By: Whitmire   S.B. No. 1839
      (Bonnen of Brazoria)

A BILL TO BE ENTITLED

1   AN ACT

2 relating to the detention of certain juvenile offenders.

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

4   SECTION 1. Subsections (c-1) and (f), Section 51.12, Family

5 Code, are amended to read as follows:

6   (c-1) The Texas Juvenile Justice Department [Probation

7 Commission] shall annually inspect each public or private juvenile

8 pre-adjudication secure detention facility. The department [Texas

9 Juvenile Probation Commission] shall provide a report to each

10 juvenile court judge presiding in the same county as an inspected

11 facility indicating whether the facility is suitable or unsuitable

12 for the detention of children in accordance with:

13   (1) the requirements of Subsections (a) and[,] (f)[,

14 and (g)]; and

15   (2) minimum professional standards for the detention

16 of children in pre-adjudication secure confinement promulgated by

17 the Texas Juvenile Justice Board [Probation Commission] or, at the

18 election of the juvenile board of the county in which the facility

19 is located, the current standards promulgated by the American

20 Correctional Association.

21   (f) A child detained in a building that contains a jail,

22 lockup, or other place of secure confinement, including an alcohol

23 or other drug treatment facility, shall be separated by sight and

24 sound from adults detained in the same building. Children and

1 adults are separated by sight and sound only if they are unable to

2 see each other and conversation between them is not possible. The

3 separation must extend to all areas of the facility, including

4 sally ports and passageways, and those areas used for admission,

5 counseling, sleeping, toileting, showering, dining, recreational,

6 educational, or vocational activities, and health care. The

7 separation may be accomplished through architectural design. If

8 incidental contact between the child and detained adults is

9 possible at the facility, staff must directly supervise the child

10 during all times incidental contact is possible. A person who has

11 been transferred for prosecution in criminal court under Section

12 54.02 and is under 17 years of age is considered a child for the

13 purposes of this subsection.

14 SECTION 2. Subsection (h), Section 54.02, Family Code, is

15 amended to read as follows:

16 (h) If the juvenile court waives jurisdiction, it shall

17 state specifically in the order its reasons for waiver and certify

18 its action, including the written order and findings of the court,

19 and shall transfer the person to the appropriate court for criminal

20 proceedings and cause the results of the diagnostic study of the

21 person ordered under Subsection (d), including psychological

22 information, to be transferred to the appropriate criminal

23 prosecutor. On transfer of the person for criminal proceedings,

24 the person shall be dealt with as an adult and in accordance with

25 the Code of Criminal Procedure, except that if detention in a

26 certified juvenile detention facility is authorized under Section

27 152.0015, Human Resources Code, the juvenile court may order the

1 person to be detained in the facility pending trial or until the

2 criminal court enters an order under Article 4.19, Code of Criminal

3 Procedure.   A person who is ordered to be detained in a juvenile

4 detention facility and who is under 17 years of age is considered a

5 child for purposes of Section 51.12.   A transfer of custody made

6 under this subsection is an arrest.

7   SECTION 3.   Subsection (g), Section 51.12, Family Code, is

8 repealed.

9   SECTION 4.   The change in law made by this Act applies to a

10 child detained on or after the effective date of this Act,

11 regardless of whether the conduct for which the child was detained

12 occurred before, on, or after the effective date of this Act.

13   SECTION 5.   This Act takes effect September 1, 2013.