

By: Hinojosa

S.B. No. 845

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the grade of offense for which a person may be committed  
3 to the Texas Youth Commission and the termination of control of  
4 persons committed to the Texas Youth Commission.

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

6 SECTION 1. Sections 54.04(d), (o), and (u), Family Code,  
7 are amended to read as follows:

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

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

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

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

18 (i) a suitable foster home; or

19 (ii) a suitable public or private  
20 institution or agency, except the Texas Youth Commission;

21 (2) if the court or jury found at the conclusion of the  
22 adjudication hearing that the child engaged in delinquent conduct  
23 that violates a penal law of this state or the United States of the  
24 grade of felony [~~or, if the requirements of Subsection (s) or (t)~~]

1 ~~are met, of the grade of misdemeanor,~~] and if the petition was not  
2 approved by the grand jury under Section 53.045, the court may  
3 commit the child to the Texas Youth Commission without a  
4 determinate sentence;

5 (3) if the court or jury found at the conclusion of the  
6 adjudication hearing that the child engaged in delinquent conduct  
7 that included a violation of a penal law listed in Section 53.045(a)  
8 and if the petition was approved by the grand jury under Section  
9 53.045, the court or jury may sentence the child to commitment in  
10 the Texas Youth Commission with a possible transfer to the  
11 ~~[institutional division or the pardons and paroles division of the]~~  
12 Texas Department of Criminal Justice for a term of:

13 (A) not more than 40 years if the conduct  
14 constitutes:

15 (i) a capital felony;  
16 (ii) a felony of the first degree; or  
17 (iii) an aggravated controlled substance  
18 felony;

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

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

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

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

1 (o) In a disposition under this title:

2 (1) a status offender may not, under any  
3 circumstances, be committed to the Texas Youth Commission for  
4 engaging in conduct that would not, under state or local law, be a  
5 crime if committed by an adult;

6 (2) a status offender may not, under any circumstances  
7 other than as provided under Subsection (n), be placed in a  
8 post-adjudication secure correctional facility; ~~and~~

9 (3) a child adjudicated for contempt of a county,  
10 justice, or municipal court order may not, under any circumstances,  
11 be placed in a post-adjudication secure correctional facility or  
12 committed to the Texas Youth Commission for that conduct; and

13 (4) a child adjudicated as having engaged in  
14 delinquent conduct violating a penal law of this state or the United  
15 States of the grade of misdemeanor may not, under any  
16 circumstances, be committed to the Texas Youth Commission.

17 (u) For the purposes of disposition under Subsection  
18 (d)(2), delinquent conduct that violates a penal law of this state  
19 of the grade of felony ~~[or misdemeanor]~~ does not include conduct  
20 that violates a lawful order of a county, municipal, justice, or  
21 juvenile court under circumstances that would constitute contempt  
22 of that court.

23 SECTION 2. Section 54.05(f), Family Code, is amended to  
24 read as follows:

25 (f) Except as provided by Subsection (j), a disposition  
26 based on a finding that the child engaged in delinquent conduct that  
27 violates a penal law of this state or the United States of the grade

1 of felony [~~or, if the requirements of Subsection (k) are met, of the~~  
2 ~~grade of misdemeanor,~~] may be modified so as to commit the child to  
3 the Texas Youth Commission if the court after a hearing to modify  
4 disposition finds by a preponderance of the evidence that the child  
5 violated a reasonable and lawful order of the court. A disposition  
6 based on a finding that the child engaged in habitual felony conduct  
7 as described by Section 51.031 or in delinquent conduct that  
8 included a violation of a penal law listed in Section 53.045(a) may  
9 be modified to commit the child to the Texas Youth Commission with a  
10 possible transfer to the [~~institutional division or the pardons and~~  
11 ~~paroles division of the~~] Texas Department of Criminal Justice for a  
12 definite term prescribed by Section 54.04(d)(3) if the original  
13 petition was approved by the grand jury under Section 53.045 and if  
14 after a hearing to modify the disposition the court finds that the  
15 child violated a reasonable and lawful order of the court.

16 SECTION 3. Section 499.053, Government Code, is amended by  
17 adding Subsection (e) to read as follows:

18 (e) Subsections (b), (c), and (d) do not apply to a person  
19 transferred from the Texas Youth Commission under Section  
20 61.084(h)(3), Human Resources Code.

21 SECTION 4. Section 508.156(a), Government Code, is amended  
22 to read as follows:

23 (a) Before the release of a person who is transferred under  
24 Section 61.081(f) or 61.084(g) [~~61.084(f) or (g)~~], Human Resources  
25 Code, to the division for release on parole, a parole panel shall  
26 review the person's records and may interview the person or any  
27 other person the panel considers necessary to determine the

1 conditions of parole. The panel may impose any reasonable  
2 condition of parole on the person that the panel may impose on an  
3 adult inmate under this chapter.

4 SECTION 5. Subchapter E, Chapter 508, Government Code, is  
5 amended by adding Section 508.1561 to read as follows:

6 Sec. 508.1561. PAROLE WITHOUT DETERMINATE SENTENCE. (a)  
7 Before the release of a person who is transferred under Section  
8 61.084(h)(2), Human Resources Code, to the department for release  
9 on parole, a parole panel shall review the person's records and may  
10 interview the person or any other person the panel considers  
11 necessary to determine the conditions of parole. The panel may  
12 impose any reasonable condition of parole on the person that the  
13 panel may impose on an adult inmate under this chapter.

14 (b) The panel shall furnish the person with a written  
15 statement clearly describing the conditions and rules of parole.  
16 The person must accept and sign the statement as a precondition to  
17 release on parole.

18 (c) While on parole, the person remains in the legal custody  
19 of the state and shall comply with the conditions of parole ordered  
20 by a panel under this section.

21 (d) The period of parole for a person released on parole  
22 under this section is a term of not more than two years.

23 (e) If a parole panel revokes the person's parole, the panel  
24 may require the person to be confined in the department to serve the  
25 remaining portion of the person's term. A person serving a term of  
26 parole under this section on the basis of conduct violating a penal  
27 law of the grade of state jail felony may only be confined in a state

1 jail under this subsection. The panel may not recommit the person to  
2 the Texas Youth Commission.

3 (f) For purposes of this chapter, a person released from the  
4 Texas Youth Commission on parole under this section is considered  
5 to have been convicted of the offense for which the person has been  
6 adjudicated.

7 SECTION 6. Section 61.079(a), Human Resources Code, is  
8 amended to read as follows:

9 (a) After a child sentenced to commitment under Section  
10 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 16 years  
11 of age but before the child becomes 19 [~~21~~] years of age, the  
12 commission may refer the child to the juvenile court that entered  
13 the order of commitment for approval of the child's transfer to the  
14 [~~institutional division of the~~] Texas Department of Criminal  
15 Justice for confinement if:

- 16 (1) the child has not completed the sentence; and  
17 (2) the child's conduct, regardless of whether the  
18 child was released under supervision under Section 61.081,  
19 indicates that the welfare of the community requires the transfer.

20 SECTION 7. Section 61.084, Human Resources Code, is amended  
21 by amending Subsections (e) and (g) and adding Subsections (h) and  
22 (i) to read as follows:

23 (e) Except as provided by Subsection [~~(f) or~~] (g) or (h)(2)  
24 or (3), the commission shall discharge from its custody a person not  
25 already discharged on the person's 19th [~~21st~~] birthday.

26 (g) The commission shall transfer a person who has been  
27 sentenced under a determinate sentence to commitment under Section

1 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, or who has been  
2 returned to the commission under Section 54.11(i)(1), Family Code,  
3 to the custody of the [~~pardons and paroles division of the~~] Texas  
4 Department of Criminal Justice on the person's 19th [~~21st~~]  
5 birthday, if the person has not already been discharged or  
6 transferred, to serve the remainder of the person's sentence on  
7 parole as provided by Section 508.156, Government Code.

8 (h) On the 19th birthday of a person who has been committed  
9 without a determinate sentence to the custody of the commission  
10 under Section 54.04(d)(2), Family Code, the commission shall:

11 (1) discharge the person from the commission's  
12 custody;

13 (2) transfer the person to the custody of the Texas  
14 Department of Criminal Justice to serve a term of not more than two  
15 years on parole as provided by Section 508.1561, Government Code;  
16 or

17 (3) transfer the person to the custody of the Texas  
18 Department of Criminal Justice to serve a sentence of confinement  
19 of not more than two years, with eligibility for release on parole  
20 in the manner provided by Section 508.145(f), Government Code.

21 (i) A person transferred to the custody of the Texas  
22 Department of Criminal Justice for confinement under Subsection  
23 (h)(3) on the basis of conduct violating a penal law of the grade of  
24 state jail felony may only be confined in a state jail.

25 SECTION 8. The heading to Section 61.0841, Human Resources  
26 Code, is amended to read as follows:

27 Sec. 61.0841. DETERMINATE SENTENCE PAROLE AND PAROLE

1 WITHOUT DETERMINATE SENTENCE.

2 SECTION 9. Section 61.0841(a), Human Resources Code, is  
3 amended to read as follows:

4 (a) Not later than the 90th day before the date the  
5 commission transfers a person to the custody of [~~the pardons and~~  
6 ~~parole division of~~] the Texas Department of Criminal Justice for  
7 release on parole under Section 61.081(f) or 61.084(g) or (h)(2)  
8 [~~61.084(f) or (g)~~], the commission shall submit to the department  
9 all pertinent information relating to the person, including:

- 10 (1) the juvenile court judgment;
- 11 (2) the circumstances of the person's offense;
- 12 (3) the person's previous social history and juvenile  
13 court records;
- 14 (4) the person's physical and mental health record;
- 15 (5) a record of the person's conduct, employment  
16 history, and attitude while committed to the commission;
- 17 (6) a record of the [~~sentence~~] time served by the  
18 person at the commission and in a juvenile detention facility in  
19 connection with the conduct for which the person was adjudicated;  
20 and
- 21 (7) any written comments or information provided by  
22 the commission, local officials, or victims of the offense.

23 SECTION 10. The following laws are repealed:

- 24 (1) Sections 54.04(s) and (t), Family Code;
- 25 (2) Section 54.05(k), Family Code; and
- 26 (3) Section 61.084(f), Human Resources Code.

27 SECTION 11. A person committed to the Texas Youth

1 Commission on the basis of conduct constituting the commission of  
2 an offense of the grade of misdemeanor under Section 54.04(d)(2),  
3 Family Code, as it existed before the effective date of this Act,  
4 must be discharged from the custody of the Texas Youth Commission  
5 not later than the person's 19th birthday.

6 SECTION 12. This Act takes effect September 1, 2007.