By:  Whitmire S.B. No. 2190

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution and detention of a juvenile who engages in delinquent conduct or commits a felony offense while committed to the custody of the Texas Juvenile Justice Department.

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

SECTION 1.  Section 53.045(a), Family Code, is amended to read as follows:

(a)  Except as provided by Subsection (e), the prosecuting attorney may refer the petition to the grand jury of the county in which the court in which the petition is filed presides if the petition alleges that the child engaged in delinquent conduct that:

(1)  constitutes habitual felony conduct as described by Section 51.031;

(2)  [~~or that~~] included the violation of any of the following provisions:

(A) [~~(1)~~]  Section 19.02, Penal Code (murder);

(B) [~~(2)~~]  Section 19.03, Penal Code (capital murder);

(C) [~~(3)~~]  Section 19.04, Penal Code (manslaughter);

(D) [~~(4)~~]  Section 20.04, Penal Code (aggravated kidnapping);

(E) [~~(5)~~]  Section 22.011, Penal Code (sexual assault) or Section 22.021, Penal Code (aggravated sexual assault);

(F) [~~(6)~~]  Section 22.02, Penal Code (aggravated assault);

(G) [~~(7)~~]  Section 29.03, Penal Code (aggravated robbery);

(H) [~~(8)~~]  Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual), if the offense is punishable as a felony, other than a state jail felony;

(I) [~~(9)~~]  Section 22.05(b), Penal Code (felony deadly conduct involving discharging a firearm);

(J) [~~(10)~~]  Subchapter D, Chapter 481, Health and Safety Code, if the conduct constitutes a felony of the first degree or an aggravated controlled substance felony (certain offenses involving controlled substances);

(K) [~~(11)~~]  Section 15.03, Penal Code (criminal solicitation);

(L) [~~(12)~~]  Section 21.11(a)(1), Penal Code (indecency with a child);

(M) [~~(13)~~]  Section 15.031, Penal Code (criminal solicitation of a minor);

(N) [~~(14)~~]  Section 15.01, Penal Code (criminal attempt), if the offense attempted was an offense under Section 19.02, Penal Code (murder), or Section 19.03, Penal Code (capital murder), or an offense listed by Article 42A.054(a), Code of Criminal Procedure;

(O) [~~(15)~~]  Section 28.02, Penal Code (arson), if bodily injury or death is suffered by any person by reason of the commission of the conduct;

(P) [~~(16)~~]  Section 49.08, Penal Code (intoxication manslaughter); or

(Q) [~~(17)~~]  Section 15.02, Penal Code (criminal conspiracy), if the offense made the subject of the criminal conspiracy includes a violation of any of the provisions referenced in Paragraphs (A) through (P); or

(3)  constitutes a felony of the first, second, or third degree committed while the child was committed to the Texas Juvenile Justice Department [~~Subdivisions (1) through (16)~~].

SECTION 2.  Section 245.101, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a)  Except as provided by Subsection (a-1), after [~~After~~] a child who is committed to the department without a determinate sentence completes the minimum length of stay established by the department for the child under Section 243.002, the department shall, in the manner provided by this section and Section 245.102:

(1)  discharge the child from the custody of the department;

(2)  release the child under supervision under Section 245.051; or

(3)  extend the length of the child's stay in the custody of the department.

(a-1)  The department may not discharge a child from the custody of the department or release a child under supervision as provided by Subsection (a) if the child:

(1)  is alleged by a pending petition to have engaged in delinquent conduct during the child's commitment to the department; or

(2)  is under indictment for a felony committed during the child's commitment to the department.

SECTION 3.  Section 245.102(a), Human Resources Code, is amended to read as follows:

(a)  A panel may extend the length of the child's stay as provided by Section 245.101(a)(3) only if:

(1)  the panel determines by majority vote and on the basis of clear and convincing evidence that:

(A) [~~(1)~~]  the child is in need of additional rehabilitation from the department; and

(B) [~~(2)~~]  the department will provide the most suitable environment for that rehabilitation; or

(2)  the child:

(A)  is alleged by a pending petition to have engaged in delinquent conduct during the child's commitment to the department; or

(B)  is under indictment for a felony committed during the child's commitment to the department.

SECTION 4.  This Act applies only to conduct that occurs or an offense committed on or after the effective date of this Act. Conduct that occurs or an offense committed before the effective date of this Act is governed by the law in effect on the date the conduct occurred or the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, conduct occurred or an offense was committed before the effective date of this Act if any element of the conduct or offense occurred before that date.

SECTION 5.  This Act takes effect September 1, 2021.