88R2680 CJD-F

By:  Smith H.B. No. 2740

A BILL TO BE ENTITLED

AN ACT

relating to the inspection of juvenile justice facilities.

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

SECTION 1.  Section 51.12, Family Code, is amended by amending Subsections (a), (b-1), (d), (e), (j), (j-1), (k), and (l) and adding Subsection (c-2) to read as follows:

(a)  Except as provided by Subsection (h), a child may be detained only in a:

(1)  juvenile processing office in compliance with Section 52.025;

(2)  place of nonsecure custody in compliance with Article 45.058, Code of Criminal Procedure;

(3)  [~~certified~~] juvenile detention facility that is determined to be suitable after the most recent inspection under Subsection (c-1) and that complies with the requirements of Subsection (f);

(4)  secure detention facility as provided by Subsection (j);

(5)  county jail or other facility as provided by Subsection (l); or

(6)  nonsecure correctional facility as provided by Subsection (j-1).

(b-1)  A pre-adjudication secure detention facility may be operated only by:

(1)  a governmental unit in this state as defined by Section 101.001, Civil Practice and Remedies Code; or

(2)  a private entity under a contract with the Texas Juvenile Justice Department or another [~~a~~] governmental unit in this state.

(c-2)  In each county, each juvenile court judge and juvenile board shall annually meet to review the inspection report provided by the Texas Juvenile Justice Department under Subsection (c-1) from the department's inspection of each public or private juvenile pre-adjudication secure detention facility in the county. The meeting shall be held not later than the 60th day after the date of receipt of the inspection report. In addition to reviewing the inspection report, the juvenile court judges and juvenile board members shall review:

(1)  current monitoring and inspection reports and any noncompliance citation reports issued by the department and the status of any required corrective actions;

(2)  current governmental inspector certification regarding the facility's compliance with local fire codes;

(3)  for the 12-month period preceding the date of the inspection, any building inspector certification regarding the facility's compliance with local building codes;

(4)  for the 12-month period preceding the date of the inspection, the total number of allegations of abuse, neglect, or exploitation reported by the facility and a summary of the findings of any investigation of abuse, neglect, or exploitation conducted by the facility, a local law enforcement agency, or the department;

(5)  the availability of health and mental health services provided to facility residents;

(6)  the availability of educational services provided to facility residents; and

(7)  for the 12-month period preceding the date of the inspection, any report concerning the facility issued by the department's independent ombudsman.

(d)  Except as provided by Subsections (j) and (l), a child may not be placed in a facility that has not been inspected [~~certified~~] under Subsection (c-1) and determined to be [~~(c) as~~] suitable for the detention of children and registered under Subsection (i). Except as provided by Subsections (j) and (l), a child detained in a facility that has not been inspected [~~certified~~] under Subsection (c-1) and determined to be [~~(c) as~~] suitable for the detention of children or that has not been registered under Subsection (i) shall be entitled to immediate release from custody in that facility.

(e)  If there is no [~~certified~~] place of detention that has been inspected and determined to be suitable under Subsection (c-1) in the county in which the petition is filed, the designated place of detention may be in another county.

(j)  After being taken into custody, a child may be detained in a secure detention facility until the child is released under Section 53.01, 53.012, or 53.02 or until a detention hearing is held under Section 54.01(a), regardless of whether the facility has been inspected [~~certified~~] under Subsection (c-1) [~~(c)~~], if:

(1)  a [~~certified~~] juvenile detention facility that has been inspected and determined to be suitable under Subsection (c-1) is not available in the county in which the child is taken into custody;

(2)  the detention facility complies with:

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

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

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

(j-1)  After being taken into custody, a child may be detained in a nonsecure correctional facility until the child is released under Section 53.01, 53.012, or 53.02 or until a detention hearing is held under Section 54.01(a), if:

(1)  the nonsecure correctional facility has been appropriately registered and inspected [~~certified~~];

(2)  a [~~certified~~] secure detention facility that has been inspected and determined to be suitable under Subsection (c-1) is not available in the county in which the child is taken into custody;

(3)  the nonsecure correctional facility complies with the short-term detention standards adopted by the Texas Juvenile Justice Department; and

(4)  the nonsecure correctional facility has been designated by the county juvenile board for the county in which the facility is located.

(k)  If a child who is detained under Subsection (j) or (l) is not released from detention at the conclusion of the detention hearing for a reason stated in Section 54.01(e), the child may be detained after the hearing only in a [~~certified~~] juvenile detention facility that has been inspected and determined to be suitable under Subsection (c-1).

(l)  A child who is taken into custody and required to be detained under Section 53.02(f) may be detained in a county jail or other facility until the child is released under Section 53.02(f) or until a detention hearing is held as required by Section 54.01(p), regardless of whether the facility complies with the requirements of this section, if:

(1)  a [~~certified~~] juvenile detention facility that has been inspected and determined to be suitable under Subsection (c-1) or a secure detention facility described by Subsection (j) is not available in the county in which the child is taken into custody or in an adjacent county;

(2)  the facility has been designated by the county juvenile board for the county in which the facility is located;

(3)  the child is separated by sight and sound from adults detained in the same facility through architectural design or time-phasing;

(4)  the child does not have any contact with management or direct-care staff that has contact with adults detained in the same facility on the same work shift; and

(5)  the county in which the child is taken into custody is not located in a metropolitan statistical area as designated by the United States Bureau of the Census[~~; and~~

[~~(6)  each judge of the juvenile court and a majority of the members of the juvenile board of the county in which the child is taken into custody have personally inspected the facility at least annually and have certified in writing to the Texas Juvenile Justice Department that the facility complies with the requirements of Subdivisions (3) and (4)~~].

SECTION 2.  Section 51.125, Family Code, is amended by amending Subsection (a) and adding Subsection (c-1) to read as follows:

(a)  A post-adjudication secure correctional facility for juvenile offenders may be operated only by:

(1)  a governmental unit in this state as defined by Section 101.001, Civil Practice and Remedies Code; or

(2)  a private entity under a contract with the Texas Juvenile Justice Department or another [~~a~~] governmental unit in this state.

(c-1)  In each county, each juvenile court judge and juvenile board shall annually meet to review the inspection report provided by the Texas Juvenile Justice Department under Subsection (c) from the department's inspection of each public or private juvenile pre-adjudication secure detention facility in the county. The meeting shall be held not later than the 60th day after the date of receipt of the inspection report. In addition to reviewing the inspection report, the juvenile court judges and juvenile board shall review:

(1)  current monitoring and inspection reports and any noncompliance citation reports issued by the department and the status of any required corrective actions;

(2)  current governmental inspector certification regarding the facility's compliance with local fire codes;

(3)  for the 12-month period preceding the date of the inspection, any building inspector certification regarding the facility's compliance with local building codes;

(4)  for the 12-month period preceding the date of the inspection, the total number of allegations of abuse, neglect, or exploitation reported by the facility and a summary of the findings of any investigation of abuse, neglect, or exploitation conducted by the facility, a local law enforcement agency, or the department;

(5)  the availability of health and mental health services provided to facility residents;

(6)  the availability of educational services provided to facility residents; and

(7)  for the 12-month period preceding the date of the inspection, any report concerning the facility issued by the department's independent ombudsman.

SECTION 3.  Section 51.126, Family Code, is amended by amending Subsections (a) and (c) and adding Subsection (c-1) to read as follows:

(a)  A nonsecure correctional facility for juvenile offenders may be operated only by:

(1)  a governmental unit, as defined by Section 101.001, Civil Practice and Remedies Code; or

(2)  a private entity under a contract with the Texas Juvenile Justice Department or another [~~a~~] governmental unit in this state.

(c)  The Texas Juvenile Justice Department shall annually inspect each public or private juvenile nonsecure correctional facility. The department [~~Texas Juvenile Justice Department~~] shall provide a report to each juvenile court judge presiding in the same county as an inspected facility indicating whether the facility is suitable or unsuitable for the confinement of children in accordance with minimum professional standards for the confinement of children in nonsecure confinement promulgated by the department [~~Texas Juvenile Justice Department~~] or, at the election of the juvenile board of the county in which the facility is located, the current standards promulgated by the American Correctional Association.

(c-1)  In each county, each juvenile court judge and juvenile board shall annually meet to review the inspection report provided by the Texas Juvenile Justice Department under Subsection (c) from the department's inspection of each public or private juvenile pre-adjudication secure detention facility in the county. The meeting shall be held not later than the 60th day after the date of receipt of the inspection report. In addition to reviewing the inspection report, the juvenile court judges and juvenile board shall review:

(1)  current monitoring and inspection reports and any noncompliance citation reports issued by the department and the status of any required corrective actions;

(2)  current governmental inspector certification regarding the facility's compliance with local fire codes;

(3)  for the 12-month period preceding the date of the inspection, any building inspector certification regarding the facility's compliance with local building codes;

(4)  for the 12-month period preceding the date of the inspection, the total number of allegations of abuse, neglect, or exploitation reported by the facility and a summary of the findings of any investigation of abuse, neglect, or exploitation conducted by the facility, a local law enforcement agency, or the department;

(5)  the availability of health and mental health services provided to facility residents;

(6)  the availability of educational services provided to facility residents; and

(7)  for the 12-month period preceding the date of the inspection, any report concerning the facility issued by the department's independent ombudsman.

SECTION 4.  Article 4.19, Code of Criminal Procedure, is amended to read as follows:

Art. 4.19.  TRANSFER OF PERSON CERTIFIED TO STAND TRIAL AS AN ADULT. (a) Notwithstanding the order of a juvenile court to detain a person under the age of 17 who has been certified to stand trial as an adult in a [~~certified~~] juvenile detention facility described by [~~under~~] Section 54.02(h), Family Code, the judge of the criminal court having jurisdiction over the person may order the person to be transferred to an adult facility. A child who is transferred to an adult facility must be detained under conditions meeting the requirements of Section 51.12, Family Code.

(b)  On the 17th birthday of a person described by Subsection (a) who is detained in a [~~certified~~] juvenile detention facility described by [~~under~~] Section 54.02(h), Family Code, the judge of the criminal court having jurisdiction over the person shall order the person to be transferred to an adult facility.

SECTION 5.  Articles 24.011(d) and (d-1), Code of Criminal Procedure, are amended to read as follows:

(d)  The court may order that the person who is the witness be detained in a [~~certified~~] juvenile detention facility that has been inspected and determined to be suitable if the person is younger than 17 years of age. If the person is at least 17 years of age, the court may order that the person be detained without bond in an appropriate county facility for the detention of adults accused of criminal offenses.

(d-1)  A witness younger than 17 years of age held in custody under this article may be placed in a [~~certified~~] juvenile detention facility that has been inspected and determined to be suitable for a period not to exceed 30 days. The length of placement may be extended in increments of 30 days by the court that issued the original bench warrant. If the placement is not extended, the period under this article expires and the witness may be returned as provided by Subsection (c).

SECTION 6.  Section 51.13(c), Family Code, is amended to read as follows:

(c)  A child may not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of persons convicted of crime, except:

(1)  for temporary detention in a jail or lockup pending juvenile court hearing or disposition under conditions meeting the requirements of Section 51.12;

(2)  after transfer for prosecution in criminal court under Section 54.02, unless the juvenile court orders the detention of the child in a [~~certified~~] juvenile detention facility described by [~~under~~] Section 54.02(h);

(3)  after transfer from the Texas Juvenile Justice Department under Section 245.151(c), Human Resources Code; or

(4)  after transfer from a post-adjudication secure correctional facility[~~, as that term is defined by Section 54.04011~~].

SECTION 7.  Sections 52.0151(b) and (c), Family Code, are amended to read as follows:

(b)  The court may order that the person who is the witness be detained in a [~~certified~~] juvenile detention facility that has been inspected and determined to be suitable if the person is younger than 17 years of age. If the person is at least 17 years of age, the court may order that the person be detained without bond in an appropriate county facility for the detention of adults accused of criminal offenses.

(c)  A witness held in custody under this section may be placed in a [~~certified~~] juvenile detention facility that has been inspected and determined to be suitable for a period not to exceed 30 days. The length of placement may be extended in 30-day increments by the court that issued the original bench warrant. If the placement is not extended, the period under this section expires and the witness may be returned as provided by Subsection (a).

SECTION 8.  Section 54.01(h), Family Code, is amended to read as follows:

(h)  A detention order extends to the conclusion of the disposition hearing, if there is one, but in no event for more than 10 working days. Further detention orders may be made following subsequent detention hearings. The initial detention hearing may not be waived but subsequent detention hearings may be waived in accordance with the requirements of Section 51.09. Each subsequent detention order shall extend for no more than 10 working days, except that in a county that does not have a [~~certified~~] juvenile detention facility, as described by Section 51.12(a)(3), each subsequent detention order shall extend for no more than 15 working days.

SECTION 9.  Sections 54.02(h), (h-1), (p), and (q), Family Code, are amended to read as follows:

(h)  If the juvenile court waives jurisdiction, it shall state specifically in the order its reasons for waiver and certify its action, including the written order and findings of the court, and shall transfer the person to the appropriate court for criminal proceedings and cause the results of the diagnostic study of the person ordered under Subsection (d), including psychological information, to be transferred to the appropriate criminal prosecutor. On transfer of the person for criminal proceedings, the person shall be dealt with as an adult and in accordance with the Code of Criminal Procedure, except that if detention in a [~~certified~~] juvenile detention facility that has been inspected and determined to be suitable is authorized under Section 152.0015, Human Resources Code, the juvenile court may order the person to be detained in the facility pending trial or until the criminal court enters an order under Article 4.19, Code of Criminal Procedure. A transfer of custody made under this subsection is an arrest.

(h-1)  If the juvenile court orders a person detained in a [~~certified~~] juvenile detention facility under Subsection (h), the juvenile court shall set or deny bond for the person as required by the Code of Criminal Procedure and other law applicable to the pretrial detention of adults accused of criminal offenses.

(p)  If the juvenile court does not order a respondent released under Subsection (o), the court shall, pending the conclusion of the discretionary transfer hearing, order that the respondent be detained in:

(1)  a [~~certified~~] juvenile detention facility as provided by Subsection (q); or

(2)  an appropriate county facility for the detention of adults accused of criminal offenses.

(q)  The detention of a respondent in a [~~certified~~] juvenile detention facility that has been inspected and determined to be suitable must comply with the detention requirements under this title, except that, to the extent practicable, the person shall be kept separate from children detained in the same facility.

SECTION 10.  Sections 54.11(l) and (m), Family Code, are amended to read as follows:

(l)  Pending the conclusion of a transfer hearing, the juvenile court shall order that the person who is referred for transfer be detained in a [~~certified~~] juvenile detention facility as provided by Subsection (m). If the person is at least 17 years of age, the juvenile court may order that the person be detained without bond in an appropriate county facility for the detention of adults accused of criminal offenses.

(m)  The detention of a person in a [~~certified~~] juvenile detention facility that has been inspected and determined to be suitable must comply with the detention requirements under this title, except that, to the extent practicable, the person must be kept separate from children detained in the same facility.

SECTION 11.  Sections 51.12(c), 51.125(b), and 51.126(b), Family Code, are repealed.

SECTION 12.  This Act takes effect September 1, 2023.