

Amend SB 1149 (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Sections 51.13(c) and (d), Family Code, are amended to read as follows:

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

(1) for temporary detention in a jail or lockup pending juvenile court hearing or disposition under conditions meeting the requirements of Section 51.12;

(2) after transfer for prosecution in criminal court under Section 54.02, unless the juvenile court orders the detention of the child in a certified juvenile detention facility under Section 54.02(h); ~~[or]~~

(3) after transfer from the Texas Juvenile Justice Department under Section 245.151(c), Human Resources Code; or

(4) after transfer from a post-adjudication secure correctional facility, as that term is defined by Section 54.04011.

(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 under Section 54.04(d)(2), (d)(3), or (m) or 54.05(f) or commitment to a post-adjudication secure correctional facility under Section 54.04011 for conduct that occurred on or after December 1, 2013, is a final felony conviction only for the purposes of Sections 12.42(a), (b), and (c)(1) or Section 12.425, Penal Code.

SECTION 2. Section 53.045(d), Family Code, is amended to read as follows:

(d) If the grand jury approves of the petition, the fact of approval shall be certified to the juvenile court, and the certification shall be entered in the record of the case. For the purpose of the transfer of a child to the Texas Department of Criminal Justice as provided by Section 152.00161(c) or 245.151(c), Human Resources Code, as applicable, a juvenile court petition approved by a grand jury under this section is an indictment presented by the grand jury.

SECTION 3. Section 54.11, Family Code, is amended by amending Subsections (a), (b), and (d), and adding Subsection (o) to read as follows:

(a) On receipt of a referral under Section 244.014(a), Human Resources Code, for the transfer to the Texas Department of Criminal Justice of a person committed to the Texas Juvenile Justice Department under Section 54.04(d)(3), 54.04(m), or 54.05(f), on receipt of a request by the Texas Juvenile Justice Department under Section 245.051(d), Human Resources Code, for approval of the release under supervision of a person committed to the Texas Juvenile Justice Department under Section 54.04(d)(3), 54.04(m), or 54.05(f), or on receipt of a referral under Section 152.0016(g) or (j), Human Resources Code, the court shall set a time and place for a hearing on the possible transfer or release of the person, as applicable.

(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;

(2) the parents of the person;

(3) any legal custodian of the person, including the Texas Juvenile Justice Department or a juvenile board or local juvenile probation department if the child is committed to a post-adjudication secure correctional facility;

(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, or employees of a post-adjudication secure correctional facility in addition to the

testimony of witnesses. On or before the fifth 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.

(o) In this section, "post-adjudication secure correctional facility" has the meaning assigned by Section 54.04011.

SECTION 4. Section 58.352(a), Family Code, is amended to read as follows:

(a) A juvenile court judge in a county to which this subchapter applies shall post a report on the Internet website of the county in which the court is located. The report must include:

(1) the total number of children committed by the judge to:

(A) a correctional facility operated by the Texas Juvenile Justice Department [Youth Commission]; or

(B) a post-adjudication secure correctional facility as that term is defined by Section 54.04011; and

(2) for each child committed to a facility described by Subdivision (1):

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

(B) the year the child was committed to the facility; and

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

SECTION 5. Section 499.053, Government Code, is amended to read as follows:

Sec. 499.053. TRANSFERS FROM TEXAS JUVENILE JUSTICE DEPARTMENT OR POST-ADJUDICATION SECURE CORRECTIONAL FACILITY. (a) In this section, "post-adjudication secure correctional facility" has the meaning assigned by Section 152.00011, Human Resources Code.

(a-1) The department shall accept persons transferred to the department from:

(1) the Texas Juvenile Justice Department under Section 245.151, Human Resources Code; or

(2) a post-adjudication secure correctional facility under Section 152.00161, Human Resources Code.

(b) A person transferred to the department from the Texas Juvenile Justice Department or from a post-adjudication secure correctional facility is entitled to credit on the person's sentence for the time served in the custody of the Texas Juvenile Justice Department or the juvenile board or local juvenile probation department, as applicable.

(c) All laws relating to good conduct time and eligibility for release on parole or mandatory supervision apply to a person transferred to the department by the Texas Juvenile Justice Department or by a juvenile board or local juvenile probation department that operates the post-adjudication secure correctional facility as if the time the person was detained in a detention facility and the time the person served in the custody of the Texas Juvenile Justice Department or the juvenile board or local juvenile probation department was time served in the custody of the department.

(d) A person transferred from the Texas Juvenile Justice Department or a post-adjudication secure correctional facility for the offense of capital murder shall become eligible for parole as provided in Section 508.145(d) for an offense listed in Section 3g, Article 42.12, Code of Criminal Procedure, or an offense for which a deadly weapon finding has been made.

SECTION 6. Section 508.003(c), Government Code, is amended to read as follows:

(c) The provisions of this chapter not in conflict with Section 508.156 apply to parole of a person from the Texas Juvenile Justice Department or from a post-adjudication secure correctional facility operated by or under contract with a juvenile board or local juvenile probation department [~~Youth Commission~~] under that section.

SECTION 7. Sections 508.156(a), (d), (e), and (f), Government Code, are amended to read as follows:

(a) Before the release of a person who is transferred under Section 152.0016(g), 152.00161(e), 245.051(c), or 245.151(e), Human Resources Code, to the department for release on parole, a

parole panel shall review the person's records and may interview the person or any other person the panel considers necessary to determine the conditions of parole. The panel may impose any reasonable condition of parole on the person that the panel may impose on an adult inmate under this chapter.

(d) The period of parole for a person released on parole under this section is the term for which the person was sentenced less calendar time served at the Texas Juvenile Justice Department or in the custody of a juvenile board or local juvenile probation department following a commitment under Section 54.04011(c)(2), Family Code, [~~Youth Commission~~] and in a juvenile detention facility in connection with the conduct for which the person was adjudicated.

(e) If a parole panel revokes the person's parole, the panel may require the person to serve the remaining portion of the person's sentence in the institutional division. The remaining portion of the person's sentence is computed without credit for the time from the date of the person's release to the date of revocation. The panel may not recommit the person to the Texas Juvenile Justice Department or to the custody of a juvenile board or local juvenile probation department [~~Youth Commission~~].

(f) For purposes of this chapter, a person released from the Texas Juvenile Justice Department or the custody of a juvenile board or local juvenile probation department [~~Youth Commission~~] on parole under this section is considered to have been convicted of the offense for which the person has been adjudicated.

SECTION 8. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Section 152.00011 to read as follows:

Sec. 152.00011. DEFINITION. In this chapter, "post-adjudication secure correctional facility" means a facility operated by or under contract with a juvenile board or local juvenile probation department under Section 152.0016.

SECTION 9. Section 152.0016, Human Resources Code, as added by Chapter 1323 (S.B. 511), Acts of the 83rd Legislature, Regular Session, 2013, is amended by adding Subsections (f-1), (f-2), and (g-1) and amending Subsections (h) and (i) to read as follows:

(f-1) After a child has completed the minimum length of stay

established under Subsection (f), the juvenile board or local juvenile probation department shall:

(1) discharge the child from the custody of the juvenile board or local juvenile probation department;

(2) release the child under supervision as provided by Subsection (c)(2); or

(3) extend the child's length of stay in the custody of the juvenile board or local juvenile probation department.

(f-2) A child's length of stay may only be extended under Subsection (f-1)(3) on the basis of clear and convincing evidence that:

(1) the child is in need of additional rehabilitation from the juvenile board or local juvenile probation department; and

(2) the post-adjudication secure correctional facility will provide the most suitable environment for that rehabilitation.

(g-1) The juvenile board or local juvenile probation department may request the approval of the court under Subsection (g) at any time.

(h) The juvenile board or local juvenile probation department may release a child who has been committed to a post-adjudication secure correctional facility with a determinate sentence under Section 54.04011(c)(2), Family Code, under supervision without approval of the juvenile court that entered the order of commitment if not more than nine months remain before the child's discharge as provided by Section 152.00161(b) [~~245.051(g)~~].

(i) The juvenile board or local juvenile probation department may resume the care and custody of any child released under supervision at any time before the final discharge of the child in accordance with the rules governing the Texas Juvenile Justice Department regarding resumption of care. Sections 243.051 and 245.051(f) apply only to a child who has been committed to a post-adjudication secure correctional facility under Section 54.04011(c), Family Code, and who has either escaped or violated the conditions of release under supervision. A hearing examiner who conducts a revocation under this subsection has the same

subpoena authority as a hearing officer at the Texas Juvenile Justice Department, as provided under Section 203.008.

SECTION 10. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Sections 152.00161, 152.00162, 152.00163, 152.00164, and 152.00165 to read as follows:

Sec. 152.00161. TERMINATION OF CONTROL. (a) Except as provided by Subsections (b) and (c), if a person is committed to a post-adjudication secure correctional facility under a determinate sentence under Section 54.04011(c)(2), Family Code, the juvenile board or local juvenile probation department may not discharge the person from custody.

(b) The juvenile board or local juvenile probation department shall discharge without a court hearing a person committed to the department for a determinate sentence under Section 54.04011(c)(2), Family Code, who has not been transferred to the Texas Department of Criminal Justice under a court order on the date that the time spent by the person in detention in connection with the committing case plus the time spent in the custody of the juvenile board or local juvenile probation department under the order of commitment equals the period of the sentence.

(c) The juvenile board or local juvenile probation department shall transfer to the Texas Department of Criminal Justice a person who is the subject of an order under Section 152.0016(j) transferring the person to the custody of the Texas Department of Criminal Justice for the completion of the person's sentence.

(d) Except as provided by Subsection (e), the juvenile board or local juvenile probation department shall discharge from its custody a person not already discharged on the person's 19th birthday.

(e) The juvenile board or local juvenile probation department shall transfer a person who has been sentenced under a determinate sentence to commitment under Section 54.04011(c)(2), Family Code, or who has been returned to the juvenile board or local juvenile probation department under Section 54.11(i)(1), Family Code, to the custody of the Texas Department of Criminal Justice on

the person's 19th birthday, if the person has not already been discharged or transferred, to serve the remainder of the person's sentence on parole as provided by Section 508.156, Government Code.

Sec. 152.00162. DETERMINATE SENTENCE PAROLE. (a) Not later than the 90th day before the date the juvenile board or local juvenile probation department transfers a person to the custody of the Texas Department of Criminal Justice for release on parole supervision under Section 152.0016(g) or 152.00161(e), the juvenile board or local juvenile probation department shall submit to the Texas Department of Criminal Justice all pertinent information relating to the person, including:

- (1) the juvenile court judgment;
- (2) the circumstances of the person's offense;
- (3) the person's previous social history and juvenile court records;
- (4) the person's physical and mental health record;
- (5) a record of the person's conduct, employment history, and attitude while committed to the department;
- (6) a record of the sentence time served by the person at the juvenile board or local juvenile probation department as a result of a commitment under Section 54.04011(c)(2), Family Code, and in a juvenile detention facility in connection with the conduct for which the person was adjudicated; and
- (7) any written comments or information provided by the juvenile board or local juvenile probation department, local officials, family members of the person, victims of the offense, or the general public.

(b) The juvenile board or local juvenile probation department shall provide instruction for parole officers of the Texas Department of Criminal Justice relating to juvenile programs provided by the juvenile board or local juvenile probation department. The juvenile boards and local juvenile probation departments and the Texas Department of Criminal Justice shall enter into a memorandum of understanding relating to the administration of this subsection.

(c) The Texas Department of Criminal Justice shall grant credit for sentence time served by a person in the custody of a



juvenile board or local juvenile probation department and in a juvenile detention facility, as recorded by the board or department under Subsection (a)(6), in computing the person's eligibility for parole and discharge from the Texas Department of Criminal Justice.

Sec. 152.00163. CHILD WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY. (a) A juvenile board or local juvenile probation department shall accept a child with a mental illness or an intellectual disability who is committed to the custody of the board or department.

(b) Unless a child is committed to the custody of a juvenile board or local juvenile probation department under a determinate sentence under Section 54.04011(c)(2), Family Code, the juvenile board or local juvenile probation department shall discharge a child with a mental illness or an intellectual disability from its custody if:

(1) the child has completed the minimum length of stay for the child's committing offense; and

(2) the juvenile board or local juvenile probation department determines that the child is unable to progress in the rehabilitation programs provided by the juvenile board or local juvenile probation department because of the child's mental illness or intellectual disability.

(c) If a child who is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b) as a result of mental illness is not receiving court-ordered mental health services, the child's discharge is effective on the earlier of:

(1) the date the court enters an order regarding an application for mental health services filed under Section 152.00164(b); or

(2) the 30th day after the date the application is filed.

(d) If a child who is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b) as a result of mental illness is receiving court-ordered mental health services, the child's discharge is effective immediately. If the child is receiving mental health

services outside the child's home county, the juvenile board or local juvenile probation department shall notify the mental health authority located in that county of the discharge not later than the 30th day after the date that the child's discharge is effective.

(e) If a child who is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b) as a result of an intellectual disability is not receiving intellectual disability services, the child's discharge is effective on the 30th day after the date that the referral is made under Section 152.00164(c).

(f) If a child who is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b) as a result of an intellectual disability is receiving intellectual disability services, the child's discharge is effective immediately.

(g) If a child with a mental illness or an intellectual disability is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b), the child is eligible to receive continuity of care services from the Texas Correctional Office on Offenders with Medical or Mental Impairments under Chapter 614, Health and Safety Code.

Sec. 152.00164. EXAMINATION BEFORE DISCHARGE. (a) A juvenile board or local juvenile probation department shall establish a system that identifies children with mental illnesses or intellectual disabilities who are in the custody of the juvenile board or local juvenile probation department.

(b) Before a child who is identified as having a mental illness is discharged from the custody of the juvenile board or local juvenile probation department under Section 152.00163(b), the juvenile board or local juvenile probation department shall arrange for a psychiatrist to examine the child. The juvenile board or local juvenile probation department shall refer a child requiring outpatient psychiatric treatment to the appropriate mental health authority. For a child requiring inpatient psychiatric treatment, the juvenile board or local juvenile probation department shall file a sworn application for court-ordered mental health services, as provided in Subchapter C,

Chapter 574, Health and Safety Code, if:

(1) the child is not receiving court-ordered mental health services; and

(2) the psychiatrist who examined the child determines that the child has a mental illness and the child meets at least one of the criteria listed in Section 574.034, Health and Safety Code.

(c) Before a child who is identified as having an intellectual disability under Chapter 593, Health and Safety Code, is discharged from the custody of a juvenile board or local juvenile probation department under Section 152.00163(b), the department shall refer the child for intellectual disability services if the child is not receiving intellectual disability services.

Sec. 152.00165. TRANSFER OF CERTAIN CHILDREN SERVING DETERMINATE SENTENCES FOR MENTAL HEALTH SERVICES. (a) A juvenile board or local juvenile probation department may petition the juvenile court that entered the order of commitment for a child for the initiation of mental health commitment proceedings if the child is committed to the custody of the juvenile board or local juvenile probation department under a determinate sentence under Section 54.04011(c)(2), Family Code.

(b) A petition made by a juvenile board or local juvenile probation department shall be treated as a motion under Section 55.11, Family Code, and the juvenile court shall proceed in accordance with Subchapter B, Chapter 55, Family Code.

(c) A juvenile board or local juvenile probation department shall cooperate with the juvenile court in any proceeding under this section.

(d) The juvenile court shall credit to the term of the child's commitment to a juvenile board or local juvenile probation department any time the child is committed to an inpatient mental health facility.

(e) A child committed to an inpatient mental health facility as a result of a petition filed under this section may not be released from the facility on a pass or furlough.

(f) If the term of an order committing a child to an inpatient mental health facility is scheduled to expire before the end of the child's sentence and another order committing the child to an inpatient mental health facility is not scheduled to be entered, the inpatient mental health facility shall notify the juvenile court that entered the order of commitment committing the child to a juvenile board or local juvenile probation department. The juvenile court may transfer the child to the custody of the juvenile board or local juvenile probation department, transfer the child to the Texas Department of Criminal Justice, or release the child under supervision, as appropriate.

SECTION 11. (a) Section 261.101, Human Resources Code, is amended by adding Subsections (a-1) and (f) and amending Subsection (e) to read as follows:

(a-1) The independent ombudsman shall perform the duties required under Subsection (a) with respect to children committed to the department and children committed to a post-adjudication secure correctional facility under Section 54.04011, Family Code.

(e) Notwithstanding any other provision of this chapter, the powers of the office are limited to:

(1) facilities operated and services provided by the department under Subtitle C; and

(2) post-adjudication correctional facilities under

Section 152.0016.

(f) This subsection and Subsections (a-1) and (e) expire December 31, 2018.

(b) Effective January 1, 2019, Section 261.101, Human Resources Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding any other provision of this chapter, the powers of the office are limited to facilities operated and services provided by the department under Subtitle C.

SECTION 12. Section 152.0016(b), Human Resources Code, as added by Chapter 1323 (S.B. 511), Acts of the 83rd Legislature, Regular Session, 2013, is repealed.

SECTION 13. The change in law made by this Act applies to a person committed to or serving a sentence in a post-adjudication secure correctional facility on or after the effective date of this Act, regardless of whether the underlying conduct giving rise to the commitment and sentence occurred before, on, or after that date.

SECTION 14. This Act takes effect September 1, 2015.