

By: Whitmire

S.B. No. 1630

A BILL TO BE ENTITLED

AN ACT

1
2 Relating to keeping children adjudicated as delinquent closer to
3 home, funding for juvenile probation departments, powers of the
4 independent ombudsman, and indeterminate commitment of children
5 adjudicated as delinquent.

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

7 SECTION 1. Chapter 203, Human Resource Code, is amended by
8 adding Sections 203.017 and 203.018 to read as follows:

9 Sec. 203.017. REGIONALIZATION. (a) The department shall
10 develop and the board shall adopt a regionalization plan for
11 keeping youth closer to home in lieu of commitment to the secure
12 facilities operated by the department under Subtitle C. The plan
13 shall define regions of the state to be served by facilities
14 operated by juvenile probation departments, counties, or private
15 operators, after consultation with juvenile probation departments
16 to identify post-adjudication facility capacity that can be
17 dedicated to support the regionalization plan. The department shall
18 ensure that regions have defined, appropriate, evidence-based
19 programs for the target populations defined by the plan.

20 (b) The regionalization plan shall include a budget review
21 redirection of staff and funding to align to the plan by creating a
22 new division responsible for administering regionalization and
23 monitoring program quality and accountability. The new division
24 shall:

1 (1) approve plans and related protocols to administer
2 regional model; (2) provide training on best practices for all
3 local probation departments affected by the plan;

4 (3) assist in research-based program development;

5 (4) monitor contract and program measures for new regional
6 mode;

7 (5) analyze department data to provide clear guidance to
8 local probation departments on outcome measures; and

9 (6) report on performance of specific programs and
10 placements to assist in implementing best practices and maximize
11 the impact of state funds.

12 (c) Regions shall be eligible for funding to support
13 evidence-based, intensive in-home services, according to
14 performance standards established by the department and adopted in
15 contracts for placement and services.

16 Sec. 203.018. SPECIALIZED PROGRAMS AND SPECIAL PROJECTS.

17 (a) The department shall develop specialized programs for
18 determinate-sentenced children and special commitment children
19 committed under Section 54.04012, Family Code. The programs shall
20 ensure safety and security for committed children and provide
21 developmentally appropriate program strategies.

22 (b) The department shall establish performance based goals
23 related to improved outcomes, which shall include recidivism
24 measures and may include other well-being outcome measures.

25 (c) The department shall utilize case review strategies to
26 identify children presently in department facilities who can safely
27 and appropriately be transferred to alternative local placements,

1 halfway houses or parole.

2 (d) The department shall study and report to the board on the
3 potential for repurposing existing secure facilities for
4 determinate sentenced children, special commitment children under
5 Section 54.04012, Family Code, or other purposes.

6 SECTION 2. Section 223.001, Human Services Code, is amended
7 to read as follows:

8 Sec. 223.001. DETERMINATION OF AMOUNT OF STATE AID. (a)
9 The department shall annually allocate funds for financial
10 assistance to juvenile boards to provide juvenile services
11 according to current estimates of the number of juveniles in each
12 county, a basic probation funding formula for departments that
13 clearly defines what basic probation entails and what services are
14 provided, and other factors the department determines are
15 appropriate.

16 (b) The legislature may appropriate the amount of state aid
17 necessary to supplement local funds to maintain and improve
18 statewide juvenile services that comply with department standards
19 and to initiate the regionalization plan under Section 203.017
20 until savings are generated by decreases in the population of
21 department facilities operated under Subtitle C.

22 (c) The department shall ~~may~~ set aside a portion of the funds
23 appropriated to the department for discretionary state aid to fund
24 programs designed to address special needs or projects of local
25 juvenile boards, including projects dedicated to specific target
26 populations based on risk and needs, and with established
27 recidivism reduction goals. The department shall develop

1 discretionary grant funding protocols based on documented,
2 data-driven and research-based practices.

3 (d) The department shall reimburse counties for placement of youth
4 in the regional specialized program at a rate that offers a savings
5 to the state in relation to the average cost per day in a department
6 facility operated under Subtitle C.

7 SECTION 3. Section 261.101, Human Resources Code, is
8 amended to read as follows:

9 Sec. 261.101. DUTIES AND POWERS. (a) The independent ombudsman
10 shall:

11 (1) review the procedures established by the board and evaluate
12 the delivery of services to children to ensure that the rights of
13 children are fully observed;

14 (2) review complaints filed with the independent ombudsman
15 concerning the actions of the department and investigate each
16 complaint in which it appears that a child may be in need of
17 assistance from the independent ombudsman;

18 (3) conduct investigations of complaints, other than complaints
19 alleging criminal behavior, if the office determines that:

20 (A) a child committed to the department or the child's family may
21 be in need of assistance from the office; or

22 (B) a systemic issue in the department's provision of services is
23 raised by a complaint;

24 (4) review or inspect periodically the facilities and procedures
25 of any institution or residence in which a child has been placed by
26 the department, whether public or private, to ensure that the
27 rights of children are fully observed;

- 1 (5) provide assistance to a child or family who the independent
2 ombudsman determines is in need of assistance, including advocating
3 with an agency, provider, or other person in the best interests of
4 the child;
- 5 (6) review court orders as necessary to fulfill its duties;
- 6 (7) recommend changes in any procedure relating to the treatment
7 of children committed to the department;
- 8 (8) make appropriate referrals under any of the duties and powers
9 listed in this subsection;
- 10 (9) supervise assistants who are serving as advocates in their
11 representation of children committed to the department in internal
12 administrative and disciplinary hearings;
- 13 (10) review reports received by the department relating to
14 complaints regarding juvenile probation programs, services, or
15 facilities and analyze the data contained in the reports to
16 identify trends in complaints; and
- 17 (11) report a possible standards violation by a local juvenile
18 probation department to the appropriate division of the department.
- 19 (b) The independent ombudsman may apprise persons who are
20 interested in a child's welfare of the rights of the child.
- 21 (c) To assess if a child's rights have been violated, the
22 independent ombudsman may, in any matter that does not involve
23 alleged criminal behavior, contact or consult with an
24 administrator, employee, child, parent, expert, or any other
25 individual in the course of its investigation or to secure
26 information.
- 27 (d) Notwithstanding any other provision of this chapter, the

1 independent ombudsman may not investigate alleged criminal
2 behavior.

3 (e) Notwithstanding any other provision of this chapter, the
4 powers of the office are limited to facilities operated and
5 services provided by the department under Subtitle C, and
6 post-adjudication correctional facilities under Section 51.125,
7 Family Code.

8
9 SECTION 4. Section 54.04, Family Code, is amended by
10 amending subsection (d) to read as follows:

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

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

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

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

21 (i) a suitable foster home;

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

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

1 51.125, except a facility operated by the Texas Juvenile Justice
2 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, if a special commitment finding is made under
7 Section 54.04012, and if the petition was not approved by the grand
8 jury under Section 53.045, the court may commit the child to the
9 Texas Juvenile Justice Department under Section 54.04012 or a
10 post-adjudication secure correctional facility under Section
11 54.04011(c)(1) without a determinate sentence;

12 (3) if the court or jury found at the conclusion of the
13 adjudication hearing that the child engaged in delinquent conduct
14 that included a violation of a penal law listed in Section 53.045(a)
15 and if the petition was approved by the grand jury under Section
16 53.045, the court or jury may sentence the child to commitment in
17 the Texas Juvenile Justice Department or a post-adjudication secure
18 correctional facility under Section 54.04011(c)(2) with a possible
19 transfer to the Texas Department of Criminal Justice for a term of:

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

21 (i) a capital felony;

22 (ii) a felony of the first degree; or

23 (iii) an aggravated controlled substance felony;

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

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

1 (4) the court may assign the child an appropriate sanction level
2 and sanctions as provided by the assignment guidelines in Section
3 59.003;

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

7 (6) if applicable, the court or jury may make a disposition under
8 Subsection (m) or Section 54.04011(c)(2)(A).

9 SECTION 5. Chapter 54, Family Code, is amended by adding
10 Section 54.04012 to read as follows:

11 Sec. 54.04012. Special Commitment to Texas Juvenile Justice
12 Department. After a disposition hearing held in accordance with
13 Section 54.04, the juvenile court may commit a child who is found to
14 have engaged in delinquent conduct that constitutes a felony to the
15 Texas Juvenile Justice Department without a determinate sentence,
16 if the court makes a special commitment finding that the child has
17 behavioral health or other special needs that cannot be met with the
18 resources available in the community, as documented in a validated
19 needs assessment conducted by the juvenile probation department
20 serving the court.

21 SECTION 6. The changes in law made by Sections 5 and 6 of
22 this Act apply only to an offense committed on or after the
23 effective date applicable to those sections of this Act. An offense
24 committed before the effective date of those sections of this Act is
25 governed by the law in effect on the date the offense was committed,
26 and the former law is continued in effect for that purpose. For
27 purposes of this section, an offense was committed before the

1 effective date of those sections of this Act if any element of the
2 offense occurred before that date.

3 SECTION 7. Sections 1, 2 and 3 of this Act take effect
4 September 1, 2015. Sections 5 and 6 of this Act take effect
5 September 1, 2017.