervision moves to another
4-56 county of residence or is otherwise no longer in the receiving
4-57 county before the expiration of 180 days, the receiving county
4-58 shall direct the sending county to resume supervision of the child.

4-59 (n) Notwithstanding Subsection (m), the period of interim
4-60 supervision of a child who is placed on probation under Section
4-61 54.04(q) does not expire until the child has satisfactorily
4-62 completed the greater of either 180 days or one-third of the term of
4-63 probation, including one-third of the term of any extension of the
4-64 probation term ordered under Section 54.05. Permanent supervision
4-65 automatically transfers to the probation department of the
4-66 receiving county after the expiration of the period of interim
4-67 supervision under this subsection. If the state elects to initiate
4-68 transfer proceedings under Section 54.051, the [The] juvenile court
4-69 of the sending county may order transfer of the permanent

5-1 supervision before the expiration of the period of interim
5-2 supervision under this subsection.

5-3 SECTION 5. Section 51.073, Family Code, is amended by
5-4 amending Subsection (c) and adding Subsection (d-1) to read as
5-5 follows:

5-6 (c) The juvenile court of the receiving county shall require
5-7 that the child be brought before the court in order to impose new or
5-8 different conditions of probation than those originally ordered by
5-9 the sending county or ordered by the receiving county during the
5-10 period of interim supervision. The child shall be represented by
5-11 counsel as provided by Section 51.10.

5-12 (d-1) On the final transfer of a case involving a child who
5-13 has been adjudicated as having committed an offense for which
5-14 registration is required under Chapter 62, Code of Criminal
5-15 Procedure, the receiving county shall have jurisdiction to conduct
5-16 a hearing under that chapter. This subsection does not prohibit the
5-17 receiving county juvenile court from considering the written
5-18 recommendations of the sending county juvenile court.

5-19 SECTION 6. Section 51.074, Family Code, is amended to read
5-20 as follows:

5-21 Sec. 51.074. TRANSFER OF PROBATION SUPERVISION BETWEEN
5-22 COUNTIES: DEFERRED PROSECUTION. (a) A juvenile court may
5-23 transfer interim supervision, but not permanent supervision, to the
5-24 county where a child on deferred prosecution resides.

5-25 (b) On an extension of a previous order of deferred
5-26 prosecution authorized under Section 53.03(j), the child shall
5-27 remain on interim supervision for an additional period not to
5-28 exceed 180 days.

5-29 (c) On a violation of the conditions of the original
5-30 deferred prosecution agreement, the receiving county shall forward
5-31 the case to the sending county for prosecution or other action in
5-32 the manner provided by Sections 51.072(i) and (j), except that the
5-33 original conditions of deferred prosecution may not be modified by
5-34 the receiving county.

5-35 SECTION 7. Section 51.095(f), Family Code, is amended to
5-36 read as follows:

5-37 (f) A magistrate who provides the warnings required by
5-38 Subsection (a)(5) for a recorded [videotaped] statement may at the
5-39 time the warnings are provided request by speaking on the [~~tape~~]
5-40 recording that the officer return the child and the recording
5-41 [videotape] to the magistrate at the conclusion of the process of
5-42 questioning. The magistrate may then view the recording
5-43 [videotape] with the child or have the child view the recording
5-44 [videotape] to enable the magistrate to determine whether the
5-45 child's statements were given voluntarily. The magistrate's
5-46 determination of voluntariness shall be reduced to writing and
5-47 signed and dated by the magistrate. If a magistrate uses the
5-48 procedure described by this subsection, a child's statement is not
5-49 admissible unless the magistrate determines that the statement was
5-50 given voluntarily.

5-51 SECTION 8. Section 51.12, Family Code, is amended by adding
5-52 Subsections (b-1) and (m) and amending Subsections (c) and (i) to
5-53 read as follows:

5-54 (b-1) A pre-adjudication secure detention facility may be
5-55 operated only by:

5-56 (1) a governmental unit in this state as defined by
5-57 Section 101.001, Civil Practice and Remedies Code; or

5-58 (2) a private entity under a contract with a
5-59 governmental unit in this state.

5-60 (c) In each county, each judge of the juvenile court and a
5-61 majority of the members of the juvenile board shall personally
5-62 inspect all public or private [the] juvenile pre-adjudication
5-63 secure detention facilities [and any public or private juvenile
5-64 secure correctional facilities used for post-adjudication
5-65 confinement] that are located in the county [and operated under
5-66 authority of the juvenile board] at least annually and shall
5-67 certify in writing to the authorities responsible for operating and
5-68 giving financial support to the facilities and to the Texas
5-69 Juvenile Probation Commission that the facilities [they] are

6-1 suitable or unsuitable for the detention of children in accordance
 6-2 with:

6-3 (1) the requirements of Subsections (a), (f), and (g);
 6-4 and

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

6-10 (i) Except for a facility operated or certified by the Texas
 6-11 Youth Commission or a facility as provided by Subsection (l), a
 6-12 governmental unit or private entity that operates or contracts for
 6-13 the operation of a juvenile pre-adjudication secure detention
 6-14 facility under Subsection (b-1) [~~or a juvenile post-adjudication~~
 6-15 ~~secure correctional facility~~] in this state shall:

6-16 (1) register the facility annually with the Texas
 6-17 Juvenile Probation Commission; and

6-18 (2) adhere to all applicable minimum standards for the
 6-19 facility.

6-20 (m) The Texas Juvenile Probation Commission may deny,
 6-21 suspend, or revoke the registration of any facility required to
 6-22 register under Subsection (i) if the facility fails to:

6-23 (1) adhere to all applicable minimum standards for the
 6-24 facility; or

6-25 (2) timely correct any notice of noncompliance with
 6-26 minimum standards.

6-27 SECTION 9. Chapter 51, Family Code, is amended by adding
 6-28 Section 51.125 to read as follows:

6-29 Sec. 51.125. POST-ADJUDICATION CORRECTIONAL FACILITIES.

6-30 (a) A post-adjudication secure correctional facility for juvenile
 6-31 offenders may be operated only by:

6-32 (1) a governmental unit in this state as defined by
 6-33 Section 101.001, Civil Practice and Remedies Code; or

6-34 (2) a private entity under a contract with a
 6-35 governmental unit in this state.

6-36 (b) In each county, each judge of the juvenile court and a
 6-37 majority of the members of the juvenile board shall personally
 6-38 inspect all public or private juvenile post-adjudication secure
 6-39 correctional facilities that are located in the county at least
 6-40 annually and shall certify in writing to the authorities
 6-41 responsible for operating and giving financial support to the
 6-42 facilities and to the Texas Juvenile Probation Commission that the
 6-43 facility or facilities are suitable or unsuitable for the detention
 6-44 of children in accordance with minimum professional standards for
 6-45 the detention of children in post-adjudication secure confinement
 6-46 promulgated by the Texas Juvenile Probation Commission or, at the
 6-47 election of the juvenile board, the current standards promulgated
 6-48 by the American Correctional Association.

6-49 (c) A governmental unit or private entity that operates or
 6-50 contracts for the operation of a juvenile post-adjudication secure
 6-51 correctional facility in this state under Subsection (a) shall:

6-52 (1) register the facility annually with the Texas
 6-53 Juvenile Probation Commission; and

6-54 (2) adhere to all applicable minimum standards for the
 6-55 facility.

6-56 (d) The Texas Juvenile Probation Commission may deny,
 6-57 suspend, or revoke the registration of any facility required to
 6-58 register under Section 51.12(i) if the facility fails to:

6-59 (1) adhere to all applicable minimum standards for the
 6-60 facility; or

6-61 (2) timely correct any notice of noncompliance with
 6-62 minimum standards.

6-63 SECTION 10. Section 51.17, Family Code, is amended by
 6-64 amending Subsection (c) and adding Subsections (h) and (i) to read
 6-65 as follows:

6-66 (c) Except as otherwise provided by this title, the Texas
 6-67 Rules of Evidence apply [~~applicable~~] to criminal cases and Articles
 6-68 33.03 and 37.07 and Chapter 38, Code of Criminal Procedure, apply in
 6-69 a judicial proceeding under this title.

7-1 (h) Articles 57.01 and 57.02, Code of Criminal Procedure,
 7-2 relating to the use of a pseudonym by a victim in a criminal case,
 7-3 apply in a proceeding held under this title.

7-4 (i) Except as provided by Section 56.03(f), the state is not
 7-5 required to pay any cost or fee otherwise imposed for court
 7-6 proceedings in either the trial or appellate courts.

7-7 SECTION 11. Sections 53.045(a) and (d), Family Code, are
 7-8 amended to read as follows:

7-9 (a) Except as provided by Subsection (e), the prosecuting
 7-10 attorney may refer the petition to the grand jury of the county in
 7-11 which the court in which the petition is filed presides if the
 7-12 petition alleges that the child engaged in delinquent conduct that
 7-13 constitutes habitual felony conduct as described by Section 51.031
 7-14 or that included the violation of any of the following provisions:

7-15 (1) Section 19.02, Penal Code (murder);
 7-16 (2) Section 19.03, Penal Code (capital murder);
 7-17 (3) Section 19.04, Penal Code (manslaughter);
 7-18 (4) Section 20.04, Penal Code (aggravated
 7-19 kidnapping);

7-20 (5) Section 22.011, Penal Code (sexual assault) or
 7-21 Section 22.021, Penal Code (aggravated sexual assault);

7-22 (6) Section 22.02, Penal Code (aggravated assault);

7-23 (7) Section 29.03, Penal Code (aggravated robbery);

7-24 (8) Section 22.04, Penal Code (injury to a child,
 7-25 elderly individual, or disabled individual), if the offense is
 7-26 punishable as a felony, other than a state jail felony;

7-27 (9) Section 22.05(b), Penal Code (felony deadly
 7-28 conduct involving discharging a firearm);

7-29 (10) Subchapter D, Chapter 481, Health and Safety
 7-30 Code, if the conduct constitutes a felony of the first degree or an
 7-31 aggravated controlled substance felony (certain offenses involving
 7-32 controlled substances);

7-33 (11) Section 15.03, Penal Code (criminal
 7-34 solicitation);

7-35 (12) Section 21.11(a)(1), Penal Code (indecent with a
 7-36 child);

7-37 (13) Section 15.031, Penal Code (criminal
 7-38 solicitation of a minor);

7-39 (14) Section 15.01, Penal Code (criminal attempt), if
 7-40 the offense attempted was an offense under Section 19.02, Penal
 7-41 Code (murder), or Section 19.03, Penal Code (capital murder), or an
 7-42 offense listed by Section 3g(a)(1), Article 42.12, Code of Criminal
 7-43 Procedure;

7-44 (15) Section 28.02, Penal Code (arson), if bodily
 7-45 injury or death is suffered by any person by reason of the
 7-46 commission of the conduct; ~~or~~

7-47 (16) Section 49.08, Penal Code (intoxication
 7-48 manslaughter); or

7-49 (17) Section 15.02, Penal Code (criminal conspiracy),
 7-50 if the offense made the subject of the criminal conspiracy includes
 7-51 a violation of any of the provisions referenced in Subdivisions (1)
 7-52 through (16).

7-53 (d) If the grand jury approves of the petition, the fact of
 7-54 approval shall be certified to the juvenile court, and the
 7-55 certification shall be entered in the record of the case. For the
 7-56 purpose of the transfer of a child to the Texas Department of
 7-57 Criminal Justice ~~Corrections~~ as provided by Section 61.084(c),
 7-58 Human Resources Code, a juvenile court petition approved by a grand
 7-59 jury under this section is an indictment presented by the grand
 7-60 jury.

7-61 SECTION 12. Section 54.04, Family Code, is amended by
 7-62 amending Subsections (a), (b), (d), and (j) and adding Subsection
 7-63 (v) to read as follows:

7-64 (a) The disposition hearing shall be separate, distinct,
 7-65 and subsequent to the adjudication hearing. There is no right to a
 7-66 jury at the disposition hearing unless the child is in jeopardy of a
 7-67 determinate sentence under Subsection (d)(3) or (m), in which case,
 7-68 the child is entitled to a jury of 12 persons to determine the
 7-69 sentence, but only if the child so elects in writing before the

8-1 commencement of the voir dire examination of the jury panel. If a
 8-2 finding of delinquent conduct is returned, the child may, with the
 8-3 consent of the attorney for the state, change the child's election
 8-4 of one who assesses the disposition.

8-5 (b) At the disposition hearing, the juvenile court,
 8-6 notwithstanding the Texas Rules of Evidence or Chapter 37, Code of
 8-7 Criminal Procedure, may consider written reports from probation
 8-8 officers, professional court employees, or professional
 8-9 consultants in addition to the testimony of witnesses. Prior to the
 8-10 disposition hearing, the court shall provide the attorney for the
 8-11 child with access to all written matter to be considered in
 8-12 disposition. The court may order counsel not to reveal items to the
 8-13 child or the child's parent, guardian, or guardian ad litem if such
 8-14 disclosure would materially harm the treatment and rehabilitation
 8-15 of the child or would substantially decrease the likelihood of
 8-16 receiving information from the same or similar sources in the
 8-17 future.

8-18 (d) If the court or jury makes the finding specified in
 8-19 Subsection (c) allowing the court to make a disposition in the case:

8-20 (1) the court or jury may, in addition to any order
 8-21 required or authorized under Section 54.041 or 54.042, place the
 8-22 child on probation on such reasonable and lawful terms as the court
 8-23 may determine:

8-24 (A) in the child's own home or in the custody of a
 8-25 relative or other fit person; or

8-26 (B) subject to the finding under Subsection (c)
 8-27 on the placement of the child outside the child's home, in:

8-28 (i) a suitable foster home; ~~or~~
 8-29 (ii) a suitable public or private
 8-30 residential treatment facility licensed by a state governmental
 8-31 entity or exempted from licensure by state law [institution or
 8-32 agency], except a facility operated by the Texas Youth Commission;
 8-33 or

8-34 (iii) a suitable public or private
 8-35 post-adjudication secure correctional facility that meets the
 8-36 requirements of Section 51.125, except a facility operated by the
 8-37 Texas Youth Commission;

8-38 (2) if the court or jury found at the conclusion of the
 8-39 adjudication hearing that the child engaged in delinquent conduct
 8-40 that violates a penal law of this state or the United States of the
 8-41 grade of felony or, if the requirements of Subsection (s) or (t) are
 8-42 met, of the grade of misdemeanor, and if the petition was not
 8-43 approved by the grand jury under Section 53.045, the court may
 8-44 commit the child to the Texas Youth Commission without a
 8-45 determinate sentence and such commitment shall be for the period of
 8-46 time until the child becomes the age of 21, unless the person is
 8-47 discharged earlier by the Texas Youth Commission;

8-48 (3) if the court or jury found at the conclusion of the
 8-49 adjudication hearing that the child engaged in delinquent conduct
 8-50 that included a violation of a penal law listed in Section 53.045(a)
 8-51 and if the petition was approved by the grand jury under Section
 8-52 53.045, the court or jury may sentence the child to commitment in
 8-53 the Texas Youth Commission with a possible transfer to the
 8-54 institutional division or the pardons and paroles division of the
 8-55 Texas Department of Criminal Justice for a term of:

8-56 (A) not more than 40 years if the conduct
 8-57 constitutes:

8-58 (i) a capital felony;
 8-59 (ii) a felony of the first degree; or
 8-60 (iii) an aggravated controlled substance
 8-61 felony;

8-62 (B) not more than 20 years if the conduct
 8-63 constitutes a felony of the second degree; or

8-64 (C) not more than 10 years if the conduct
 8-65 constitutes a felony of the third degree;

8-66 (4) the court may assign the child an appropriate
 8-67 sanction level and sanctions as provided by the assignment
 8-68 guidelines in Section 59.003; or

8-69 (5) if applicable, the court or jury may make a

9-1 disposition under Subsection (m).

9-2 (j) If the court or jury found that the child engaged in
9-3 delinquent conduct that included a violation of a penal law of the
9-4 grade of felony or jailable misdemeanor, the court:

9-5 (1) shall require that the child's thumbprint be
9-6 affixed or attached to the order; and

9-7 (2) may require that a photograph of the child be
9-8 attached to the order.

9-9 (v) A child may be detained in an appropriate detention
9-10 facility following disposition of the child's case under Subsection
9-11 (d) or (m) pending:

9-12 (1) transportation of the child to the ordered
9-13 placement; and

9-14 (2) the provision of medical or other health care
9-15 services for the child that may be advisable before transportation,
9-16 including health care services for children in the late term of
9-17 pregnancy.

9-18 SECTION 13. Chapter 54, Family Code, is amended by adding
9-19 Section 54.0481 to read as follows:

9-20 Sec. 54.0481. TREATMENT OF RESTITUTION PAYMENTS. (a) A
9-21 juvenile probation department that receives a payment to a victim
9-22 as the result of a juvenile court order for restitution shall
9-23 immediately:

9-24 (1) deposit the payment in an interest-bearing account
9-25 in the county treasury; and

9-26 (2) notify the victim by certified mail, sent to the
9-27 last known address of the victim, that a payment has been received.

9-28 (b) The juvenile probation department shall promptly remit
9-29 the payment to a victim who has been notified under Subsection (a)
9-30 and makes a claim for payment.

9-31 (c) On or before the fifth anniversary of the date the
9-32 juvenile probation department receives a payment for a victim that
9-33 is not claimed by the victim, the department shall make and document
9-34 a good faith effort to locate and notify the victim that an
9-35 unclaimed payment exists, including:

9-36 (1) confirming, if possible, the victim's most recent
9-37 address with the Department of Public Safety; and

9-38 (2) making at least one additional certified mailing
9-39 to the victim.

9-40 (d) A juvenile probation department satisfies the good
9-41 faith requirement under Subsection (c) by sending by certified mail
9-42 to the victim, during the period the child is required by the
9-43 juvenile court order to make payments to the victim, a notice that
9-44 the victim is entitled to an unclaimed payment.

9-45 (e) If a victim claims a payment on or before the fifth
9-46 anniversary of the date on which the juvenile probation department
9-47 mailed a notice to the victim under Subsection (a), the juvenile
9-48 probation department shall pay the victim the amount of the
9-49 original payment, less any interest earned while holding the
9-50 payment.

9-51 (f) If a victim does not claim a payment on or before the
9-52 fifth anniversary of the date on which the juvenile probation
9-53 department mailed a notice to the victim under Subsection (a), the
9-54 department:

9-55 (1) has no liability to the victim or anyone else in
9-56 relation to the payment; and

9-57 (2) shall transfer the payment from the
9-58 interest-bearing account to a special fund of the county treasury,
9-59 the unclaimed juvenile restitution fund.

9-60 (g) The county may spend money in the unclaimed juvenile
9-61 restitution fund only for the same purposes for which the county may
9-62 spend juvenile state aid.

9-63 SECTION 14. Section 55.43(a), Family Code, is amended to
9-64 read as follows:

9-65 (a) The prosecuting attorney may file with the juvenile
9-66 court a motion for a restoration hearing concerning a child if:

9-67 (1) the child is found unfit to proceed as a result of
9-68 mental illness or mental retardation; and

9-69 (2) the child:

10-1 (A) is not:
 10-2 (i) ordered by a court to receive inpatient
 10-3 mental health services;
 10-4 (ii) committed by a court to a residential
 10-5 care facility; or
 10-6 (iii) ordered by a court to receive
 10-7 treatment on an outpatient basis; or

10-8 (B) is discharged or currently on furlough
 10-9 [~~furloughed~~] from a mental health facility or outpatient center
 10-10 before the child reaches 18 years of age.

10-11 SECTION 15. Section 55.44(a), Family Code, is amended to
 10-12 read as follows:

10-13 (a) The juvenile court shall transfer all pending
 10-14 proceedings from the juvenile court to a criminal court on the 18th
 10-15 birthday of a child for whom the juvenile court or a court to which
 10-16 the child's case is referred has ordered inpatient mental health
 10-17 services or residential care for persons with mental retardation
 10-18 if:

10-19 (1) the child is not discharged or currently on
 10-20 furlough [~~furloughed~~] from the facility before reaching 18 years of
 10-21 age; and

10-22 (2) the child is alleged to have engaged in delinquent
 10-23 conduct that included a violation of a penal law listed in Section
 10-24 53.045 and no adjudication concerning the alleged conduct has been
 10-25 made.

10-26 SECTION 16. Section 55.45, Family Code, is amended by
 10-27 adding Subsection (c) to read as follows:

10-28 (c) If the referred child, as described in Subsection (b),
 10-29 is alleged to have committed an offense listed in Section 3g,
 10-30 Article 42.12, Code of Criminal Procedure, the administrator of the
 10-31 residential care facility shall apply, in writing, by certified
 10-32 mail, return receipt requested, to the juvenile court that ordered
 10-33 commitment of the child or that referred the case to a court that
 10-34 ordered commitment of the child and show good cause for any release
 10-35 of the child from the facility for more than 48 hours. Notice of
 10-36 this request must be provided to the prosecuting attorney
 10-37 responsible for the case. The prosecuting attorney, the juvenile,
 10-38 or the administrator may apply for a hearing on this application.
 10-39 If no one applies for a hearing, the trial court shall resolve the
 10-40 application on the written submission. The rules of evidence do not
 10-41 apply to this hearing. An appeal of the trial court's ruling on the
 10-42 application is not allowed. The release of a child described in
 10-43 this subsection without the express approval of the trial court is
 10-44 punishable by contempt.

10-45 SECTION 17. Section 58.0051, Family Code, is amended by
 10-46 adding Subsection (e) to read as follows:

10-47 (e) The Texas Juvenile Probation Commission may, in
 10-48 conformity with Section 58.0072 of this code and Section 37.084,
 10-49 Education Code, enter into an interagency agreement to share
 10-50 educational information for research, audit, and analytical
 10-51 purposes with the:

- 10-52 (1) Texas Education Agency;
- 10-53 (2) Texas Youth Commission; and
- 10-54 (3) Texas Department of Criminal Justice.

10-55 SECTION 18. Sections 58.0072(c) and (d), Family Code, are
 10-56 amended to read as follows:

10-57 (c) The Texas Juvenile Probation Commission may grant the
 10-58 following entities access to juvenile justice information for
 10-59 research and statistical purposes or for any other purpose approved
 10-60 by the commission:

10-61 (1) criminal justice agencies as defined by Section
 10-62 411.082, Government Code;

10-63 (2) the Texas Education Agency, as authorized under
 10-64 Section 37.084, Education Code;

10-65 (3) any agency under the authority of the Health and
 10-66 Human Services Commission; or

10-67 (4) a public or private university.

10-68 (d) The Texas Juvenile Probation Commission may grant the
 10-69 following entities access to juvenile justice information only for

11-1 a purpose beneficial to and approved by the commission to:
 11-2 (1) a person working on a research or statistical
 11-3 project that:

11-4 (A) is funded in whole or in part by state or
 11-5 federal funds; and ~~[or]~~

11-6 (B) meets the requirements of ~~[28 C.F.R. Part 22]~~
 11-7 and is approved by the commission; or

11-8 (2) a governmental entity that has a specific
 11-9 agreement with the commission, if the agreement:

11-10 (A) specifically authorizes access to
 11-11 information;

11-12 (B) limits the use of information to the purposes
 11-13 for which the information is given;

11-14 (C) ensures the security and confidentiality of
 11-15 the information; and

11-16 (D) provides for sanctions if a requirement
 11-17 imposed under Paragraph (A), (B), or (C) is violated.

11-18 SECTION 19. Section 58.110(e), Family Code, is amended to
 11-19 read as follows:

11-20 (e) Except as otherwise required by applicable state laws or
 11-21 regulations, information required by this chapter to be reported to
 11-22 the department shall be reported promptly. The information shall
 11-23 be reported not later than the 30th day after the date the
 11-24 information is received by the agency responsible for reporting the
 11-25 information, except that a juvenile offender's custody or ~~[7]~~
 11-26 ~~detention~~ ~~[7, or referral]~~ without previous custody shall be reported
 11-27 to the department not later than the seventh day after the date of
 11-28 the custody or ~~[7]~~ ~~detention~~ ~~[7, or referral]~~.

11-29 SECTION 20. (a) Section 58.005(b), Family Code, is amended
 11-30 to read as follows:

11-31 (b) This section does not apply to information collected
 11-32 under Section 58.104 or under Subchapter D-1.

11-33 (b) Chapter 58, Family Code, is amended by adding Subchapter
 11-34 D-1 to read as follows:

11-35 SUBCHAPTER D-1. REPORTS ON COUNTY INTERNET WEBSITES

11-36 Sec. 58.351. APPLICABILITY. This subchapter applies only
 11-37 to a county with a population of 600,000 or more.

11-38 Sec. 58.352. INFORMATION POSTED ON COUNTY WEBSITE. (a) A
 11-39 juvenile court judge in a county to which this subchapter applies
 11-40 shall post a report on the Internet website of the county in which
 11-41 the court is located. The report must include:

11-42 (1) the total number of children committed by the
 11-43 judge to a correctional facility operated by the Texas Youth
 11-44 Commission; and

11-45 (2) for each child committed to a facility described
 11-46 by Subdivision (1):

11-47 (A) a general description of the offense
 11-48 committed by the child or the conduct of the child that led to the
 11-49 child's commitment to the facility;

11-50 (B) the year the child was committed to the
 11-51 facility; and

11-52 (C) the age range, race, and gender of the child.

11-53 (b) Not later than the 10th day following the first day of
 11-54 each quarter, a juvenile court judge shall update the information
 11-55 posted on a county Internet website under Subsection (a).

11-56 Sec. 58.353. CONFIDENTIALITY. A record posted on a county
 11-57 Internet website under this subchapter may not include any
 11-58 information that personally identifies a child.

11-59 (c) The changes in law made by this section apply only to a
 11-60 child committed to a correctional facility operated by the Texas
 11-61 Youth Commission on or after January 1, 2008.

11-62 SECTION 21. Chapter 58, Family Code, is amended by adding
 11-63 Subchapter E to read as follows:

11-64 SUBCHAPTER E. STATEWIDE JUVENILE INFORMATION AND CASE MANAGEMENT
 11-65 SYSTEM

11-66 Sec. 58.401. DEFINITIONS. In this subchapter:

11-67 (1) "Commission" means the Texas Juvenile Probation
 11-68 Commission.

11-69 (2) "Criminal justice agency" has the meaning assigned

12-1 by Section 411.082, Government Code.

12-2 (3) "Juvenile justice agency" means an agency that has
 12-3 custody or control over juvenile offenders.

12-4 (4) "Partner agencies" means those agencies described
 12-5 in Section 58.305 as well as private service providers to the
 12-6 juvenile justice system.

12-7 (5) "System" means an automated statewide juvenile
 12-8 information and case management system.

12-9 Sec. 58.402. PURPOSES OF SYSTEM. The purposes of the system
 12-10 are to:

12-11 (1) provide accurate information at the statewide
 12-12 level relating to children who come into contact with the juvenile
 12-13 justice system;

12-14 (2) facilitate communication and information sharing
 12-15 between authorized entities in criminal and juvenile justice
 12-16 agencies and partner agencies regarding effective and efficient
 12-17 identification of and service delivery to juvenile offenders; and

12-18 (3) provide comprehensive juvenile justice
 12-19 information and case management abilities that will meet the common
 12-20 data collection, reporting, and management needs of juvenile
 12-21 probation departments in this state and provide the flexibility to
 12-22 accommodate individualized requirements.

12-23 Sec. 58.403. JUVENILE INFORMATION SYSTEM. The commission
 12-24 in partnership with local counties may participate and assist in
 12-25 the creation and maintenance of a statewide system to:

12-26 (1) aid in processing the cases of children under this
 12-27 title;

12-28 (2) facilitate the delivery of services to children in
 12-29 the juvenile justice system;

12-30 (3) aid in the early identification of at-risk and
 12-31 delinquent children; and

12-32 (4) facilitate cross-jurisdictional sharing of
 12-33 information related to juvenile offenders between authorized
 12-34 criminal and juvenile justice agencies and partner agencies.

12-35 Sec. 58.404. INFORMATION COLLECTED BY COMMISSION. The
 12-36 commission may collect and maintain all information related to
 12-37 juvenile offenders and all offenses committed by a juvenile
 12-38 offender, including all information collected and maintained under
 12-39 Subchapters B and D.

12-40 Sec. 58.405. AUTHORIZED ACCESS TO SYSTEM. Juvenile justice
 12-41 agencies shall have access to all data in the system and may share
 12-42 information with appropriate partner agencies and other entities
 12-43 authorized by law to receive the information.

12-44 SECTION 22. Section 59.003(a), Family Code, is amended to
 12-45 read as follows:

12-46 (a) Subject to Subsection (e), after a child's first
 12-47 commission of delinquent conduct or conduct indicating a need for
 12-48 supervision, the probation department or prosecuting attorney may,
 12-49 or the juvenile court may, in a disposition hearing under Section
 12-50 54.04 or a modification hearing under Section 54.05, assign a child
 12-51 one of the following sanction levels according to the child's
 12-52 conduct:

12-53 (1) for conduct indicating a need for supervision,
 12-54 other than conduct described in Section 51.03(b)(4) or (5)
 12-55 [51.03(b)(5)] or a Class A or B misdemeanor, the sanction level is
 12-56 one;

12-57 (2) for conduct indicating a need for supervision
 12-58 under Section 51.03(b)(4) or (5) [51.03(b)(5)] or a Class A or B
 12-59 misdemeanor, other than a misdemeanor involving the use or
 12-60 possession of a firearm, or for delinquent conduct under Section
 12-61 51.03(a)(2), the sanction level is two;

12-62 (3) for a misdemeanor involving the use or possession
 12-63 of a firearm or for a state jail felony or a felony of the third
 12-64 degree, the sanction level is three;

12-65 (4) for a felony of the second degree, the sanction
 12-66 level is four;

12-67 (5) for a felony of the first degree, other than a
 12-68 felony involving the use of a deadly weapon or causing serious
 12-69 bodily injury, the sanction level is five;

13-1 (6) for a felony of the first degree involving the use
 13-2 of a deadly weapon or causing serious bodily injury, for an
 13-3 aggravated controlled substance felony, or for a capital felony,
 13-4 the sanction level is six; or

13-5 (7) for a felony of the first degree involving the use
 13-6 of a deadly weapon or causing serious bodily injury, for an
 13-7 aggravated controlled substance felony, or for a capital felony, if
 13-8 the petition has been approved by a grand jury under Section 53.045,
 13-9 or if a petition to transfer the child to criminal court has been
 13-10 filed under Section 54.02, the sanction level is seven.

13-11 SECTION 23. Sections 261.401(a) and (b), Family Code, are
 13-12 amended to read as follows:

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

13-14 (1) "Abuse" means an intentional, knowing, or reckless
 13-15 act or omission by an employee, volunteer, or other individual
 13-16 working under the auspices of a facility or program that causes or
 13-17 may cause emotional harm or physical injury to, or the death of, a
 13-18 child served by the facility or program as further described by rule
 13-19 or policy.

13-20 (2) "Exploitation" means the illegal or improper use
 13-21 of a child or of the resources of a child for monetary or personal
 13-22 benefit, profit, or gain by an employee, volunteer, or other
 13-23 individual working under the auspices of a facility or program as
 13-24 further described by rule or policy.

13-25 (3) "Neglect" means a negligent act or omission by an
 13-26 employee, volunteer, or other individual working under the auspices
 13-27 of a facility or program, including failure to comply with an
 13-28 individual treatment plan, plan of care, or individualized service
 13-29 plan, that causes or may cause substantial emotional harm or
 13-30 physical injury to, or the death of, a child served by the facility
 13-31 or program as further described by rule or policy.

13-32 (b) A state agency that operates, licenses, certifies, or
 13-33 registers a facility in which children are located or provides
 13-34 oversight of a program that serves children shall make a prompt,
 13-35 thorough investigation of a report that a child has been or may be
 13-36 abused, neglected, or exploited in the facility or program. The
 13-37 primary purpose of the investigation shall be the protection of the
 13-38 child.

13-39 SECTION 24. Section 261.405(a), Family Code, is amended to
 13-40 read as follows:

13-41 (a) In this section:

13-42 (1) "Juvenile justice facility" means a facility
 13-43 operated wholly or partly by the juvenile board, by another
 13-44 governmental unit, or by a private vendor under a contract with the
 13-45 juvenile board, ~~or~~ county, or other governmental unit that serves
 13-46 juveniles under juvenile court jurisdiction. The term includes:

13-47 (A) a public or private juvenile
 13-48 pre-adjudication secure detention facility, including a holdover
 13-49 facility;

13-50 (B) a public or private juvenile
 13-51 post-adjudication secure correctional facility except for a
 13-52 facility operated solely for children committed to the Texas Youth
 13-53 Commission; and

13-54 (C) a public or private non-secure juvenile
 13-55 post-adjudication residential treatment facility that is not
 13-56 licensed by the Department of Protective and Regulatory Services or
 13-57 the Texas Commission on Alcohol and Drug Abuse.

13-58 (2) "Juvenile justice program" means a program or
 13-59 department operated wholly or partly by the juvenile board or by a
 13-60 private vendor under a contract with a juvenile board that serves
 13-61 juveniles under juvenile court jurisdiction. The term includes:

13-62 (A) a juvenile justice alternative education
 13-63 program; ~~and~~

13-64 (B) a non-residential program that serves
 13-65 juvenile offenders under the jurisdiction of the juvenile court;
 13-66 and

13-67 (C) a juvenile probation department.

13-68 SECTION 25. Section 25.0951(a), Education Code, is amended
 13-69 to read as follows:

14-1 (a) If a student fails to attend school without excuse on 10
 14-2 or more days or parts of days within a six-month period in the same
 14-3 school year, a school district shall within seven school days of the
 14-4 student's 10th ~~[last]~~ absence:

14-5 (1) file a complaint against the student or the
 14-6 student's parent or both in a county, justice, or municipal court
 14-7 for an offense under Section 25.093 or 25.094, as appropriate, or
 14-8 refer the student to a juvenile court in a county with a population
 14-9 of less than 100,000 for conduct that violates Section 25.094; or

14-10 (2) refer the student to a juvenile court for conduct
 14-11 indicating a need for supervision under Section 51.03(b)(2), Family
 14-12 Code.

14-13 SECTION 26. Section 61.0762, Human Resources Code, is
 14-14 amended to read as follows:

14-15 Sec. 61.0762. INFANT CARE AND PARENTING PROGRAM. (a) In
 14-16 this section, "child" means the child of a person who is committed
 14-17 to the commission.

14-18 (b) The commission may establish child ~~[infant]~~ care and
 14-19 parenting programs for persons committed to the commission
 14-20 [children] who are parents.

14-21 (c) ~~[(b)]~~ The commission may permit a ~~[child who is the]~~
 14-22 mother ~~[of an infant younger than 36 months]~~ to have possession of
 14-23 her child ~~[infant]~~ in a residential program that has an infant care
 14-24 and parenting program or to have possession of her child in a
 14-25 commission-funded independent living residence for up to six ~~[until~~
 14-26 ~~the infant reaches the age of 36] months~~ ~~[or the mother is released~~
 14-27 ~~under supervision]~~ if:

14-28 (1) the child's ~~[infant's]~~ father or another relative
 14-29 or guardian of the child ~~[infant]~~ agrees in advance of the child's
 14-30 [infant's] placement with the child's ~~[infant's]~~ mother to assume
 14-31 possession of the child ~~[infant]~~ immediately upon notice by the
 14-32 commission to do so;

14-33 (2) the child's ~~[infant's]~~ parents and any other
 14-34 person having a duty of support acknowledge that by permitting the
 14-35 mother to have possession of the child ~~[infant]~~ while the mother is
 14-36 confined in a residential facility or placed in an independent
 14-37 living residence, the commission assumes no responsibility for the
 14-38 child's ~~[infant's]~~ care beyond the responsibility of care that is
 14-39 ordinarily due the child's ~~[infant's]~~ mother and the reasonable
 14-40 accommodations that are necessary for the mother's care of her
 14-41 child ~~[the infant];~~

14-42 (3) the child's ~~[infant's]~~ parents and any other
 14-43 person having a duty of support agree to indemnify and hold the
 14-44 commission harmless from any claims that may be made against the
 14-45 commission for the child's ~~[infant's]~~ support, including medical
 14-46 support; and

14-47 (4) the commission determines that the placement is in
 14-48 the best interest of both the mother and her child ~~[infant].~~

14-49 SECTION 27. Subchapter C, Chapter 141, Human Resources
 14-50 Code, is amended by adding Sections 141.0461 and 141.055 to read as
 14-51 follows:

14-52 Sec. 141.0461. AUTHORITY TO ISSUE SUBPOENA, ADMINISTER
 14-53 OATH, RECEIVE EVIDENCE, AND GATHER INFORMATION. (a) In this
 14-54 section, "evidence" means any record, book, paper, document, data,
 14-55 or other evidence maintained by electronic or other means.

14-56 (b) The commission may issue a subpoena requiring the
 14-57 attendance of a witness or the production of evidence that the
 14-58 commission considers necessary for the investigation of:

14-59 (1) abuse, neglect, or exploitation allegations;
 14-60 (2) complaints;
 14-61 (3) financial and programmatic audits of juvenile
 14-62 probation programs services and facilities, including juvenile
 14-63 justice alternative education programs; or

14-64 (4) any matter under the authority of the commission.

14-65 (c) The commission may issue a subpoena under Subsection (b)
 14-66 only if the subpoena is signed by:

14-67 (1) the chairman of the commission or, if the chairman
 14-68 is unavailable, the vice-chairman of the commission; and

14-69 (2) at least two other members of the commission,

15-1 including a member who is a judge.

15-2 (d) Any peace officer, commission investigator, other
 15-3 commission official, or person authorized under Article 24.01, Code
 15-4 of Criminal Procedure, may serve the subpoena in the same manner
 15-5 that similar process in a court of record having original
 15-6 jurisdiction of criminal actions is served.

15-7 (e) A subpoena under this section shall be served and
 15-8 witness fees and mileage paid as in civil cases in the district
 15-9 court in the county to which the witness is called, unless the
 15-10 proceeding for which the service or payment is made is under Chapter
 15-11 2001, Government Code, in which case the service or payment shall be
 15-12 made as provided in that chapter. Witnesses subpoenaed at the
 15-13 instance of the commission shall be paid their fees and mileage by
 15-14 the commission out of funds appropriated for that purpose.

15-15 (f) On application of the commission, a court of record
 15-16 having original jurisdiction of criminal actions may compel the
 15-17 attendance of a witness, the production of material, or the giving
 15-18 of testimony before the commission, by an attachment for contempt
 15-19 or in the same manner as the court may otherwise compel the
 15-20 production of evidence.

15-21 (g) The chairman or another member of the commission may
 15-22 administer an oath to a witness in attendance before the commission
 15-23 or before an authorized representative of the commission.

15-24 (h) If a witness in attendance before the commission or
 15-25 before an authorized representative refuses without reasonable
 15-26 cause to be examined or answer a legal or pertinent question, or to
 15-27 produce evidence when ordered by the commission, the commission may
 15-28 apply to the district court for a rule or order returnable in not
 15-29 less than two or in more than five days, directing the witness to
 15-30 show cause before the judge why the witness should not be punished
 15-31 for contempt. The commission may apply to the district court of any
 15-32 county where the witness is in attendance, on proof by affidavit of
 15-33 the fact, unless the order of contempt is sought under Chapter 2001,
 15-34 Government Code, in which case the commission shall apply to a
 15-35 district court of Travis County, as provided by that chapter. On
 15-36 return of the order, the judge hearing the matter shall examine the
 15-37 witness under oath and the witness shall be given an opportunity to
 15-38 be heard. If the judge determines that the witness has refused,
 15-39 without reasonable cause or legal excuse, to be examined or answer a
 15-40 legal or pertinent question, or to produce evidence that the
 15-41 witness was ordered to bring or produce, the judge may immediately
 15-42 find the witness in contempt of court.

15-43 (i) The commission shall be granted access at any reasonable
 15-44 time to any evidence that is related to any matter the commission or
 15-45 executive director considers necessary to administer the
 15-46 commission's functions, powers, and duties.

15-47 Sec. 141.055. INVESTIGATORS. (a) The commission may
 15-48 employ and commission investigators as peace officers for the
 15-49 purpose of investigating allegations of abuse, neglect, and
 15-50 exploitation in juvenile justice programs and facilities under
 15-51 Section 261.405, Family Code.

15-52 (b) Peace officers employed and commissioned under
 15-53 Subsection (a) must be certified by the Commission on Law
 15-54 Enforcement Officer Standards and Education under Chapter 1701,
 15-55 Occupations Code.

15-56 SECTION 28. Section 152.0721, Human Resources Code, is
 15-57 amended by adding Subsection (f) to read as follows:

15-58 (f) The Duval County Juvenile Board and the juvenile boards
 15-59 of one or more counties that are adjacent to or in close proximity
 15-60 to Duval County may agree to operate together with respect to all
 15-61 matters, or with respect to certain matters specified by the
 15-62 juvenile boards. Juvenile boards operating together may appoint
 15-63 one fiscal officer to receive and disburse funds for the boards.

15-64 SECTION 29. Subchapter D, Chapter 152, Human Resources
 15-65 Code, is amended by adding Section 152.1301 to read as follows:

15-66 Sec. 152.1301. JIM HOGG COUNTY. (a) The Jim Hogg County
 15-67 Juvenile Board is composed of the county judge, the district judge
 15-68 in Jim Hogg County, and a citizen of Jim Hogg County appointed by
 15-69 the county judge and the district judge. The citizen member of the

16-1 board serves the same term of office as the district judge in Jim
 16-2 Hogg County.

16-3 (b) The district judge is the chairman of the board and its
 16-4 chief administrative officer.

16-5 (c) The commissioners court may pay the juvenile board
 16-6 members an annual salary set by the commissioners court at not less
 16-7 than \$1,200 or more than \$3,600 for the added duties imposed on the
 16-8 members. The salary shall be paid in equal monthly installments
 16-9 from the general fund of the county.

16-10 (d) The juvenile board shall appoint not more than five
 16-11 persons to serve on an advisory council.

16-12 (e) The Jim Hogg County Juvenile Board and the juvenile
 16-13 boards of one or more counties that are adjacent to or in close
 16-14 proximity to Jim Hogg County may agree to operate together with
 16-15 respect to all matters, or with respect to certain matters
 16-16 specified by the juvenile boards. Juvenile boards operating
 16-17 together may appoint one fiscal officer to receive and disburse
 16-18 funds for the boards.

16-19 (f) Sections 152.0002, 152.0004, 152.0005, 152.0006,
 16-20 152.0007, and 152.0008 do not apply to the juvenile board.

16-21 SECTION 30. Section 152.2201, Human Resources Code, is
 16-22 amended by amending Subsection (a) and adding Subsection (f) to
 16-23 read as follows:

16-24 (a) The Starr County Juvenile Board is composed of the
 16-25 county judge, the judge of the county court at law in Starr County,
 16-26 and the district judges in Starr County.

16-27 (f) The Starr County Juvenile Board and the juvenile boards
 16-28 of one or more counties that are adjacent to or in close proximity
 16-29 to Starr County may agree to operate together with respect to all
 16-30 matters, or with respect to certain matters specified by the
 16-31 juvenile boards. Juvenile boards operating together may appoint
 16-32 one fiscal officer to receive and disburse funds for the boards.

16-33 SECTION 31. The Jim Hogg County Juvenile Board is created
 16-34 October 1, 2007.

16-35 SECTION 32. Section 38.06(a), Penal Code, is amended to
 16-36 read as follows:

16-37 (a) A person commits an offense if he escapes from custody
 16-38 when he is:

16-39 (1) under arrest for, charged with, or convicted of an
 16-40 offense; ~~or~~

16-41 (2) in custody pursuant to a lawful order of a court;

16-42 (3) detained in a secure detention facility, as that
 16-43 term is defined by Section 51.02, Family Code; or

16-44 (4) in the custody of a juvenile probation officer for
 16-45 violating an order imposed by the juvenile court under Section
 16-46 52.01, Family Code.

16-47 SECTION 33. Section 38.07, Penal Code, is amended by adding
 16-48 Subsection (f) to read as follows:

16-49 (f) In this section, "correctional facility" means:

16-50 (1) any place described by Section 1.07(a)(14); or
 16-51 (2) a "secure correctional facility" or "secure
 16-52 detention facility" as those terms are defined by Section 51.02,
 16-53 Family Code.

16-54 SECTION 34. Section 38.09, Penal Code, is amended by adding
 16-55 Subsection (c) to read as follows:

16-56 (c) In this section, "correctional facility" means:

16-57 (1) any place described by Section 1.07(a)(14); or
 16-58 (2) a "secure correctional facility" or "secure
 16-59 detention facility" as those terms are defined by Section 51.02,
 16-60 Family Code.

16-61 SECTION 35. Section 38.111, Penal Code, is amended by
 16-62 adding Subsection (e) to read as follows:

16-63 (e) In this section, "correctional facility" means:

16-64 (1) any place described by Section 1.07(a)(14); or
 16-65 (2) a "secure correctional facility" or "secure
 16-66 detention facility" as those terms are defined by Section 51.02,
 16-67 Family Code.

16-68 SECTION 36. Section 38.114, Penal Code, is amended by
 16-69 adding Subsection (d) to read as follows:

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

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

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

SECTION 37. Section 39.04(f), Penal Code, is amended to read as follows:

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

SECTION 38. Sections 61.049, 141.0432, 141.0433, and 141.0434, Human Resources Code, are repealed.

SECTION 39. (a) This Act applies only to conduct that occurs on or after the effective date of this Act. Conduct violating the penal law of this state occurs on or after the effective date of this Act if any element of the violation occurs on or after that date.

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

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

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

SECTION 40. This Act takes effect September 1, 2007.

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