

By: McClendon

H.B. No. 1586

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the administration of Texas Juvenile Justice Department
3 facilities and post-adjudication secure correctional facilities
4 for juvenile offenders and to the commitment of juvenile offenders.

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

6 SECTION 1. Sections 37.0062(c) and (d), Education Code, are
7 amended to read as follows:

8 (c) The commissioner shall adopt rules necessary to
9 administer this section. The rules must ensure that:

10 (1) a student who receives education services in a
11 pre-adjudication secure detention facility described by this
12 section is offered courses that enable the student to maintain
13 progress toward completing high school graduation requirements;
14 ~~[and]~~

15 (2) a student who receives education services in a
16 post-adjudication secure correctional facility described by this
17 section is offered, at a minimum, the courses necessary to enable
18 the student to complete high school graduation requirements; and

19 (3) a student who receives education services in a
20 post-adjudication secure correctional facility is offered
21 vocational training classes.

22 (d) The Texas Juvenile Justice Department [~~Probation~~
23 ~~Commission or the Texas Youth Commission, as applicable,~~] shall
24 coordinate with the commissioner in establishing standards for:

1 (1) ensuring security in the provision of education
2 services in the facilities; ~~and~~

3 (2) providing children in the custody of the
4 facilities access to education services; and

5 (3) ensuring that the education services provided to
6 children in the custody of the facilities are age-appropriate and
7 designed to minimize disproportionality of confinement in regards
8 to racial or ethnic diversity.

9 SECTION 2. Section 54.04(d)(2), Family Code, is amended to
10 read as follows:

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

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

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

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

21 (i) a suitable foster home;

22 (ii) a suitable public or private
23 residential treatment facility licensed by a state governmental
24 entity or exempted from licensure by state law, except a facility
25 operated by the Texas Juvenile Justice Department; or

26 (iii) a suitable public or private
27 post-adjudication secure correctional facility that meets the

1 requirements of Section 51.125, except a facility operated by the
2 Texas Juvenile Justice Department;

3 (2) if the court or jury found at the conclusion of the
4 adjudication hearing that the child engaged in delinquent conduct
5 that violates a penal law of this state or the United States of the
6 grade of felony and if the petition was not approved by the grand
7 jury under Section 53.045, the court may commit the child to the
8 Texas Juvenile Justice Department or a post-adjudication secure
9 correctional facility under Section 54.04011(c)(1) without a
10 determinate sentence only if the court or jury finds that
11 commitment is more appropriate for the child because of the
12 relative seriousness of the conduct or the child's needs cannot be
13 served in the community;

14 SECTION 3. Section 54.04011(e), Family Code, as added by
15 Chapter 1323 (S.B. 511), Acts of the 83rd Legislature, Regular
16 Session, 2013, is amended to read as follows:

17 (e) A post-adjudication secure correctional facility under
18 this section is not required to have a classification plan that
19 requires residents at sanction level five to be segregated from
20 residents at sanction levels six and seven [~~The provisions of 37~~
21 ~~T.A.C. Section 343.610 do not apply to this section~~].

22 SECTION 4. Subchapter B, Chapter 242, Human Resources Code,
23 is amended by adding Section 242.0511 to read as follows:

24 Sec. 242.0511. CREATION OF ADDITIONAL SECURE FACILITIES.

25 (a) The department may establish and operate additional facilities
26 to supplement the operations of department-operated facilities,
27 including regional facilities.

1 (b) Any new state-operated regional facility or
2 post-adjudication secure correctional facility operated under this
3 Act may not have a residential capacity of more than 96 children.
4 The facility may not have more than 12 children per residential
5 unit.

6 (c) The department shall assist juvenile probation
7 departments in counties that may develop and implement local
8 programs and services, and that may develop facilities for
9 juveniles under a county-based post-adjudication secure
10 correctional facilities system.

11 SECTION 5. STUDY AND PLAN. (a) Not later than March 1,
12 2016, the executive director of Texas Juvenile Justice Department
13 shall submit a report to the governor, lieutenant governor, speaker
14 of the house, and members of the legislature containing the results
15 of a feasibility study to be conducted by the department, and the
16 recommendations developed in a plan resulting from the study. The
17 executive director of the Texas Juvenile Justice Department may
18 consult or contract with an outside entity to conduct the study.

19 (b) The study conducted at the instance of executive
20 director on behalf of the Department shall evaluate the feasibility
21 of establishing state-operated regional residential facilities for
22 the placement of juveniles committed to the Texas Juvenile Justice
23 Department and create a regional residential facility plan, the
24 purposes of which would include efforts to locate all juvenile
25 offenders committed to TJJD custody for delinquent conduct, except
26 the most serious offenders, and place them in facilities located in
27 proximity to the juveniles' home communities in order to provide

1 community support and the appropriate rehabilitation, educational
2 services, and treatment for the juvenile offenders. The study shall
3 emphasize and consider factors affecting the ability of the
4 Department to complete a transition to state-operated regional
5 facilities by August 31, 2021, including review and analysis of the
6 following:

7 (1) a transition from state-operated residential
8 facilities to smaller, regional facilities in environments with
9 larger applicant pools and closer to treatment providers and home
10 communities;

11 (2) a needs assessment including a determination of:

12 (A) the proper timing of such a transition and
13 the optimal location and number of such facilities;

14 (B) the need for and optimal location of units
15 for assessment and orientation and/or behavioral control;

16 (C) the potential benefits or disadvantages of an
17 increased use of private, contract residential placements to
18 maximize the flexibility and specialization of treatment plans;

19 (D) the effects of closing or re-purposing of
20 facilities currently operated by the state;

21 (E) any desired, intended, and possible
22 unintended effects associated with any proposed plan; and

23 (G) any other issues deemed necessary or relevant
24 by the executive director of the Texas Juvenile Justice Department.

25 (c) The executive director shall develop a proposed plan
26 based on the feasibility study for the placement of juveniles in
27 state-operated regional residential treatment facilities,

1 including:

2 (1) a recommendation for the number of facilities,
3 location, and types of provided services;

4 (2) the use of contracts with appropriate private
5 residential facilities and Texas Juvenile Justice Department
6 operated halfway houses; and

7 (3) an assessment of whether any current
8 state-operated facilities should be retained, and how to achieve
9 orderly and safe closure of any that are not retained.

10 (d) The executive director for the Texas Juvenile Justice
11 Department shall post the proposed plan and any recommended actions
12 on the agency's website and provide an additional period of time for
13 public comment before finalizing the plan and recommendations.

14 (e) This section expires September 1, 2017.

15 SECTION 6. TRANSFER AUTHORITY. (a) The Texas Juvenile
16 Justice Department may transfer a closed facility to the county or
17 municipality in which the facility is located.

18 (b) The consideration for the transfer authorized by this
19 section is the requirement that the county or municipality use the
20 property transferred only for a purpose that benefits the public
21 interest of the state. If the county or municipality no longer uses
22 the property for a public purpose, ownership of the property
23 automatically reverts to the Texas Juvenile Justice Department.

24 (c) The Texas Juvenile Justice Department shall transfer
25 the property by an appropriate instrument of transfer, executed on
26 the agency's behalf by the commissioner of the General Land Office.
27 The instrument of transfer must:

1 (1) provide that:

2 (A) the transferee shall use the property only
3 for a purpose that benefits the public interest of the state; and

4 (B) ownership of the property will automatically
5 revert to the Texas Juvenile Justice Department if the transferee
6 uses the property for any purpose other than a purpose that benefits
7 the public interest of the state;

8 (2) describe the property to be transferred by metes
9 and bounds; and

10 (3) exclude from the transfer all mineral interests in
11 and under the property and prohibit any exploration, drilling, or
12 other similar intrusion on the property related to mineral
13 interests.

14 (d) The Texas Juvenile Justice Department shall retain
15 custody of the instrument of transfer after the instrument of
16 transfer is filed in the real property records of the county in
17 which the property is located.

18 (e) The Texas Juvenile Justice Department shall sell any
19 facilities from the Corsicana Residential Treatment Center yet
20 remaining in the department's possession with the assistance of the
21 General Land Office, or may transfer those facilities as provided
22 in this section.

23 SECTION 7. EFFECTIVE DATE. This Act takes effect
24 immediately if it receives a vote of two-thirds of all the members
25 elected to each house, as provided by Section 39, Article III, Texas
26 Constitution. If this Act does not receive the vote necessary for
27 immediate effect, the Act takes effect September 1, 2015.