

By: Turner of Harris

H.B. No. 3663

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the places and conditions of detention for certain
3 juvenile offenders.

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

5 SECTION 1. Section 51.12(h), Family Code, is amended to
6 read as follows:

7 (h) This section does not apply to a person:

8 (1) who is at least 17 years of age and who has been
9 transferred [~~after transfer~~] to criminal court for prosecution
10 under Section 54.02; or

11 (2) who is at least 17 years of age and who has been
12 taken into custody after having:

13 (A) escaped from a juvenile facility operated by
14 or under contract with the Texas Youth Commission; or

15 (B) violated a condition of release under
16 supervision of the Texas Youth Commission.

17 SECTION 2. Section 51.13(c), Family Code, is amended to
18 read as follows:

19 (c) A child may not be committed or transferred to a penal
20 institution or other facility used primarily for the execution of
21 sentences of persons convicted of crime, except:

22 (1) for temporary detention in a jail or lockup
23 pending juvenile court hearing or disposition under conditions
24 meeting the requirements of Section 51.12 [~~of this code~~];

1 (2) if the child is 17 years of age or older, after
2 transfer for prosecution in criminal court under Section 54.02 [~~of~~
3 ~~this code~~]; [~~or~~]

4 (3) if the child is younger than 17 years of age, after
5 conviction of an offense for which the child was transferred for
6 prosecution in criminal court under Section 54.02; or

7 (4) after transfer from the Texas Youth Commission
8 under Section 61.084, Human Resources Code.

9 SECTION 3. Section 54.02(h), Family Code, is amended to
10 read as follows:

11 (h) If the juvenile court waives jurisdiction, it shall
12 state specifically in the order its reasons for waiver and certify
13 its action, including the written order and findings of the court,
14 and shall transfer the person to the appropriate court for criminal
15 proceedings and cause the results of the diagnostic study of the
16 person ordered under Subsection (d), including psychological
17 information, to be transferred to the appropriate criminal
18 prosecutor. On transfer of the person for criminal proceedings, the
19 person shall be dealt with as an adult and in accordance with the
20 Code of Criminal Procedure, except that if the person is younger
21 than 17 years of age, the person may be detained only as provided by
22 Section 51.12. Subject to the provisions of this subsection, the
23 [~~The~~] transfer of custody is an arrest.

24 SECTION 4. Article 42.09, Code of Criminal Procedure, is
25 amended by amending Section 1 and adding Section 10 to read as
26 follows:

27 Sec. 1. Except as provided in Sections 2, [~~and~~] 3, and 10, a

1 defendant shall be delivered to a jail or to the [~~institutional~~
2 ~~division of the~~] Texas Department of Criminal Justice when the
3 defendant's [~~his~~] sentence is pronounced, or the defendant's [~~his~~]
4 sentence to death is announced, by the court. The defendant's
5 sentence begins to run on the day it is pronounced, but with all
6 credits, if any, allowed by Article 42.03.

7 Sec. 10. The court shall order a defendant to be delivered
8 to a certified detention facility, a secure detention facility, or
9 a county jail or other facility that complies with the requirements
10 for detaining a child at the facility under Section 51.12, Family
11 Code, if:

12 (1) the defendant is younger than 17 years of age on
13 the date sentence is pronounced; and

14 (2) the defendant has been sentenced to the Texas
15 Department of Criminal Justice and is waiting for a transfer to the
16 department.

17 SECTION 5. (a) The change in law made by this Act applies
18 only to the detention of a child for conduct that occurs on or after
19 the effective date of this Act. Conduct violating a penal law that
20 occurs before the effective date of this Act is governed by the law
21 in effect when the conduct occurred, and the former law is continued
22 in effect for that purpose.

23 (b) For purposes of this section, conduct violating a penal
24 law occurred before the effective date of this Act if any element of
25 the violation occurred before that date.

26 SECTION 6. This Act takes effect September 1, 2009.