

By: Whitmire

S.B. No. 2190

A BILL TO BE ENTITLED

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

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

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

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

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

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

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

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

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

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

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

- 1                    (F) [~~(6)~~] Section 22.02, Penal Code (aggravated  
2 assault);
- 3                    (G) [~~(7)~~] Section 29.03, Penal Code (aggravated  
4 robbery);
- 5                    (H) [~~(8)~~] Section 22.04, Penal Code (injury to a  
6 child, elderly individual, or disabled individual), if the offense  
7 is punishable as a felony, other than a state jail felony;
- 8                    (I) [~~(9)~~] Section 22.05(b), Penal Code (felony  
9 deadly conduct involving discharging a firearm);
- 10                   (J) [~~(10)~~] Subchapter D, Chapter 481, Health and  
11 Safety Code, if the conduct constitutes a felony of the first degree  
12 or an aggravated controlled substance felony (certain offenses  
13 involving controlled substances);
- 14                   (K) [~~(11)~~] Section 15.03, Penal Code (criminal  
15 solicitation);
- 16                   (L) [~~(12)~~] Section 21.11(a)(1), Penal Code  
17 (indecent with a child);
- 18                   (M) [~~(13)~~] Section 15.031, Penal Code (criminal  
19 solicitation of a minor);
- 20                   (N) [~~(14)~~] Section 15.01, Penal Code (criminal  
21 attempt), if the offense attempted was an offense under Section  
22 19.02, Penal Code (murder), or Section 19.03, Penal Code (capital  
23 murder), or an offense listed by Article 42A.054(a), Code of  
24 Criminal Procedure;
- 25                   (O) [~~(15)~~] Section 28.02, Penal Code (arson), if  
26 bodily injury or death is suffered by any person by reason of the  
27 commission of the conduct;

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

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

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

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

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

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

20                    (2) release the child under supervision under Section  
21 245.051; or

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

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

27                    (1) is alleged by a pending petition to have engaged in

1 delinquent conduct during the child's commitment to the department;  
2 or  
3 (2) is under indictment for a felony committed during  
4 the child's commitment to the department.

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

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

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

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

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

15 (2) the child:

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

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

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

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

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