

By: Whitmire
(Collier)

S.B. No. 2191

A BILL TO BE ENTITLED

AN ACT

relating to the confinement of a defendant pending trial and detention or placement of a juvenile offender.

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

SECTION 1. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.154 to read as follows:

Art. 17.154. CONFINEMENT OF DEFENDANT DENIED BAIL. If a judge or magistrate denies a defendant's release on bail pending trial, the judge or magistrate shall order that the defendant be confined in a jail that is located in this state.

SECTION 2. Article 17.27, Code of Criminal Procedure, is amended to read as follows:

Art. 17.27. WHEN BAIL IS NOT PROVIDED [~~GIVEN~~]. If, after the allowance of a reasonable period [~~time~~], the accused is unable to provide the required bail bond [~~security be not given~~], the magistrate shall [~~make an~~] order that [~~committing~~] the accused be confined in a [~~to~~] jail that is located in this state [~~to be kept safely until legally discharged, and he shall issue a commitment accordingly~~].

SECTION 3. Section 51.12(j), Family Code, is amended to read as follows:

(j) After being taken into custody, a child may be detained in a secure detention facility located in this state until the child is released under Section 53.01, 53.012, or 53.02 or until a

1 detention hearing is held under Section 54.01(a), regardless of
2 whether the facility has been certified under Subsection (c), if:

3 (1) a certified juvenile detention facility is not
4 available in the county in which the child is taken into custody;

5 (2) the detention facility complies with:

6 (A) the short-term detention standards adopted
7 by the Texas Juvenile Justice Department; and

8 (B) the requirements of Subsection (f); and

9 (3) the detention facility has been designated by the
10 county juvenile board for the county in which the facility is
11 located.

12 SECTION 4. Section 54.04, Family Code, is amended by
13 amending Subsection (d) and adding Subsection (d-1) to read as
14 follows:

15 (d) Subject to Subsection (d-1), if [~~If~~] the court or jury
16 makes the finding specified in Subsection (c) allowing the court to
17 make a disposition in the case:

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

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

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

26 (i) a suitable foster home;

27 (ii) a suitable public or private

1 residential treatment facility licensed by a state governmental
2 entity or exempted from licensure by state law, except a facility
3 operated by the Texas Juvenile Justice Department; or

4 (iii) a suitable public or private
5 post-adjudication secure correctional facility that meets the
6 requirements of Section 51.125, except a facility operated by the
7 Texas Juvenile Justice Department;

8 (2) if the court or jury found at the conclusion of the
9 adjudication hearing that the child engaged in delinquent conduct
10 that violates a penal law of this state or the United States of the
11 grade of felony, the court or jury made a special commitment finding
12 under Section 54.04013, and the petition was not approved by the
13 grand jury under Section 53.045, the court may commit the child to
14 the Texas Juvenile Justice Department under Section 54.04013 [~~, or a~~
15 ~~post-adjudication secure correctional facility under Section~~
16 ~~54.04011(c)(1), as applicable,~~] without a determinate sentence;

17 (3) if the court or jury found at the conclusion of the
18 adjudication hearing that the child engaged in delinquent conduct
19 that included a violation of a penal law listed in Section 53.045(a)
20 and if the petition was approved by the grand jury under Section
21 53.045, the court or jury may sentence the child to commitment in
22 the Texas Juvenile Justice Department [~~or a post-adjudication~~
23 ~~secure correctional facility under Section 54.04011(c)(2)] with a
24 possible transfer to the Texas Department of Criminal Justice for a
25 term of:~~

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

1 (i) a capital felony;
2 (ii) a felony of the first degree; or
3 (iii) an aggravated controlled substance
4 felony;

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

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

9 (4) the court may assign the child an appropriate
10 sanction level and sanctions as provided by the assignment
11 guidelines in Section 59.003;

12 (5) the court may place the child in a suitable
13 nonsecure correctional facility that is registered and meets the
14 applicable standards for the facility as provided by Section
15 51.126; or

16 (6) if applicable, the court or jury may make a
17 disposition under Subsection (m) [~~or Section 54.04011(c)(2)(A)~~].

18 (d-1) A child may not be placed under Subsection (d) in a
19 facility located outside this state unless the receiving facility
20 accepts supervision of the child when the child's parent or other
21 person having legal custody resides or is undertaking residence in
22 that state.

23 SECTION 5. (a) Article 17.154, Code of Criminal Procedure,
24 as added by this Act, and Article 17.27, Code of Criminal Procedure,
25 as amended by this Act, apply only to a person who is arrested on or
26 after the effective date of this Act. A person arrested before the
27 effective date of this Act is governed by the law in effect on the

1 date the person was arrested, and the former law is continued in
2 effect for that purpose.

3 (b) Sections 51.12 and 54.04, Family Code, as amended by
4 this Act, do not apply to the detention or placement of children in
5 a facility in another state under an agreement entered into or
6 renewed before the effective date of this Act. An agreement for the
7 detention or placement of children in a facility in another state
8 entered into or renewed before the effective date of this Act is
9 governed by the law in effect on the date the agreement was entered
10 into or renewed, and the former law is continued in effect for that
11 purpose.

12 SECTION 6. This Act takes effect September 1, 2019.