

By: Moody

H.B. No. 16

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

(B) takes into consideration:

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

(ii) the hallmark features of youth; and

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

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

(e-1) At the conclusion of the hearing, the court shall refer the child to the Department of Family and Protective Services for early youth intervention services described by Section 264.302 if the grounds for detention is a finding described by only

1 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 consider the early intervention review as soon as practicable and,
11 if appropriate, shall release the child not later than the 10th
12 working day after the date of the conclusion of the hearing.

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

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

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

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

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

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

25 SECTION 5. Section 54.04013, Family Code, is amended to
26 read as follows:

27 Sec. 54.04013. SPECIAL COMMITMENT TO TEXAS JUVENILE JUSTICE

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

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

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

17 (f) Except as provided by Subsection (j), a disposition
18 based on a finding that the child engaged in delinquent conduct that
19 violates a penal law of this state or the United States of the grade
20 of felony may be modified so as to commit the child to the Texas
21 Juvenile Justice Department or, if applicable, a post-adjudication
22 secure correctional facility operated under Section 152.0016,
23 Human Resources Code, if the court after a hearing to modify
24 disposition finds by a preponderance of the evidence that the child
25 violated a reasonable and lawful order of the court and makes a
26 special commitment finding under Section 54.04013. A disposition
27 based on a finding that the child engaged in habitual felony conduct

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

13 SECTION 7. Section 59.009, Family Code, is amended to read
14 as follows:

15 Sec. 59.009. SANCTION LEVEL SIX. (a) For a child at
16 sanction level six, the juvenile court may commit the child to the
17 custody of the Texas Juvenile Justice Department or a
18 post-adjudication secure correctional facility under Section
19 54.04011(c)(1)]. The department, juvenile board, or local juvenile
20 probation department, as applicable, may:

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

27 (2) require the child to make restitution to the

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

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

8 (4) if appropriate, impose additional sanctions.

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

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

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

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

24 (2) a law enforcement officer or agency under Section
25 52.03; or

26 (3) a justice or municipal court under Article 45.057,
27 Code of Criminal Procedure.

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

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

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

14 (2) create an intercept map that:

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

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

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

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

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

27 (4) identify ways in which research-validated initial

1 risk assessments may be utilized to connect resources with risk and
2 protective factors identified in the assessments to create
3 individualized diversion plans;

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

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

10 (7) describe and track the dispositional impact of the
11 variability of diversionary community-based programs and services
12 on court decisions to detain children in juvenile detention
13 facilities;

14 (8) identify effective strategies for leveraging
15 community resources and strengths to divert children from placement
16 in juvenile detention facilities;

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

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

26 (b) The board shall appoint a task force to, in
27 collaboration with the department's regionalization division

1 established under Section 203.017, consult with the department in
2 developing the plan. The task force is composed of the following
3 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. Subchapter B, Chapter 223, Human Resources
25 Code, is amended 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 assigned
11 minimum length of stay for time spent in a pre-adjudication secure
12 detention facility after commitment but before admission to the
13 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. Sections 54.01, 54.02, 54.04, 54.04013, and
19 54.05, Family Code, as amended by this Act, apply only to a hearing
20 that occurs on or after the effective date of this Act. A hearing
21 that occurs before the effective date of this Act is governed by the
22 law in effect at the time the hearing occurred, and the former law
23 is continued in effect for that purpose.

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