

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

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

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

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

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

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

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

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

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

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

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

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

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

27           (1) a [~~certified~~] juvenile detention facility that has

1 been inspected and determined to be suitable under Subsection (c-1)  
2 is not available in the county in which the child is taken into  
3 custody;

4 (2) the detention facility complies with:

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

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

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

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

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

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

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

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

27 (k) If a child who is detained under Subsection (j) or (l) is

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

6 (1) A child who is taken into custody and required to be  
7 detained under Section 53.02(f) may be detained in a county jail or  
8 other facility until the child is released under Section 53.02(f)  
9 or until a detention hearing is held as required by Section  
10 54.01(p), regardless of whether the facility complies with the  
11 requirements of this section, if:

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

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

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

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

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

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

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

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

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

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

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

26                 (1) current monitoring and inspection reports and any  
27 noncompliance citation reports issued by the department and the

- 1 status of any required corrective actions;  
2 (2) current governmental inspector certification  
3 regarding the facility's compliance with local fire codes;  
4 (3) for the 12-month period preceding the date of the  
5 inspection, any building inspector certification regarding the  
6 facility's compliance with local building codes;  
7 (4) for the 12-month period preceding the date of the  
8 inspection, the total number of allegations of abuse, neglect, or  
9 exploitation reported by the facility and a summary of the findings  
10 of any investigation of abuse, neglect, or exploitation conducted  
11 by the facility, a local law enforcement agency, or the department;  
12 (5) the availability of health and mental health  
13 services provided to facility residents;  
14 (6) the availability of educational services provided  
15 to facility residents; and  
16 (7) for the 12-month period preceding the date of the  
17 inspection, any report concerning the facility issued by the  
18 department's independent ombudsman.

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

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

24 (1) a governmental unit, as defined by Section  
25 101.001, Civil Practice and Remedies Code; or

26 (2) a private entity under a contract with the Texas  
27 Juvenile Justice Department or another [a] governmental unit in

1 this state.

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

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

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

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



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

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

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

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

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

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

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

27           (b) On the 17th birthday of a person described by Subsection

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

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

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

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

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

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

27 (1) for temporary detention in a jail or lockup

1 pending juvenile court hearing or disposition under conditions  
2 meeting the requirements of Section 51.12;

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

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

9 (4) after transfer from a post-adjudication secure  
10 correctional facility[~~, as that term is defined by Section~~  
11 ~~54.04011~~].

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

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

21 (c) A witness held in custody under this section may be  
22 placed in a [~~certified~~] juvenile detention facility that has been  
23 inspected and determined to be suitable for a period not to exceed  
24 30 days. The length of placement may be extended in 30-day  
25 increments by the court that issued the original bench warrant. If  
26 the placement is not extended, the period under this section  
27 expires and the witness may be returned as provided by Subsection

1 (a).

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

4 (h) A detention order extends to the conclusion of the  
5 disposition hearing, if there is one, but in no event for more than  
6 10 working days. Further detention orders may be made following  
7 subsequent detention hearings. The initial detention hearing may  
8 not be waived but subsequent detention hearings may be waived in  
9 accordance with the requirements of Section 51.09. Each subsequent  
10 detention order shall extend for no more than 10 working days,  
11 except that in a county that does not have a [~~certified~~] juvenile  
12 detention facility, as described by Section 51.12(a)(3), each  
13 subsequent detention order shall extend for no more than 15 working  
14 days.

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

17 (h) If the juvenile court waives jurisdiction, it shall  
18 state specifically in the order its reasons for waiver and certify  
19 its action, including the written order and findings of the court,  
20 and shall transfer the person to the appropriate court for criminal  
21 proceedings and cause the results of the diagnostic study of the  
22 person ordered under Subsection (d), including psychological  
23 information, to be transferred to the appropriate criminal  
24 prosecutor. On transfer of the person for criminal proceedings,  
25 the person shall be dealt with as an adult and in accordance with  
26 the Code of Criminal Procedure, except that if detention in a  
27 [~~certified~~] juvenile detention facility that has been inspected and

1 determined to be suitable is authorized under Section 152.0015,  
2 Human Resources Code, the juvenile court may order the person to be  
3 detained in the facility pending trial or until the criminal court  
4 enters an order under Article 4.19, Code of Criminal Procedure. A  
5 transfer of custody made under this subsection is an arrest.

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

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

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

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

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

24 SECTION 10. Sections 54.11(1) and (m), Family Code, are  
25 amended to read as follows:

26 (1) Pending the conclusion of a transfer hearing, the  
27 juvenile court shall order that the person who is referred for

1 transfer be detained in a [~~certified~~] juvenile detention facility  
2 as provided by Subsection (m). If the person is at least 17 years of  
3 age, the juvenile court may order that the person be detained  
4 without bond in an appropriate county facility for the detention of  
5 adults accused of criminal offenses.

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

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

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