

By: Moody

H.B. No. 2627

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 court does not release the child on the basis of a finding

1 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 after the conclusion of the hearing
6 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 release
10 the child not later than the 10th working day after the date of the
11 conclusion of the hearing.

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

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

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

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

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

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

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

26 Sec. 54.04013. SPECIAL COMMITMENT TO TEXAS JUVENILE JUSTICE
27 DEPARTMENT. (a) Notwithstanding any other provision of this code,

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

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

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

16 (f) Except as provided by Subsection (j), a disposition
17 based on a finding that the child engaged in delinquent conduct that
18 violates a penal law of this state or the United States of the grade
19 of felony may be modified so as to commit the child to the Texas
20 Juvenile Justice Department or, if applicable, a post-adjudication
21 secure correctional facility operated under Section 152.0016,
22 Human Resources Code, if the court after a hearing to modify
23 disposition finds by a preponderance of the evidence that the child
24 violated a reasonable and lawful order of the court and makes a
25 special commitment finding under Section 54.04013. A disposition
26 based on a finding that the child engaged in habitual felony conduct
27 as described by Section 51.031 or in delinquent conduct that

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

12 SECTION 7. Section 54.052(d), Family Code, is amended to
13 read as follows:

14 (d) The Texas Juvenile Justice Department or the juvenile
15 board or local juvenile probation department operating or
16 contracting for the operation of the post-adjudication secure
17 correctional facility under Section 152.0016, Human Resources
18 Code, as applicable, shall grant any credit under this section or
19 Section 243.002, Human Resources Code, in computing the child's
20 eligibility for parole and discharge.

21 SECTION 8. Chapter 54, Family Code, is amended by adding
22 Section 54.053 to read as follows:

23 Sec. 54.053. CREDIT FOR TIME SPENT IN DETENTION FACILITY
24 FOR CHILD WITHOUT DETERMINATE SENTENCE. (a) This section applies
25 only to a child who is:

26 (1) committed to the Texas Juvenile Justice Department
27 without a determinate sentence under Section 54.04(d)(2); or

1 (2) subject to a hearing to modify disposition under
2 Section 54.05.

3 (b) The judge of the court in which a child is adjudicated
4 shall give the child credit on the child's sentence for the time
5 spent by the child, in connection with the conduct for which the
6 child was adjudicated, in a secure detention facility before the
7 child's transfer to a Texas Juvenile Justice Department facility.

8 (c) The Texas Juvenile Justice Department shall grant any
9 credit under this section or Section 243.002, Human Resources Code,
10 in computing the child's eligibility for parole and discharge.

11 SECTION 9. Section 59.009, Family Code, is amended to read
12 as follows:

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

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

25 (2) require the child to make restitution to the
26 victim of the child's conduct or perform community service
27 restitution appropriate to the nature and degree of the harm caused

1 and according to the child's ability, if there is a victim of the
2 child's conduct;

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

6 (4) if appropriate, impose additional sanctions.

7 (b) On release of the child under supervision, the Texas
8 Juvenile Justice Department parole programs [~~or the juvenile board~~
9 ~~or local juvenile probation department operating parole programs~~
10 ~~under Section 152.0016(c)(2), Human Resources Code,~~] may:

11 (1) impose highly structured restrictions on the
12 child's activities and requirements for behavior of the child as
13 conditions of release under supervision;

14 (2) require a parole officer to closely monitor the
15 child for not less than six months; and

16 (3) if appropriate, impose any other conditions of
17 supervision.

18 (c) The Texas Juvenile Justice Department [~~, juvenile board,~~
19 ~~or local juvenile probation department~~] may discharge the child
20 from the custody of the department [~~, board, or probation~~
21 ~~department, as applicable,~~] on the date the provisions of this
22 section are met or on the child's 19th birthday, whichever is
23 earlier.

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

26 (d) The department may provide services under this section
27 to a child who engages in conduct for which the child may be found by

1 a court to be an at-risk child, without regard to whether the
2 conduct violates a penal law of this state of the grade of felony
3 other than a state jail felony, if the child was younger than 13
4 ~~[10]~~ years of age at the time the child engaged in the conduct.

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

9 (1) a juvenile court or probation department under
10 Section 54.01 or as part of a progressive sanctions program under
11 Chapter 59;

12 (2) a law enforcement officer or agency under Section
13 52.03; or

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

16 SECTION 11. Chapter 203, Human Resources Code, is amended
17 by adding Section 203.0171 to read as follows:

18 Sec. 203.0171. COMMUNITY-BASED DIVERSION AND INTERVENTION
19 PLAN; TASK FORCE. (a) The department shall develop, and the board
20 shall adopt, a strategic diversion and intervention plan to
21 establish a network of community-based programs and services,
22 within defined geographic regions of this state, to rehabilitate
23 and keep children closer to home instead of placing children in
24 juvenile detention facilities. The plan must:

25 (1) develop or update an inventory of community-based
26 programs and services provided by local juvenile justice
27 organizations and community-based organizations that serve

1 juveniles;

2 (2) create an intercept map that:

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

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

7 (C) introduces community system leaders and
8 staff to evidence-based practices and emerging best practices
9 related to each intercept point; and

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

12 (3) describe barriers to securing rehabilitative and
13 programmatic mental health and therapeutic treatment service
14 providers in rural, multicounty, and regional jurisdictions;

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

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

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

25 (7) describe and track the dispositional impact of the
26 variability of diversionary community-based programs and services
27 on court decisions to detain children in juvenile detention

1 facilities;

2 (8) identify effective strategies for leveraging
3 community resources and strengths to divert children from placement
4 in juvenile detention facilities;

5 (9) include a description of various community-based
6 programs and services that promote and incorporate trauma-informed
7 services, equity- and culturally responsive services,
8 gender-specific services, family involvement, wraparound services,
9 and services that promote rehabilitative juvenile services through
10 a therapeutic perspective; and

11 (10) examine any other issue pertaining to juvenile
12 justice service providers and community-based infrastructure in
13 this state.

14 (b) The board shall appoint a task force to, in
15 collaboration with the department's regionalization division
16 established under Section 203.017, consult with the department in
17 developing the plan. The task force is composed of the following
18 members:

19 (1) representatives designated by the Advisory
20 Council on Juvenile Services;

21 (2) regional representatives;

22 (3) a juvenile court prosecutor, including a juvenile
23 court prosecutor serving on the Juvenile Law Section of the State
24 Bar of Texas;

25 (4) a juvenile defense attorney or a defense attorney
26 serving on the Juvenile Law Section of the State Bar of Texas;

27 (5) a juvenile court judge;

1 (6) subject matter experts designated by the
2 department;

3 (7) a representative designated by the Department of
4 Family and Protective Services;

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

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

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

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

13 (12) an academic researcher from an accredited
14 institution of higher education who specializes in juvenile justice
15 issues;

16 (13) a staff member designated by an interested member
17 of the legislature; and

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

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

23 SECTION 12. Subchapter A, Chapter 221, Human Resources
24 Code, is amended by adding Section 221.013 to read as follows:

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

27 (b) The juvenile board or juvenile probation department of

1 the county shall partner with research-based service providers in
2 the community to use money in the community reinvestment fund to
3 provide services as an alternative to juvenile detention for youth
4 in the community, including by providing mentoring, behavioral and
5 mental health services, financial or housing assistance, job
6 training, educational services, and after-school activities.

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

8 (1) surplus funds of the department;

9 (2) the county; or

10 (3) gifts, grants, and donations.

11 SECTION 13. Subchapter B, Chapter 223, Human Resources
12 Code, is amended by adding Section 223.007 to read as follows:

13 Sec. 223.007. INCENTIVE FUNDING FOR COMMUNITY-BASED
14 DIVERSION AND INTERVENTION. (a) The legislature may establish a
15 special account in the general revenue fund to supplement local
16 funds and encourage efficiencies in the formation of a network of
17 community-based programs and services within the regions of this
18 state and to generate savings by decreasing the population of
19 post-adjudication secure correctional facilities.

20 (b) The department shall use the money in the account to
21 initiate and support the implementation of the strategic
22 community-based diversion and intervention plan under Section
23 203.0171, including the implementation of projects dedicated to
24 specific target populations based on risk and needs, and with
25 established recidivism reduction goals. The department shall
26 develop discretionary grant funding protocols based on documented,
27 data-driven, and research-based practices.

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

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

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

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

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

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

15 (4) proposes a payment schedule for distributing funds
16 under this section; and

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

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

22 SECTION 14. Section 243.002, Human Resources Code, is
23 amended by adding Subsection (c) to read as follows:

24 (c) A child shall receive credit on the child's sentence for
25 time spent, in connection with the conduct for which the department
26 is establishing the minimum length of stay under this section, in a
27 secure detention facility before the child's transfer to the

1 department.

2 SECTION 15. The following provisions of the Family Code are
3 repealed:

4 (1) Section 54.04(z); and

5 (2) Section 264.302(c).

6 SECTION 16. (a) Sections 54.01, 54.02, 54.04, 54.04013, and
7 54.05, Family Code, as amended by this Act, apply only to a hearing
8 that occurs on or after the effective date of this Act. A hearing
9 that occurs before the effective date of this Act is governed by the
10 law in effect at the time the hearing occurred, and the former law
11 is continued in effect for that purpose.

12 (b) Sections 54.052 and 59.009, Family Code, as amended by
13 this Act, and Section 54.053, Family Code, as added by this Act,
14 apply only to conduct that occurs on or after the effective date of
15 this Act. Conduct that occurs before the effective date of this Act
16 is governed by the law in effect at the time the conduct occurred,
17 and the former law is continued in effect for that purpose. For the
18 purposes of this section, conduct occurs before the effective date
19 of this Act if any element of the conduct occurred before that date.

20 SECTION 17. This Act takes effect September 1, 2023.