

By: Workman

H.B. No. 3665

Substitute the following for H.B. No. 3665:

By: Dutton

C.S.H.B. No. 3665

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the commitment of certain juveniles to
3 post-adjudication secure correctional facilities in certain
4 counties and to the release under supervision of those juveniles.

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

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

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

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

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

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

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

22 (d) An adjudication under Section 54.03 that a child engaged
23 in conduct that occurred on or after January 1, 1996, and that
24 constitutes a felony offense resulting in commitment to the Texas

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

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

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

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

20 (a) On receipt of a referral under Section 244.014(a), Human
21 Resources Code, for the transfer to the Texas Department of
22 Criminal Justice of a person committed to the Texas Juvenile
23 Justice Department under Section 54.04(d)(3), 54.04(m), or
24 54.05(f), on receipt of a request by the Texas Juvenile Justice
25 Department under Section 245.051(d), Human Resources Code, for
26 approval of the release under supervision of a person committed to
27 the Texas Juvenile Justice Department under Section 54.04(d)(3),

1 54.04(m), or 54.05(f), or on receipt of a referral under Section
2 152.0016(g) or (j), Human Resources Code, the court shall set a time
3 and place for a hearing on the possible transfer or release of the
4 person, as applicable.

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

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

9 (2) the parents of the person;

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

14 (4) the office of the prosecuting attorney that
15 represented the state in the juvenile delinquency proceedings;

16 (5) the victim of the offense that was included in the
17 delinquent conduct that was a ground for the disposition, or a
18 member of the victim's family; and

19 (6) any other person who has filed a written request
20 with the court to be notified of a release hearing with respect to
21 the person to be transferred or released under supervision.

22 (d) At a hearing under this section the court may consider
23 written reports and supporting documents from probation officers,
24 professional court employees, professional consultants, [~~or~~]
25 employees of the Texas Juvenile Justice Department, or employees of
26 a post-adjudication secure correctional facility in addition to the
27 testimony of witnesses. On or before the fifth day before the date

1 of the hearing, the court shall provide the attorney for the person
2 to be transferred or released under supervision with access to all
3 written matter to be considered by the court. All written matter is
4 admissible in evidence at the hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (a) Before the release of a person who is transferred under
18 Section 152.0016(g), 152.00161(e), 245.051(c), or 245.151(e),
19 Human Resources Code, to the department for release on parole, a
20 parole panel shall review the person's records and may interview
21 the person or any other person the panel considers necessary to
22 determine the conditions of parole. The panel may impose any
23 reasonable condition of parole on the person that the panel may
24 impose on an adult inmate under this chapter.

25 (d) The period of parole for a person released on parole
26 under this section is the term for which the person was sentenced
27 less calendar time served at the Texas Juvenile Justice Department

1 or in the custody of a juvenile board or local juvenile probation
2 department following a commitment under Section 54.04011(c)(2),
3 Family Code, [~~Youth Commission~~] and in a juvenile detention
4 facility in connection with the conduct for which the person was
5 adjudicated.

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

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

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

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

25 SECTION 9. Section 152.0016, Human Resources Code, as added
26 by Chapter 1323 (S.B. 511), Acts of the 83rd Legislature, Regular
27 Session, 2013, is amended by adding Subsections (f-1), (f-2), and

1 (g-1) and amending Subsections (h) and (i) to read as follows:

2 (f-1) After a child has completed the minimum length of stay
3 established under Subsection (f), the juvenile board or local
4 juvenile probation department shall:

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

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

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

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

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

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

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

22 (h) The juvenile board or local juvenile probation
23 department may release a child who has been committed to a
24 post-adjudication secure correctional facility with a determinate
25 sentence under Section 54.04011(c)(2), Family Code, under
26 supervision without approval of the juvenile court that entered the
27 order of commitment if not more than nine months remain before the

1 child's discharge as provided by Section 152.00161(b)
2 [~~245.051(g)~~].

3 (i) The juvenile board or local juvenile probation
4 department may resume the care and custody of any child released
5 under supervision at any time before the final discharge of the
6 child in accordance with the rules governing the Texas Juvenile
7 Justice Department regarding resumption of care. Sections 243.051
8 and 245.051(f) apply only to a child who has been committed to a
9 post-adjudication secure correctional facility under Section
10 54.04011(c), Family Code, and who has either escaped or violated
11 the conditions of release under supervision. A hearing examiner
12 who conducts a revocation under this subsection has the same
13 subpoena authority as a hearing officer at the Texas Juvenile
14 Justice Department, as provided under Section 203.008.

15 SECTION 10. Subchapter A, Chapter 152, Human Resources
16 Code, is amended by adding Sections 152.00161, 152.00162,
17 152.00163, 152.00164, and 152.00165 to read as follows:

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

24 (b) The juvenile board or local juvenile probation
25 department shall discharge without a court hearing a person
26 committed to the department for a determinate sentence under
27 Section 54.04011(c)(2), Family Code, who has not been transferred

1 to the Texas Department of Criminal Justice under a court order on
2 the date that the time spent by the person in detention in
3 connection with the committing case plus the time spent in the
4 custody of the juvenile board or local juvenile probation
5 department under the order of commitment equals the period of the
6 sentence.

7 (c) The juvenile board or local juvenile probation
8 department shall transfer to the Texas Department of Criminal
9 Justice a person who is the subject of an order under Section
10 152.0016(j) transferring the person to the custody of the Texas
11 Department of Criminal Justice for the completion of the person's
12 sentence.

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

17 (e) The juvenile board or local juvenile probation
18 department shall transfer a person who has been sentenced under a
19 determinate sentence to commitment under Section 54.04011(c)(2),
20 Family Code, or who has been returned to the juvenile board or local
21 juvenile probation department under Section 54.11(i)(1), Family
22 Code, to the custody of the Texas Department of Criminal Justice on
23 the person's 19th birthday, if the person has not already been
24 discharged or transferred, to serve the remainder of the person's
25 sentence on parole as provided by Section 508.156, Government Code.

26 Sec. 152.00162. DETERMINATE SENTENCE PAROLE. (a) Not
27 later than the 90th day before the date the juvenile board or local

1 juvenile probation department transfers a person to the custody of
2 the Texas Department of Criminal Justice for release on parole
3 supervision under Section 152.0016(g) or 152.00161(e), the
4 juvenile board or local juvenile probation department shall submit
5 to the Texas Department of Criminal Justice all pertinent
6 information relating to the person, including:

7 (1) the juvenile court judgment;

8 (2) the circumstances of the person's offense;

9 (3) the person's previous social history and juvenile
10 court records;

11 (4) the person's physical and mental health record;

12 (5) a record of the person's conduct, employment
13 history, and attitude while committed to the department;

14 (6) a record of the sentence time served by the person
15 at the juvenile board or local juvenile probation department as a
16 result of a commitment under Section 54.04011(c)(2), Family Code,
17 and in a juvenile detention facility in connection with the conduct
18 for which the person was adjudicated; and

19 (7) any written comments or information provided by
20 the juvenile board or local juvenile probation department, local
21 officials, family members of the person, victims of the offense, or
22 the general public.

23 (b) The juvenile board or local juvenile probation
24 department shall provide instruction for parole officers of the
25 Texas Department of Criminal Justice relating to juvenile programs
26 provided by the juvenile board or local juvenile probation
27 department. The juvenile boards and local juvenile probation

1 departments and the Texas Department of Criminal Justice shall
2 enter into a memorandum of understanding relating to the
3 administration of this subsection.

4 (c) The Texas Department of Criminal Justice shall grant
5 credit for sentence time served by a person in the custody of a
6 juvenile board or local juvenile probation department and in a
7 juvenile detention facility, as recorded by the board or department
8 under Subsection (a)(6), in computing the person's eligibility for
9 parole and discharge from the Texas Department of Criminal Justice.

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

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

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

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

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

6 (1) the date the court enters an order regarding an
7 application for mental health services filed under Section
8 152.00164(b); or

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

11 (d) If a child who is discharged from the custody of a
12 juvenile board or local juvenile probation department under
13 Subsection (b) as a result of mental illness is receiving
14 court-ordered mental health services, the child's discharge is
15 effective immediately. If the child is receiving mental health
16 services outside the child's home county, the juvenile board or
17 local juvenile probation department shall notify the mental health
18 authority located in that county of the discharge not later than the
19 30th day after the date that the child's discharge is effective.

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

26 (f) If a child who is discharged from the custody of a
27 juvenile board or local juvenile probation department under

1 Subsection (b) as a result of an intellectual disability is
2 receiving intellectual disability services, the child's discharge
3 is effective immediately.

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

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

15 (b) Before a child who is identified as having a mental
16 illness is discharged from the custody of the juvenile board or
17 local juvenile probation department under Section 152.00163(b),
18 the juvenile board or local juvenile probation department shall
19 arrange for a psychiatrist to examine the child. The juvenile board
20 or local juvenile probation department shall refer a child
21 requiring outpatient psychiatric treatment to the appropriate
22 mental health authority. For a child requiring inpatient
23 psychiatric treatment, the juvenile board or local juvenile
24 probation department shall file a sworn application for
25 court-ordered mental health services, as provided in Subchapter C,
26 Chapter 574, Health and Safety Code, if:

27 (1) the child is not receiving court-ordered mental

1 health services; and

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

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

11 Sec. 152.00165. TRANSFER OF CERTAIN CHILDREN SERVING
12 DETERMINATE SENTENCES FOR MENTAL HEALTH SERVICES. (a) A juvenile
13 board or local juvenile probation department may petition the
14 juvenile court that entered the order of commitment for a child for
15 the initiation of mental health commitment proceedings if the child
16 is committed to the custody of the juvenile board or local juvenile
17 probation department under a determinate sentence under Section
18 54.04011(c)(2), Family Code.

19 (b) A petition made by a juvenile board or local juvenile
20 probation department shall be treated as a motion under Section
21 55.11, Family Code, and the juvenile court shall proceed in
22 accordance with Subchapter B, Chapter 55, Family Code.

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

26 (d) The juvenile court shall credit to the term of the
27 child's commitment to a juvenile board or local juvenile probation

1 department any time the child is committed to an inpatient mental
2 health facility.

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

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

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

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

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

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

1 (2) post-adjudication correctional facilities under
2 Section 152.0016.

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

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

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

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

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

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