

House Bill 2862
Senate Amendments
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HOUSE VERSION

SECTION 1. Articles 62.352(b) and (c), Code of Criminal Procedure, are amended to read as follows:

(b) After a hearing under Article 62.351 or under a plea agreement described by Article 62.355(b), the juvenile court may enter an order:

(1) deferring decision on requiring registration under this chapter until the respondent has completed treatment for the respondent's sexual offense as a condition of probation or while committed to the Texas Juvenile Justice Department [~~Youth Commission~~]; or

(2) requiring the respondent to register as a sex offender but providing that the registration information is not public information and is restricted to use by law enforcement and criminal justice agencies, the Council on Sex Offender Treatment, and public or private institutions of higher education.

(c) If the court enters an order described by Subsection (b)(1), the court retains discretion and jurisdiction to require, or exempt the respondent from, registration under this chapter at any time during the treatment or on the successful or unsuccessful completion of treatment, except that during the period of deferral, registration may not be required. Following successful completion of treatment, the respondent is exempted from registration under this chapter unless a hearing under this subchapter is held on motion of the prosecuting attorney [~~state~~], regardless of whether the respondent is 18 years of age or older, and the court determines the interests of the public require registration. Not later than the 10th day after the date of the respondent's successful completion of treatment, the treatment provider shall notify the juvenile court and prosecuting attorney of the completion.

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SECTION 1. Same as House version.

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SECTION 2. Section 51.02(8-a), Family Code, is amended to read as follows:

(8-a) "Nonsecure correctional facility" means a facility described by Section 51.126~~[, other than a secure correctional facility, that accepts only juveniles who are on probation and that is operated by or under contract with a governmental unit, as defined by Section 101.001, Civil Practice and Remedies Code].~~

SECTION 3. Section 51.12, Family Code, is amended by amending Subsection (a) and adding Subsection (j-1) to read as follows:

- (a) Except as provided by Subsection (h), a child may be detained only in a:
- (1) juvenile processing office in compliance with Section 52.025;
 - (2) place of nonsecure custody in compliance with Article 45.058, Code of Criminal Procedure;
 - (3) certified juvenile detention facility that complies with the requirements of Subsection (f);
 - (4) secure detention facility as provided by Subsection (j);
 - ~~[or]~~
 - (5) county jail or other facility as provided by Subsection (l);
 - or
 - (6) nonsecure correctional facility as provided by Subsection (j-1).
- (j-1) After being taken into custody, a child may be detained in a nonsecure correctional facility until the child is released under Section 53.01, 53.012, or 53.02 or until a detention

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hearing is held under Section 54.01(a), if:

(1) the nonsecure correctional facility has been appropriately registered and certified;

(2) a certified secure detention facility is not available in the county in which the child is taken into custody;

(3) the nonsecure correctional facility complies with the short-term detention standards adopted by the Texas Juvenile Justice Department; and

(4) the nonsecure correctional facility has been designated by the county juvenile board for the county in which the facility is located.

SECTION 4. Section 54.02, Family Code, is amended by adding Subsection (s) to read as follows:

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SECTION 4. Section 54.02, Family Code, is amended by adding Subsections (h-1) and (s) and amending Subsections (k) and (l) to read as follows: [FA1(1)]

(h-1) If the juvenile court orders a person detained in a certified juvenile detention facility under Subsection (h), the juvenile court shall set or deny bond for the person as required by the Code of Criminal Procedure and other law applicable to the pretrial detention of adults accused of criminal offenses.

(k) The petition and notice requirements of Sections 53.04, 53.05, 53.06, and 53.07 of this code must be satisfied, and the summons must state that the hearing is for the purpose of considering waiver of jurisdiction under Subsection (j) [of this section]. The person's parent, custodian, guardian, or guardian ad litem is not considered a party to a proceeding under Subsection (j) and it is not necessary to provide the parent, custodian, guardian, or guardian ad litem with notice.

(l) The juvenile court shall conduct a hearing without a jury to consider waiver of jurisdiction under Subsection (j) [of this section]. Except as otherwise provided by this subsection, a

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(s) If a child is transferred to criminal court under this section, only the petition for discretionary transfer, the order of transfer, and the order of commitment, if any, are a part of the district clerk's public record.

SECTION 5. Sections 54.04(b) and (d), Family Code, are amended to read as follows:

(b) At the disposition hearing, the juvenile court, notwithstanding the Texas Rules of Evidence or Chapter 37, Code of Criminal Procedure, may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of witnesses. On or before the second day before the date of ~~[Prior to]~~ the disposition hearing, the court shall provide the attorney for the child and the prosecuting attorney with access to all written matter to be considered by the court in disposition. The court may order counsel not to reveal items to the child or the child's parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or

waiver of jurisdiction under Subsection (j) may be made without the necessity of conducting the diagnostic study or complying with the requirements of discretionary transfer proceedings under Subsection (d). If requested by the attorney for the person at least 10 days before the transfer hearing, the court shall order that the person be examined pursuant to Section 51.20(a) and that the results of the examination be provided to the attorney for the person and the attorney for the state at least five days before the transfer hearing. [FA1(2)]

(s) If a child is transferred to criminal court under this section, only the petition for discretionary transfer, the order of transfer, and the order of commitment, if any, are a part of the district clerk's public record.

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similar sources in the future.

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

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

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

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

(i) a suitable foster home;

(ii) a suitable public or private residential treatment facility licensed by a state governmental entity or exempted from licensure by state law, except a facility operated by the Texas Juvenile Justice Department [~~Youth Commission~~]; or

(iii) a suitable public or private post-adjudication secure correctional facility that meets the requirements of Section 51.125, except a facility operated by the Texas Juvenile Justice Department [~~Youth Commission~~];

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony and if the petition was not approved by the grand jury under Section 53.045, the court may commit the child to the Texas Juvenile Justice Department [~~Youth Commission~~] without a determinate sentence;

(3) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that included a violation of a penal law listed in

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Section 53.045(a) and if the petition was approved by the grand jury under Section 53.045, the court or jury may sentence the child to commitment in the Texas Juvenile Justice Department [~~Youth Commission~~] with a possible transfer to the Texas Department of Criminal Justice for a term of:

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

(i) a capital felony;

(ii) a felony of the first degree; or

(iii) an aggravated controlled substance felony;

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

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

(4) the court may assign the child an appropriate sanction level and sanctions as provided by the assignment guidelines in Section 59.003; [øø]

(5) the court may place the child in a suitable nonsecure correctional facility that is registered and meets the applicable standards for the facility as provided by Section 51.126; or

~~(6)~~ if applicable, the court or jury may make a disposition under Subsection (m).

SECTION 6. Section 54.0482, Family Code, is amended by amending Subsections (a), (e), and (f) and adding Subsection (b-1) to read as follows:

(a) A juvenile probation department that receives a payment to a victim as the result of a juvenile court order for restitution shall immediately:

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

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(2) notify the victim [~~by certified mail, sent to the last known address of the victim,~~] that a payment has been received.

(b-1) If the victim does not make a claim for payment on or before the 30th day after the date of being notified under Subsection (a), the juvenile probation department shall notify the victim by certified mail, sent to the last known address of the victim, that a payment has been received.

(e) If a victim claims a payment on or before the fifth anniversary of the date on which the juvenile probation department mailed a notice to the victim under Subsection (b-1) [~~(a)~~], the juvenile probation department shall pay the victim the amount of the original payment, less any interest earned while holding the payment.

(f) If a victim does not claim a payment on or before the fifth anniversary of the date on which the juvenile probation department mailed a notice to the victim under Subsection (b-1) [~~(a)~~], the department:

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

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

SECTION 7. Section 54.05(e), Family Code, is amended to read as follows:

(e) After the hearing on the merits or facts, the court may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of other witnesses. On or before the second day before the date of [~~Prior to~~] the hearing to modify disposition, the court shall provide the attorney for the child and the

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prosecuting attorney with access to all written matter to be considered by the court in deciding whether to modify disposition. The court may order counsel not to reveal items to the child or his parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

SECTION 8. Section 54.051, Family Code, is amended by amending Subsections (b), (e), (e-2), (e-3), and (i) and adding Subsection (d-1) to read as follows:

(b) The hearing must be conducted before the person's ~~child's~~ 19th birthday, or before the person's 18th birthday if the offense for which the person was placed on probation occurred before September 1, 2011, and must be conducted in the same manner as a hearing to modify disposition under Section 54.05.

(d-1) After a transfer to district court under Subsection (d), only the petition, the grand jury approval, the judgment concerning the conduct for which the person was placed on determinate sentence probation, and the transfer order are a part of the district clerk's public record.

(e) A district court that exercises jurisdiction over a person ~~child~~ transferred under Subsection (d) shall place the person ~~child~~ on community supervision under Article 42.12, Code of Criminal Procedure, for the remainder of the person's ~~child's~~ probationary period and under conditions consistent with those ordered by the juvenile court.

(e-2) If a person ~~child~~ who is placed on community supervision under this section violates a condition of that

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supervision or if the person [~~child~~] violated a condition of probation ordered under Section 54.04(q) and that probation violation was not discovered by the state before the person's [~~child's~~] 19th birthday, the district court shall dispose of the violation of community supervision or probation, as appropriate, in the same manner as if the court had originally exercised jurisdiction over the case. If the judge revokes community supervision, the judge may reduce the prison sentence to any length without regard to the minimum term imposed by Section 23(a), Article 42.12, Code of Criminal Procedure.

(e-3) The time that a person [~~child~~] serves on probation ordered under Section 54.04(q) is the same as time served on community supervision ordered under this section for purposes of determining the person's [~~child's~~] eligibility for early discharge from community supervision under Section 20, Article 42.12, Code of Criminal Procedure.

(i) If the juvenile court exercises jurisdiction over a person who is 18 or 19 years of age or older, as applicable, under Section 51.041 or 51.0412, the court or jury may, if the person is otherwise eligible, place the person on probation under Section 54.04(q). The juvenile court shall set the conditions of probation and immediately transfer supervision of the person to the appropriate court exercising criminal jurisdiction under Subsection (e).

SECTION 9. Sections 54.11(b) and (d), Family Code, are amended to read as follows:

(b) The court shall notify the following of the time and place of the hearing:

(1) the person to be transferred or released under supervision;

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- (2) the parents of the person;
 - (3) any legal custodian of the person, including the Texas Juvenile Justice Department [~~Youth Commission~~];
 - (4) the office of the prosecuting attorney that represented the state in the juvenile delinquency proceedings;
 - (5) the victim of the offense that was included in the delinquent conduct that was a ground for the disposition, or a member of the victim's family; and
 - (6) any other person who has filed a written request with the court to be notified of a release hearing with respect to the person to be transferred or released under supervision.
- (d) At a hearing under this section the court may consider written reports and supporting documents from probation officers, professional court employees, professional consultants, or employees of the Texas Juvenile Justice Department [~~Youth Commission~~], in addition to the testimony of witnesses. On or before the fifth day [~~At least one day~~] before the date of the hearing, the court shall provide the attorney for the person to be transferred or released under supervision with access to all written matter to be considered by the court. All written matter is admissible in evidence at the hearing.

SECTION 10. Section 58.007(b), Family Code, is amended to read as follows:

- (b) Except as provided by Section 54.051(d-1) and by Article 15.27, Code of Criminal Procedure, the records and files of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under this title are open to inspection only by:

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- (1) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (2) a juvenile justice agency as that term is defined by Section 58.101;
- (3) an attorney for a party to the proceeding;
- (4) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or
- (5) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

SECTION 11. Section 61.0031(d), Family Code, is amended to read as follows:

(d) The juvenile court to which the order has been transferred shall require the parent or other eligible person to appear before the court to notify the person of the existence and terms of the order, unless the permanent supervision hearing under Section 51.073(c) has been waived. Failure to do so renders the order unenforceable.

No equivalent provision.

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SECTION 11. Same as House version.

SECTION __. Chapter 203, Human Resources Code, is amended by adding Section 203.016 to read as follows:

Sec. 203.016. DATA REGARDING PLACEMENT IN DISCIPLINARY SECLUSION. (a) In this section:

(1) "Disciplinary seclusion" means the separation of a resident from other residents for disciplinary reasons and the placement of the resident alone in an area from which egress is prevented for more than 90 minutes.

(2) "Juvenile facility" means a facility that serves juveniles

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under juvenile court jurisdiction and that is operated as a pre-adjudication secure detention facility, a short-term detention facility, or a post-adjudication secure correctional facility.

(b) The department shall collect the following data during the annual registration of juvenile facilities and make the data publicly available:

(1) the number of placements in disciplinary seclusion lasting at least 90 minutes but less than 24 hours;

(2) the number of placements in disciplinary seclusion lasting 24 hours or more but less than 48 hours; and

(3) the number of placements in disciplinary seclusion lasting 48 hours or more. [FA2]

SECTION 12. Section 221.003(c), Human Resources Code, is amended to read as follows:

(c) Any statement made by a child and any mental health data obtained from the child during the administration of the mental health screening instrument or the initial risk and needs assessment instruments under this section is not admissible against the child at any adjudication [~~other~~] hearing. The person administering the mental health screening instrument or initial risk and needs assessment instruments shall inform the child that any statement made by the child and any mental health data obtained from the child during the administration of the instrument is not admissible against the child at any adjudication [~~other~~] hearing.

SECTION 12. Same as House version.

SECTION 13. Section 222.003(a), Human Resources Code, is amended to read as follows:

(a) The board by rule shall adopt certification standards for

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persons who are employed in nonsecure correctional facilities that accept ~~[only]~~ juveniles ~~[who are on probation]~~ and that are operated by or under contract with a governmental unit, as defined by Section 101.001, Civil Practice and Remedies Code.

SECTION 14. (a) Sections 54.02(s) and 54.051(d-1), Family Code, as added by this Act, and Section 58.007(b), Family Code, as amended by this Act, apply to a record created before, on, or after the effective date of this Act.

(b) Sections 54.04(b), 54.05(e), and 54.11(d), Family Code, as amended by this Act, apply only to conduct that occurs on or after the effective date of this Act. Conduct that occurs

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SECTION 14. (a) Sections 54.02(s) and 54.051(d-1), Family Code, as added by this Act, and Section 58.007(b), Family Code, as amended by this Act, apply to a record created before, on, or after the effective date of this Act.

(_) Article 4.19, Code of Criminal Procedure, and Section 51.07, Family Code, as amended by this Act, apply to a juvenile case transfer that occurs on or after the effective date of this Act, regardless of whether the delinquent conduct or conduct indicating a need for supervision that is the basis of the case occurred before, on, or after the effective date of this Act.

(_) Article 24.011, Code of Criminal Procedure, and Section 52.0151, Family Code, as amended by this Act, apply to the detention of a witness that occurs on or after the effective date of this Act, regardless of whether any prior event connected to the proceeding, action, or decision occurred before the effective date of this Act.

(_) Section 51.072, Family Code, as amended by this Act, applies to a request for interim supervision that is initiated on or after the effective date of this Act, regardless of whether the child was placed on probation before, on, or after the effective date of this Act. [FA1(3)]

(b) Sections 54.04(b), 54.05(e), and 54.11(d), Family Code, as amended by this Act, apply only to conduct that occurs on or after the effective date of this Act. Conduct that occurs

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before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct occurs before the effective date of this Act if any element of the conduct occurred before that date.

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before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct occurs before the effective date of this Act if any element of the conduct occurred before that date.

() Section 243.005, Human Resources Code, as amended by this Act, applies to a child who is committed to the Texas Juvenile Justice Department on or after the effective date of this Act, regardless of whether the delinquent conduct or conduct indicating a need for supervision for which the child was committed occurred before, on, or after the effective date of this Act. [FA1(3)]

SECTION __. Article 4.19, Code of Criminal Procedure, is amended to read as follows:

Art. 4.19. TRANSFER OF PERSON CERTIFIED TO STAND TRIAL AS AN ADULT [~~CHILD~~]. (a) Notwithstanding the order of a juvenile court to detain a person under the age of 17 who has been certified to stand trial as an adult [~~child~~] in a certified juvenile detention facility under Section 54.02(h), Family Code, the judge of the criminal court having jurisdiction over the person [~~child~~] may order the person [~~child~~] to be transferred to an adult [~~another~~] facility [~~and treated as an adult as provided by this code~~]. A child who is transferred to an adult facility must be detained under conditions meeting the requirements of Section 51.12, Family Code.

(b) On the 17th birthday of a person described by Subsection (a) who is detained in a certified juvenile detention facility under Section 54.02(h), Family Code, the judge of the criminal court having jurisdiction over the person shall order

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the person to be transferred to an adult facility. [FA1(4)]

No equivalent provision.

SECTION __. Article 24.011, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsection (d-1) to read as follows:

(c) If the witness is in a placement in the custody of the Texas Juvenile Justice Department [~~Youth Commission~~], a juvenile secure detention facility, or a juvenile secure correctional facility, the court may issue a bench warrant or direct that an attachment issue to require a peace officer or probation officer to secure custody of the person at the placement and produce the person in court. When the person is no longer needed as a witness or the period prescribed by Subsection (d-1) has expired without extension, the court shall order the peace officer or probation officer to return the person to the placement from which the person was released.

(d-1) A witness younger than 17 years of age held in custody under this article may be placed in a certified juvenile detention facility for a period not to exceed 30 days. The length of placement may be extended in increments of 30 days by the court that issued the original bench warrant. If the placement is not extended, the period under this article expires and the witness may be returned as provided by Subsection (c). [FA1(4)]

No equivalent provision.

SECTION __. Subsection (f), Article 45.0216, Code of Criminal Procedure, is amended to read as follows:

(f) The court shall order the conviction, together with all complaints, verdicts, sentences, and prosecutorial and law enforcement records, and any other documents relating to the

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offense, expunged from the person's record if the court finds that:

- (1) for a person applying for the expunction of a conviction for an offense described by Section 8.07(a)(4) or (5), Penal Code, the person was not convicted of any other offense described by Section 8.07(a)(4) or (5), Penal Code, while the person was a child; and
- (2) for a person applying for the expunction of a conviction for an offense described by Section 43.261, Penal Code, the person was not found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(8) [~~51.03(b)(7)~~], Family Code, while the person was a child. [FA1(4)]

No equivalent provision.

SECTION __. Subsection (b), Section 51.03, Family Code, as amended by Chapters 1150 (H.B. 2015) and 1322 (S.B. 407), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and 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

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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, Health and Safety Code;
(5) an act that violates a school district's previously communicated written standards of student conduct for which the child has been expelled under Section 37.007(c), Education Code;
(6) conduct that violates a reasonable and lawful order of a court entered under Section 264.305; [øf]
(7) notwithstanding Subsection (a)(1), conduct described by Section 43.02(a)(1) or (2), Penal Code; or
(8) notwithstanding Subsection (a)(1), [~~7~~] conduct that violates Section 43.261, Penal Code. [FA1(4)]

No equivalent provision.

SECTION __. Section 51.0412, Family Code, is amended to read as follows:
Sec. 51.0412. JURISDICTION OVER INCOMPLETE PROCEEDINGS. The court retains jurisdiction over a person, without regard to the age of the person, who is a respondent in an adjudication proceeding, a disposition proceeding, a proceeding to modify disposition, a proceeding for waiver of jurisdiction and transfer to criminal court under Section 54.02(a), or a motion for transfer of determinate sentence probation to an appropriate district court if:
(1) the petition or motion [~~to modify~~] was filed while the respondent was younger than 18 [~~years of age~~] or [~~the motion for transfer was filed while the respondent was younger than~~] 19 years of age, as applicable;

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- (2) the proceeding is not complete before the respondent becomes 18 or 19 years of age, as applicable; and
- (3) the court enters a finding in the proceeding that the prosecuting attorney exercised due diligence in an attempt to complete the proceeding before the respondent became 18 or 19 years of age, as applicable. [FA1(4)]

No equivalent provision.

SECTION __. Section 51.07, Family Code, is amended to read as follows:

Sec. 51.07. TRANSFER TO ANOTHER COUNTY FOR DISPOSITION. (a) When a child has been found to have engaged in delinquent conduct or conduct indicating a need for supervision under Section 54.03, the juvenile court may transfer the case and transcripts of records and documents to the juvenile court of the county where the child resides for disposition of the case under Section 54.04. Consent by the court of the county where the child resides is not required.

(b) For purposes of Subsection (a), while a child is the subject of a suit under Title 5, the child is considered to reside in the county in which the court of continuing exclusive jurisdiction over the child is located. [FA1(4)]

No equivalent provision.

SECTION __. Section 51.072, Family Code, is amended by amending Subsection (f) and adding Subsections (f-2), (j-1), and (j-2) to read as follows:

(f) Not later than 10 business days after a receiving county has agreed to provide interim supervision of a child, the juvenile probation department of the sending county shall provide the juvenile probation department of the receiving county with a copy of the following documents:

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- (1) the petition and the adjudication and disposition orders for the child, including the child's thumbprint;
- (2) the child's conditions of probation;
- (3) the social history report for the child;
- (4) any psychological or psychiatric reports concerning the child;
- (5) the Department of Public Safety CR 43J form or tracking incident number concerning the child;
- (6) any law enforcement incident reports concerning the offense for which the child is on probation;
- (7) any sex offender registration information concerning the child;
- (8) any juvenile probation department progress reports concerning the child and any other pertinent documentation for the child's probation officer;
- (9) case plans concerning the child;
- (10) the Texas Juvenile Justice Department [~~Probation Commission~~] standard assessment tool results for the child;
- (11) the computerized referral and case history for the child, including case disposition;
- (12) the child's birth certificate;
- (13) the child's social security number or social security card, if available;
- (14) the name, address, and telephone number of the contact person in the sending county's juvenile probation department;
- (15) Title IV-E eligibility screening information for the child, if available;
- (16) the address in the sending county for forwarding funds collected to which the sending county is entitled;
- (17) any of the child's school or immunization records that the juvenile probation department of the sending county possesses; ~~and~~

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(18) any victim information concerning the case for which the child is on probation; and

(19) if applicable, documentation that the sending county has required the child to provide a DNA sample to the Department of Public Safety under Section 54.0405 or 54.0409 or under Subchapter G, Chapter 411, Government Code.

(f-2) On initiating a transfer of probation supervision under this section, for a child ordered to submit a DNA sample as a condition of probation, the sending county shall provide to the receiving county documentation of compliance with the requirements of Section 54.0405 or 54.0409 or of Subchapter G, Chapter 411, Government Code, as applicable. If the sending county has not provided the documentation required under this section within the time provided by Subsection (f), the receiving county may refuse to accept interim supervision until the sending county has provided the documentation.

(j-1) Notwithstanding Subsection (j), the sending county may request interim supervision from the receiving county that issued a directive under Subsection (i)(2). Following the conclusion of any judicial proceedings in the sending county or on the completion of any residential placement ordered by the juvenile court of the sending county, the sending and receiving counties may mutually agree to return the child to the receiving county. The sending and receiving counties may take into consideration whether:

(1) the person having legal custody of the child resides in the receiving county;

(2) the child has been ordered by the juvenile court of the sending county to reside with a parent, guardian, or other person who resides in the sending county or any other county; and

(3) the case meets the statutory requirements for collaborative

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supervision.
(j-2) The period of interim supervision under Subsection (j-1) may not exceed the period under Subsection (m). [FA1(4)]

No equivalent provision.

SECTION __. Subsections (d) and (e), Section 51.13, Family Code, are amended to read as follows:
(d) An adjudication under Section 54.03 that a child engaged in conduct that occurred on or after January 1, 1996, and that constitutes a felony offense resulting in commitment to the Texas Juvenile Justice Department [~~Youth Commission~~] under Section 54.04(d)(2), (d)(3), or (m) or 54.05(f) is a final felony conviction only for the purposes of Sections 12.42(a), (b), and (c)(1), [~~and (e);~~] Penal Code.
(e) A finding that a child engaged in conduct indicating a need for supervision as described by Section 51.03(b)(8) [~~51.03(b)(7)~~] is a conviction only for the purposes of Sections 43.261(c) and (d), Penal Code. [FA1(4)]

No equivalent provision.

SECTION __. Subsection (c), Section 51.17, Family Code, is amended to read as follows:
(c) Except as otherwise provided by this title, the Texas Rules of Evidence applicable [~~apply~~] to criminal cases and Articles 33.03 and 37.07 and Chapter 38, Code of Criminal Procedure, apply in a judicial proceeding under this title. [FA1(4)]

No equivalent provision.

SECTION __. Section 52.0151, Family Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:
(a) If a witness is in a placement in the custody of the Texas

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Juvenile Justice Department [~~Youth Commission~~], a juvenile secure detention facility, or a juvenile secure correctional facility, the court may issue a bench warrant or direct that an attachment issue to require a peace officer or probation officer to secure custody of the person at the placement and produce the person in court. Once the person is no longer needed as a witness or the period prescribed by Subsection (c) has expired without extension, the court shall order the peace officer or probation officer to return the person to the placement from which the person was released.

(c) A witness held in custody under this section may be placed in a certified juvenile detention facility for a period not to exceed 30 days. The length of placement may be extended in 30-day increments by the court that issued the original bench warrant. If the placement is not extended, the period under this section expires and the witness may be returned as provided by Subsection (a). [FA1(4)]

No equivalent provision.

SECTION __. The heading to Section 53.045, Family Code, is amended to read as follows:

Sec. 53.045. OFFENSES ELIGIBLE FOR DETERMINATE SENTENCE [~~VIOLENT OR HABITUAL OFFENDERS~~]. [FA1(4)]

No equivalent provision.

SECTION __. Subsection (e), Section 54.011, Family Code, is amended to read as follows:

(e) A status offender may be detained for a necessary period, not to exceed the period allowed under the Interstate Compact for Juveniles [~~five days~~], to enable the child's return to the child's home in another state under Chapter 60. [FA1(4)]

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No equivalent provision.

SECTION __. Subsection (a), Section 54.0404, Family Code, is amended to read as follows:

(a) If a child is found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(8) [~~51.03(b)(7)~~], the juvenile court may enter an order requiring the child to attend and successfully complete an educational program described by Section 37.218, Education Code, or another equivalent educational program. [FA1(4)]

No equivalent provision.

SECTION __. The heading to Section 56.03, Family Code, is amended to read as follows:

Sec. 56.03. APPEAL BY STATE IN CASES OF OFFENSES ELIGIBLE FOR DETERMINATE SENTENCE [~~VIOLENT OR HABITUAL OFFENDER~~]. [FA1(4)]

No equivalent provision.

SECTION __. Subsection (c-3), Section 58.003, Family Code, as added by Chapter 1322 (S.B. 407), Acts of the 82nd Legislature, Regular Session, 2011, is redesignated as Subsection (c-5), Section 58.003, Family Code, to read as follows:

(c-5) [~~(c-3)~~] Notwithstanding Subsections (a) and (c) and subject to Subsection (b), a juvenile court may order the sealing of records concerning a child found to have engaged in conduct indicating a need for supervision that violates Section 43.261, Penal Code, or taken into custody to determine whether the child engaged in conduct indicating a need for supervision that violates Section 43.261, Penal Code, if the child attends and successfully completes an educational

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program described by Section 37.218, Education Code, or another equivalent educational program. The court may:

- (1) order the sealing of the records immediately and without a hearing; or
- (2) hold a hearing to determine whether to seal the records. [FA1(4)]

No equivalent provision.

SECTION __. Subsection (c-4), Section 58.003, Family Code, as added by Chapter 1322 (S.B. 407), Acts of the 82nd Legislature, Regular Session, 2011, is redesignated as Subsection (c-6), Section 58.003, Family Code, and amended to read as follows:

(c-6) [~~(c-4)~~] A prosecuting attorney or juvenile probation department may maintain until a child's 17th birthday a separate record of the child's name and date of birth and the date on which the child successfully completed the educational program, if the child's records are sealed under Subsection (c-5) [~~(c-3)~~]. The prosecuting attorney or juvenile probation department, as applicable, shall send the record to the court as soon as practicable after the child's 17th birthday to be added to the child's other sealed records. [FA1(4)]

No equivalent provision.

SECTION __. Subsection (d), Section 58.003, Family Code, as amended by Chapters 1150 (H.B. 2015) and 1322 (S.B. 407), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended to read as follows:

(d) The court may grant to a child the relief authorized in Subsection (a), (c-1), [~~(c-3)~~], or (c-5) at any time after final discharge of the child or after the last official action in the case if there was no adjudication, subject, if applicable, to

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Subsection (e). If the child is referred to the juvenile court for conduct constituting any offense and at the adjudication hearing the child is found to be not guilty of each offense alleged, the court shall immediately and without any additional hearing order the sealing of all files and records relating to the case. [FA1(4)]

No equivalent provision.

SECTION __. Subsection (g-1), Section 58.003, Family Code, is amended to read as follows:
(g-1) Statistical data [~~Any records~~] collected or maintained by the Texas Juvenile Justice Department, including statistical data submitted under Section 221.007, Human Resources Code, is [~~are~~] not subject to a sealing order issued under this section. [FA1(4)]

No equivalent provision.

SECTION __. Subsection (a), Section 58.203, Family Code, is amended to read as follows:
(a) The department shall certify to the juvenile probation department to which a referral was made that resulted in information being submitted to the juvenile justice information system that the records relating to a person's juvenile case are subject to automatic restriction of access if:
(1) the person is at least 17 years of age;
(2) the juvenile case did not include [~~violent or habitual felony~~] conduct resulting in determinate sentence proceedings in the juvenile court under Section 53.045; and
(3) the juvenile case was not certified for trial in criminal court under Section 54.02. [FA1(4)]

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No equivalent provision.

SECTION __. Subsection (b), Section 58.204, Family Code, is amended to read as follows:

(b) On certification of records in a case under Section 58.203, the department may permit access to the information in the juvenile justice information system relating to the case of an individual only:

(1) by a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code; ~~[or]~~

(2) for research purposes, by the Texas Juvenile Justice Department;

(3) by the person who is the subject of the records on an order from the juvenile court granting the petition filed by or on behalf of the person who is the subject of the records;

(4) with the permission of the juvenile court at the request of the person who is the subject of the records; or

(5) with the permission of the juvenile court, by a party to a civil suit if the person who is the subject of the records has put facts relating to the person's records at issue in the suit ~~[Probation Commission, the Texas Youth Commission, or the Criminal Justice Policy Council]~~. [FA1(4)]

No equivalent provision.

SECTION __. Section 58.207, Family Code, is amended to read as follows:

Sec. 58.207. JUVENILE COURT ORDERS ON CERTIFICATION. (a) On certification of records in a case under Section 58.203, the juvenile court shall order:

(1) that the following records relating to the case may be accessed only as provided by Section 58.204(b):

(A) if the respondent was committed to the Texas Juvenile Justice Department ~~[Youth Commission]~~, records maintained

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by the department [~~commission~~];

(B) records maintained by the juvenile probation department;

(C) records maintained by the clerk of the court;

(D) records maintained by the prosecutor's office; and

(E) records maintained by a law enforcement agency; and

(2) the juvenile probation department to make a reasonable effort to notify the person who is the subject of records for which access has been restricted of the action restricting access and the legal significance of the action for the person, but only if the person has requested the notification in writing and has provided the juvenile probation department with a current address.

(b) Except as provided by Subsection (c), on [~~On~~] receipt of an order under Subsection (a)(1), the agency maintaining the records:

(1) may allow access only as provided by Section 58.204(b); and

(2) shall respond to a request for information about the records by stating that the records do not exist.

(c) Subsection (b) does not apply if:

(1) the subject of an order issued under Subsection (a)(1) is under the jurisdiction of the juvenile court or the Texas Juvenile Justice Department; or

(2) the agency has received notice that the records are not subject to restricted access under Section 58.211.

(d) Notwithstanding Subsection (b) and Section 58.206(b), with the permission of the subject of the records, an agency listed in Subsection (a)(1) may permit the state military forces or the United States military forces to have access to juvenile records held by that agency. On receipt of a request from the state military forces or the United States military forces, an agency may provide access to juvenile records held by that

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agency in the same manner authorized by law for records that have not been restricted under Subsection (a). [FA1(4)]

No equivalent provision.

SECTION __. Section 58.209, Family Code, is amended to read as follows:

Sec. 58.209. INFORMATION TO CHILD BY PROBATION OFFICER OR TEXAS JUVENILE JUSTICE DEPARTMENT [~~YOUTH COMMISSION~~]. (a) When a child is placed on probation for an offense that may be eligible for automatic restricted access at age 17 or when a child is received by the Texas Juvenile Justice Department [~~Youth Commission~~] on an indeterminate commitment, a probation officer or an official at the Texas Juvenile Justice Department [~~Youth Commission~~] reception center, as soon as practicable, shall explain the substance of the following information to the child:

- (1) if the child was adjudicated as having committed delinquent conduct for a felony or jailable misdemeanor, that the child probably has a juvenile record with the department and the Federal Bureau of Investigation;
- (2) that the child's juvenile record is a permanent record that is not destroyed or erased unless the record is eligible for sealing and the child or the child's family hires a lawyer and files a petition in court to have the record sealed;
- (3) that the child's juvenile record, other than treatment records made confidential by law, can be accessed by police, sheriff's officers, prosecutors, probation officers, correctional officers, and other criminal and juvenile justice officials in this state and elsewhere;
- (4) that the child's juvenile record, other than treatment records made confidential by law, can be accessed by

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employers, educational institutions, licensing agencies, and other organizations when the child applies for employment or educational programs;

(5) if the child's juvenile record is placed on restricted access when the child becomes 17 years of age, that access will be denied to employers, educational institutions, and others except for criminal justice agencies; ~~and~~

(6) that restricted access does not require any action by the child or the child's family, including the filing of a petition or hiring of a lawyer, but occurs automatically at age 17; and

(7) that if the child is under the jurisdiction of the juvenile court or the Texas Juvenile Justice Department on or after the child's 17th birthday, the law regarding restricted access will not apply until the person is discharged from the jurisdiction of the court or department, as appropriate.

(b) The probation officer or Texas Juvenile Justice Department ~~Youth Commission~~ official shall:

(1) give the child a written copy of the explanation provided; and

(2) communicate the same information to at least one of the child's parents or, if none can be found, to the child's guardian or custodian.

(c) The Texas Juvenile Justice Department ~~Probation Commission and the Texas Youth Commission~~ shall adopt rules to implement this section and to facilitate the effective explanation of the information required to be communicated by this section. [FA1(4)]

No equivalent provision.

SECTION __. Subsection (a), Section 23.101, Government Code, is amended to read as follows:

(a) The trial courts of this state shall regularly and frequently

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set hearings and trials of pending matters, giving preference to hearings and trials of the following:

- (1) temporary injunctions;
- (2) criminal actions, with the following actions given preference over other criminal actions:
 - (A) criminal actions against defendants who are detained in jail pending trial;
 - (B) criminal actions involving a charge that a person committed an act of family violence, as defined by Section 71.004, Family Code;
 - (C) an offense under:
 - (i) Section 21.02 or 21.11, Penal Code;
 - (ii) Chapter 22, Penal Code, if the victim of the alleged offense is younger than 17 years of age;
 - (iii) Section 25.02, Penal Code, if the victim of the alleged offense is younger than 17 years of age;
 - (iv) Section 25.06, Penal Code;
 - (v) Section 43.25, Penal Code; or
 - (vi) Section 20A.03, Penal Code;
 - (D) an offense described by Article 62.001(6)(C) or (D), Code of Criminal Procedure; and
 - (E) criminal actions against persons [~~children~~] who are detained as provided by Section 51.12, Family Code, after transfer for prosecution in criminal court under Section 54.02, Family Code;
- (3) election contests and suits under the Election Code;
- (4) orders for the protection of the family under Subtitle B, Title 4, Family Code;
- (5) appeals of final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims and claims under the Federal Employers' Liability Act and the Jones Act;

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(6) appeals of final orders of the commissioner of the General Land Office under Section 51.3021, Natural Resources Code;
(7) actions in which the claimant has been diagnosed with malignant mesothelioma, other malignant asbestos-related cancer, malignant silica-related cancer, or acute silicosis; and
(8) appeals brought under Section 42.01 or 42.015, Tax Code, of orders of appraisal review boards of appraisal districts established for counties with a population of less than 175,000. [FA1(4)]

No equivalent provision.

SECTION __. Section 243.005, Human Resources Code, is amended to read as follows:

Sec. 243.005. INFORMATION PROVIDED BY COMMITTING COURT. In addition to the information provided under Section 243.004, a court that commits a child to the department shall provide the department with a copy of the following documents:

- (1) the petition and the adjudication and disposition orders for the child, including the child's thumbprint;
- (2) if the commitment is a result of revocation of probation, a copy of the conditions of probation and the revocation order;
- (3) the social history report for the child;
- (4) any psychological or psychiatric reports concerning the child;
- (5) the contact information sheet for the child's parents or guardian;
- (6) any law enforcement incident reports concerning the offense for which the child is committed;
- (7) any sex offender registration information concerning the child;
- (8) any juvenile probation department progress reports

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- concerning the child;
- (9) any assessment documents concerning the child;
 - (10) the computerized referral and case history for the child, including case disposition;
 - (11) the child's birth certificate;
 - (12) the child's social security number or social security card, if available;
 - (13) the name, address, and telephone number of the court administrator in the committing county;
 - (14) Title IV-E eligibility screening information for the child, if available;
 - (15) the address in the committing county for forwarding funds collected to which the committing county is entitled;
 - (16) any of the child's school or immunization records that the committing county possesses;
 - (17) any victim information concerning the case for which the child is committed; ~~and~~
 - (18) any of the child's pertinent medical records that the committing court possesses;
 - (19) the Texas Juvenile Justice Department standard assessment tool results for the child;
 - (20) the Department of Public Safety CR-43J form or tracking incident number concerning the child; and
 - (21) documentation that the committing court has required the child to provide a DNA sample to the Department of Public Safety. [FA1(4)]

No equivalent provision.

SECTION __. The heading to Section 244.014, Human Resources Code, is amended to read as follows:
Sec. 244.014. REFERRAL OF DETERMINATE SENTENCE ~~[VIOLENT AND HABITUAL]~~ OFFENDERS

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FOR TRANSFER. [FA1(4)]

No equivalent provision.

SECTION __. To the extent of any conflict, this Act prevails over another Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes. [FA1(4)]

SECTION 15. This Act takes effect September 1, 2013.

SECTION 15. Same as House version.