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et al.

H.B. No. 16

Substitute the following for H.B. No. 16:

By: A. Johnson of Harris

C.S.H.B. No. 16

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the adjudication and disposition of cases involving
3 delinquent conduct, certain juvenile court proceedings, and
4 planning and funding for services for children in the juvenile
5 justice system.

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

7 SECTION 1. Section 51.02, Family Code, is amended by adding
8 Subdivision (7-a) to read as follows:

9 (7-a) "Mitigating evidence" means evidence or
10 information presented at a proceeding under this title that:

11 (A) is used to assess the growth, culpability,
12 and maturity of a child; and

13 (B) takes into consideration:

14 (i) the diminished culpability of
15 juveniles, as compared to that of adults;

16 (ii) the hallmark features of youth; and

17 (iii) the greater capacity of juveniles for
18 change, as compared to that of adults.

19 SECTION 2. Section 54.01, Family Code, is amended by adding
20 Subsections (e-1), (e-2), and (e-3) to read as follows:

21 (e-1) At the conclusion of the hearing, the court shall
22 refer the child to the Department of Family and Protective Services
23 for early youth intervention services described by Section 264.302
24 if the court does not release the child from detention due solely to

1 a finding described by Subsection (e)(2) or (3).

2 (e-2) On receipt of a referral under Subsection (e-1), the
3 Department of Family and Protective Services shall:

4 (1) conduct an early youth intervention services
5 review not later than 72 hours, excluding weekends and holidays,
6 after the conclusion of the hearing under Subsection (a); and

7 (2) submit the review to the court.

8 (e-3) A court that refers a child to the Department of
9 Family and Protective Services under Subsection (e-1) shall:

10 (1) as soon as practicable after receiving the early
11 youth intervention services review, consider the review; and

12 (2) if appropriate, release the child not later than
13 the 10th working day after the date of the conclusion of the
14 hearing.

15 SECTION 3. Section 54.02, Family Code, is amended by adding
16 Subsection (d-1) and amending Subsection (h) to read as follows:

17 (d-1) In a hearing under this section, a presumption exists
18 that it is in the best interest of the child and of justice that the
19 juvenile court retain jurisdiction over the child. The burden is on
20 the state to overcome this presumption.

21 (h) If the juvenile court waives jurisdiction, it shall
22 state specifically in the order its reasons for waiver. The
23 statement of reasons must include sufficient specificity to permit
24 meaningful review, provide case-specific findings of fact that do
25 not rely solely on the nature or seriousness of the offense, and
26 refer to relevant mitigating evidence. The court shall [~~and~~]
27 certify its action, including the written order and findings of the

1 court, and shall transfer the person to the appropriate court for
2 criminal proceedings and cause the results of the diagnostic study
3 of the person ordered under Subsection (d), including psychological
4 information, to be transferred to the appropriate criminal
5 prosecutor. On transfer of the person for criminal proceedings,
6 the person shall be dealt with as an adult and in accordance with
7 the Code of Criminal Procedure, except that if detention in a
8 certified juvenile detention facility is authorized under Section
9 152.0015, Human Resources Code, the juvenile court may order the
10 person to be detained in the facility pending trial or until the
11 criminal court enters an order under Article 4.19, Code of Criminal
12 Procedure. A transfer of custody made under this subsection is an
13 arrest.

14 SECTION 4. Section 54.04(c), Family Code, is amended to
15 read as follows:

16 (c) No disposition may be made under this section unless the
17 child is in need of rehabilitation or the protection of the public
18 or the child requires that disposition be made. If the court or
19 jury does not so find, the court shall dismiss the child and enter a
20 final judgment without any disposition. No disposition placing the
21 child on probation outside the child's home may be made under this
22 section unless the court or jury finds that the child, in the
23 child's home, cannot be provided the quality of care and level of
24 support and supervision that the child needs to meet the conditions
25 of the probation. The court shall consider mitigating evidence of
26 the child's circumstances in making a finding under this section.

27 SECTION 5. Section 54.04013, Family Code, is amended to

1 read as follows:

2 Sec. 54.04013. SPECIAL COMMITMENT TO TEXAS JUVENILE JUSTICE
3 DEPARTMENT. (a) Notwithstanding any other provision of this code,
4 after a disposition hearing held in accordance with Section 54.04,
5 the juvenile court may commit a child who is found to have engaged
6 in delinquent conduct that constitutes a felony offense to the
7 Texas Juvenile Justice Department without a determinate sentence if
8 the court makes a special commitment finding that the child has
9 behavioral health or other special needs that cannot be met with the
10 resources available in the community. The court should consider
11 the findings of a validated risk and needs assessment and the
12 findings of any other appropriate professional assessment
13 available to the court.

14 (b) In making a special commitment finding under Subsection
15 (a), the court may consider mitigating evidence of the child's
16 circumstances.

17 SECTION 6. Section 54.05(f), Family Code, is amended to
18 read as follows:

19 (f) Except as provided by Subsection (j), a disposition
20 based on a finding that the child engaged in delinquent conduct that
21 violates a penal law of this state or the United States of the grade
22 of felony may be modified so as to commit the child to the Texas
23 Juvenile Justice Department [~~or, if applicable, a~~
24 ~~post-adjudication secure correctional facility operated under~~
25 ~~Section 152.0016, Human Resources Code,~~] if the court after a
26 hearing to modify disposition finds by a preponderance of the
27 evidence that the child violated a reasonable and lawful order of

1 the court and makes a special commitment finding under Section
 2 54.04013. A disposition based on a finding that the child engaged
 3 in habitual felony conduct as described by Section 51.031 or in
 4 delinquent conduct that included a violation of a penal law listed
 5 in Section 53.045(a) may be modified to commit the child to the
 6 Texas Juvenile Justice Department [~~or, if applicable, a~~
 7 ~~post-adjudication secure correctional facility operated under~~
 8 ~~Section 152.0016, Human Resources Code,~~] with a possible transfer
 9 to the Texas Department of Criminal Justice for a definite term
 10 prescribed by [~~as applicable,~~] Section 54.04(d)(3) [~~or Section~~
 11 ~~152.0016(g), Human Resources Code,~~] if the original petition was
 12 approved by the grand jury under Section 53.045 and if after a
 13 hearing to modify the disposition the court finds that the child
 14 violated a reasonable and lawful order of the court.

15 SECTION 7. Section 59.009(a), Family Code, is amended to
 16 read as follows:

17 (a) For a child at sanction level six, the juvenile court
 18 may commit the child to the custody of the Texas Juvenile Justice
 19 Department [~~or a post-adjudication secure correctional facility~~
 20 ~~under Section 54.04011(c)(1)]. The department [~~juvenile board, or~~
 21 ~~local juvenile probation department, as applicable,~~] may:~~

22 (1) require the child to participate in a highly
 23 structured residential program that emphasizes discipline,
 24 accountability, fitness, training, and productive work for not less
 25 than nine months or more than 24 months unless the department,
 26 board, or probation department reduces or extends the period and
 27 the reason for a reduction or an extension is documented;

1 (2) require the child to make restitution to the
2 victim of the child's conduct or perform community service
3 restitution appropriate to the nature and degree of the harm caused
4 and according to the child's ability, if there is a victim of the
5 child's conduct;

6 (3) require the child and the child's parents or
7 guardians to participate in programs and services for their
8 particular needs and circumstances; and

9 (4) if appropriate, impose additional sanctions.

10 SECTION 8. Sections [264.302](#)(d) and (e), Family Code, are
11 amended to read as follows:

12 (d) The department shall [~~may~~] provide services under this
13 section to a child who engages in conduct for which the child may be
14 found by a court to be an at-risk child, without regard to whether
15 the conduct violates a penal law of this state of the grade of
16 felony other than a state jail felony, if the child was younger than
17 13 [~~10~~] years of age at the time the child engaged in the conduct.

18 (e) The department shall provide services for a child and
19 the child's family if [~~a contract to provide services under this~~
20 ~~section is available in the county and~~] the child is referred to the
21 department as an at-risk child by:

22 (1) a juvenile court or probation department under
23 Section [54.01](#) or as part of a progressive sanctions program under
24 Chapter [59](#);

25 (2) a law enforcement officer or agency under Section
26 [52.03](#); or

27 (3) a justice or municipal court under Article [45.057](#),

1 Code of Criminal Procedure.

2 SECTION 9. Chapter 203, Human Resources Code, is amended by
3 adding Section 203.0171 to read as follows:

4 Sec. 203.0171. COMMUNITY-BASED DIVERSION AND INTERVENTION
5 PLAN; TASK FORCE. (a) The department shall develop, and the board
6 shall adopt, a strategic diversion and intervention plan to
7 establish a network of community-based programs and services,
8 within defined geographic regions of this state, to rehabilitate
9 and keep children closer to home instead of placing children in
10 post-adjudication secure correctional facilities. The plan must:

11 (1) develop or update an inventory of community-based
12 programs and services provided by local juvenile justice
13 organizations and community-based organizations that serve
14 juveniles;

15 (2) create an intercept map that:

16 (A) plots resources and gaps across each
17 intercept point within the juvenile justice system;

18 (B) identifies local behavioral health services
19 to support diversion from the justice system;

20 (C) introduces community system leaders and
21 staff to evidence-based practices and emerging best practices
22 related to each intercept point; and

23 (D) includes customized, local maps and action
24 plans to address plotted gaps;

25 (3) describe barriers to securing rehabilitative and
26 programmatic mental health and therapeutic treatment service
27 providers in rural, multicounty, and regional jurisdictions;

1 (4) identify ways in which research-validated initial
2 risk assessments may be utilized to connect resources with risk and
3 protective factors identified in the assessments to create
4 individualized diversion plans;

5 (5) highlight state and national models for
6 community-based collaborations and cross-system partnerships for
7 assessments and referrals of juveniles in need of mental health and
8 substance use treatment, aftercare, and recovery services;

9 (6) develop a model memorandum of understanding and
10 provider contract for community-based programs and services;

11 (7) describe and track the dispositional impact of the
12 variability of diversionary community-based programs and services
13 on court decisions to detain children in post-adjudication secure
14 correctional facilities;

15 (8) identify effective strategies for leveraging
16 community resources and strengths to divert children from placement
17 in post-adjudication secure correctional facilities;

18 (9) include a description of various community-based
19 programs and services that promote and incorporate trauma-informed
20 services, equity- and culturally responsive services,
21 gender-specific services, family involvement, wraparound services,
22 and services that promote rehabilitative juvenile services through
23 a therapeutic perspective; and

24 (10) examine any other issue pertaining to juvenile
25 justice service providers and community-based infrastructure in
26 this state.

27 (b) The board shall appoint a task force, in collaboration

1 with the department's regionalization division established under
2 Section 203.017, to consult with the department in developing the
3 plan. The task force is composed of the following members:

4 (1) representatives designated by the advisory
5 council on juvenile services;

6 (2) regional representatives;

7 (3) a juvenile court prosecutor, including a juvenile
8 court prosecutor serving on the Juvenile Law Council of the
9 Juvenile Law Section of the State Bar of Texas;

10 (4) a juvenile defense attorney, including a defense
11 attorney serving on the Juvenile Law Council of the Juvenile Law
12 Section of the State Bar of Texas;

13 (5) a juvenile court judge;

14 (6) subject matter experts designated by the
15 department;

16 (7) a representative designated by the Department of
17 Family and Protective Services;

18 (8) a representative designated by the Office of Court
19 Administration of the Texas Judicial System;

20 (9) a youth advocate from a nonprofit or
21 nongovernmental organization with experience in juvenile justice;

22 (10) a member of the public who has personal
23 experience with or has been personally impacted by the juvenile
24 justice system;

25 (11) a public or private program or service provider;

26 (12) an academic researcher from an accredited
27 institution of higher education who specializes in juvenile justice

1 issues;

2 (13) a staff member designated by an interested member
3 of the legislature; and

4 (14) any other individual the board considers
5 necessary, including experts who may serve in an advisory capacity.

6 (c) Not later than December 1, 2024, the department shall
7 submit a copy of the plan under this section to each member of the
8 legislature.

9 SECTION 10. Subchapter A, Chapter 221, Human Resources
10 Code, is amended by adding Section 221.013 to read as follows:

11 Sec. 221.013. COMMUNITY REINVESTMENT FUND. (a) Each
12 county shall establish a community reinvestment fund.

13 (b) The juvenile board or juvenile probation department of
14 the county shall partner with research-based service providers in
15 the community to use money in the community reinvestment fund to
16 provide services as an alternative to juvenile detention for youth
17 in the community, including by providing mentoring, behavioral and
18 mental health services, financial or housing assistance, job
19 training, educational services, and after-school activities.

20 (c) The community reinvestment fund may be funded by:

21 (1) surplus funds of the department;

22 (2) the county; or

23 (3) gifts, grants, and donations.

24 SECTION 11. Chapter 223, Human Resources Code, is amended
25 by adding Section 223.007 to read as follows:

26 Sec. 223.007. INCENTIVE FUNDING FOR COMMUNITY-BASED
27 DIVERSION AND INTERVENTION. (a) The legislature may establish a

1 special account in the general revenue fund to supplement local
2 funds and encourage efficiencies in the formation of a network of
3 community-based programs and services within the regions of this
4 state and to generate savings by decreasing the population of
5 post-adjudication secure correctional facilities.

6 (b) The department shall use the money in the account to
7 initiate and support the implementation of the strategic
8 community-based diversion and intervention plan under Section
9 203.0171, including the implementation of projects dedicated to
10 specific target populations based on risk and needs, and with
11 established recidivism reduction goals. The department shall
12 develop discretionary grant funding protocols based on documented,
13 data-driven, and research-based practices.

14 (c) A region is eligible to receive funding from the
15 department under this section only if the region meets the
16 performance standards established by the department and adopted in
17 contracts for community-based programs and services.

18 (d) Funding under this section is authorized in addition to
19 reimbursements allocated by the department under Section 203.017.

20 (e) The department shall prepare a report that:

21 (1) outlines the amount of funds distributed as
22 incentive for the specific strategies, programs, and services
23 implemented as part of the plan described by Section 203.0171;

24 (2) demonstrates that certain regions or geographic
25 areas are implementing the strategies implemented as part of the
26 plan described by Section 203.0171;

27 (3) defines efficiencies of scale in measurable terms;

1 (4) proposes a payment schedule for distributing funds
2 under this section; and

3 (5) establishes a method for the documentation and
4 reporting of fund distributions under this section.

5 (f) Not later than December 1, 2024, the department shall
6 submit a copy of the report under this section to each member of the
7 legislature.

8 SECTION 12. Section 243.002, Human Resources Code, is
9 amended by adding Subsection (c) to read as follows:

10 (c) The department shall give credit toward the minimum
11 length of stay established for the child for time spent in a
12 pre-adjudication secure detention facility after commitment but
13 before the child's transfer to the department.

14 SECTION 13. The following provisions of the Family Code are
15 repealed:

16 (1) Section 54.04(z); and

17 (2) Section 264.302(c).

18 SECTION 14. (a) Sections 54.01, 54.02, 54.04, 54.04013,
19 and 54.05, Family Code, as amended by this Act, apply only to a
20 hearing that occurs on or after the effective date of this Act. A
21 hearing that occurs before the effective date of this Act is
22 governed by the law in effect at the time the hearing occurred, and
23 the former law is continued in effect for that purpose.

24 (b) The changes in law made by this Act to Section
25 59.009(a), Family Code, do not apply to a child committed to a
26 post-adjudication secure correctional facility under former
27 Section 54.04011(c)(1), Family Code, and the former law is

1 continued in effect for a child committed to the facility.

2 SECTION 15. This Act takes effect September 1, 2023.