

1-1 By: Whitmire S.B. No. 2191
1-2 (In the Senate - Filed March 8, 2019; March 14, 2019, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 March 25, 2019, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; March 25, 2019,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 2191 By: Whitmire

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the confinement of a defendant pending trial and
1-20 detention or placement of a juvenile offender.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Chapter 17, Code of Criminal Procedure, is
1-23 amended by adding Article 17.154 to read as follows:

1-24 Art. 17.154. CONFINEMENT OF DEFENDANT DENIED BAIL. If a
1-25 judge or magistrate denies a defendant's release on bail pending
1-26 trial, the judge or magistrate shall order that the defendant be
1-27 confined in a jail that is located in this state.

1-28 SECTION 2. Article 17.27, Code of Criminal Procedure, is
1-29 amended to read as follows:

1-30 Art. 17.27. WHEN BAIL IS NOT PROVIDED [~~GIVEN~~]. If, after
1-31 the allowance of a reasonable period [~~time~~], the accused is unable
1-32 to provide the required bail bond [~~security be not given~~], the
1-33 magistrate shall [~~make an~~] order that [~~committing~~] the accused be
1-34 confined in a [~~to~~] jail that is located in this state [~~to be kept~~
1-35 ~~safely until legally discharged, and he shall issue a commitment~~
1-36 ~~accordingly~~].

1-37 SECTION 3. Section 51.12(j), Family Code, is amended to
1-38 read as follows:

1-39 (j) After being taken into custody, a child may be detained
1-40 in a secure detention facility located in this state until the child
1-41 is released under Section 53.01, 53.012, or 53.02 or until a
1-42 detention hearing is held under Section 54.01(a), regardless of
1-43 whether the facility has been certified under Subsection (c), if:

1-44 (1) a certified juvenile detention facility is not
1-45 available in the county in which the child is taken into custody;

1-46 (2) the detention facility complies with:

1-47 (A) the short-term detention standards adopted
1-48 by the Texas Juvenile Justice Department; and

1-49 (B) the requirements of Subsection (f); and

1-50 (3) the detention facility has been designated by the
1-51 county juvenile board for the county in which the facility is
1-52 located.

1-53 SECTION 4. Section 54.04, Family Code, is amended by
1-54 amending Subsection (d) and adding Subsection (d-1) to read as
1-55 follows:

1-56 (d) Subject to Subsection (d-1), if [~~if~~] the court or jury
1-57 makes the finding specified in Subsection (c) allowing the court to
1-58 make a disposition in the case:

1-59 (1) the court or jury may, in addition to any order
1-60 required or authorized under Section 54.041 or 54.042, place the

2-1 child on probation on such reasonable and lawful terms as the court
2-2 may determine:

2-3 (A) in the child's own home or in the custody of a
2-4 relative or other fit person; or

2-5 (B) subject to the finding under Subsection (c)
2-6 on the placement of the child outside the child's home, in:

2-7 (i) a suitable foster home;

2-8 (ii) a suitable public or private
2-9 residential treatment facility licensed by a state governmental
2-10 entity or exempted from licensure by state law, except a facility
2-11 operated by the Texas Juvenile Justice Department; or

2-12 (iii) a suitable public or private
2-13 post-adjudication secure correctional facility that meets the
2-14 requirements of Section 51.125, except a facility operated by the
2-15 Texas Juvenile Justice Department;

2-16 (2) if the court or jury found at the conclusion of the
2-17 adjudication hearing that the child engaged in delinquent conduct
2-18 that violates a penal law of this state or the United States of the
2-19 grade of felony, the court or jury made a special commitment finding
2-20 under Section 54.04013, and the petition was not approved by the
2-21 grand jury under Section 53.045, the court may commit the child to
2-22 the Texas Juvenile Justice Department under Section 54.04013 [~~or a~~
2-23 ~~post-adjudication secure correctional facility under Section~~
2-24 ~~54.04011(c)(1), as applicable,~~] without a determinate sentence;

2-25 (3) if the court or jury found at the conclusion of the
2-26 adjudication hearing that the child engaged in delinquent conduct
2-27 that included a violation of a penal law listed in Section 53.045(a)
2-28 and if the petition was approved by the grand jury under Section
2-29 53.045, the court or jury may sentence the child to commitment in
2-30 the Texas Juvenile Justice Department [~~or a post-adjudication~~
2-31 ~~secure correctional facility under Section 54.04011(c)(2)] with a
2-32 possible transfer to the Texas Department of Criminal Justice for a
2-33 term of:~~

2-34 (A) not more than 40 years if the conduct
2-35 constitutes:

2-36 (i) a capital felony;

2-37 (ii) a felony of the first degree; or

2-38 (iii) an aggravated controlled substance
2-39 felony;

2-40 (B) not more than 20 years if the conduct
2-41 constitutes a felony of the second degree; or

2-42 (C) not more than 10 years if the conduct
2-43 constitutes a felony of the third degree;

2-44 (4) the court may assign the child an appropriate
2-45 sanction level and sanctions as provided by the assignment
2-46 guidelines in Section 59.003;

2-47 (5) the court may place the child in a suitable
2-48 nonsecure correctional facility that is registered and meets the
2-49 applicable standards for the facility as provided by Section
2-50 51.126; or

2-51 (6) if applicable, the court or jury may make a
2-52 disposition under Subsection (m) [~~or Section 54.04011(c)(2)(A)].~~

2-53 (d-1) A child may not be placed under Subsection (d) in a
2-54 facility located outside this state unless the receiving facility
2-55 accepts supervision of the child when the child's parent or other
2-56 person having legal custody resides or is undertaking residence in
2-57 that state.

2-58 SECTION 5. (a) Article 17.154, Code of Criminal Procedure,
2-59 as added by this Act, and Article 17.27, Code of Criminal Procedure,
2-60 as amended by this Act, apply only to a person who is arrested on or
2-61 after the effective date of this Act. A person arrested before the
2-62 effective date of this Act is governed by the law in effect on the
2-63 date the person was arrested, and the former law is continued in
2-64 effect for that purpose.

2-65 (b) Sections 51.12 and 54.04, Family Code, as amended by
2-66 this Act, do not apply to the detention or placement of children in
2-67 a facility in another state under an agreement entered into or
2-68 renewed before the effective date of this Act. An agreement for the
2-69 detention or placement of children in a facility in another state

3-1 entered into or renewed before the effective date of this Act is
3-2 governed by the law in effect on the date the agreement was entered
3-3 into or renewed, and the former law is continued in effect for that
3-4 purpose.

3-5 SECTION 6. This Act takes effect September 1, 2019.

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