

AN ACT

relating to the commitment of juveniles in post-adjudication secure correctional facilities operated by the Texas Juvenile Justice Department and by local probation departments.

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

SECTION 1. Section 54.04(d), Family Code, is amended to read as follows:

(d) If the court or jury makes the finding specified in Subsection (c) allowing the court to make a disposition in the case:

(1) the court or jury may, in addition to any order required or authorized under Section 54.041 or 54.042, place the child on probation on such reasonable and lawful terms as the court may determine:

(A) in the child's own home or in the custody of a relative or other fit person; or

(B) subject to the finding under Subsection (c) on the placement of the child outside the child's home, in:

(i) a suitable foster home;

(ii) a suitable public or private residential treatment facility licensed by a state governmental entity or exempted from licensure by state law, except a facility operated by the Texas Juvenile Justice Department; or

(iii) a suitable public or private post-adjudication secure correctional facility that meets the requirements of Section 51.125, except a facility operated by the Texas Juvenile Justice Department;

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct

that violates a penal law of this state or the United States of the grade of felony, the court or jury made a special commitment finding under Section 54.04013, and [~~if~~] the petition was not approved by the grand jury under Section 53.045, the court may commit the child to the Texas Juvenile Justice Department under Section 54.04013, or a post-adjudication secure correctional facility under Section 54.04011(c)(1), as applicable, without a determinate sentence;

(3) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) and if the petition was approved by the grand jury under Section 53.045, the court or jury may sentence the child to commitment in the Texas Juvenile Justice Department or a post-adjudication secure correctional facility under Section 54.04011(c)(2) with a possible transfer to the Texas Department of Criminal Justice for a term of:

(A) not more than 40 years if the conduct constitutes:

(i) a capital felony;

(ii) a felony of the first degree; or

(iii) an aggravated controlled substance felony;

(B) not more than 20 years if the conduct constitutes a felony of the second degree; or

(C) not more than 10 years if the conduct constitutes a felony of the third degree;

(4) the court may assign the child an appropriate sanction level and sanctions as provided by the assignment guidelines in Section 59.003;

(5) the court may place the child in a suitable nonsecure correctional facility that is registered and meets the

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applicable standards for the facility as provided by Section 51.126; or

(6) if applicable, the court or jury may make a disposition under Subsection (m) or Section 54.04011(c)(2)(A).

SECTION 2. Chapter 54, Family Code, is amended by adding Section 54.04013 to read as follows:

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

SECTION 3. Section 202.010, Human Resources Code, is amended to read as follows:

Sec. 202.010. SUNSET PROVISION. The Texas Juvenile Justice Board and the Texas Juvenile Justice Department are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board and the department are abolished September 1, 2021 [~~2017~~].

SECTION 4. Chapter 203, Human Resources Code, is amended by adding Sections 203.017 and 203.018 to read as follows:

Sec. 203.017. REGIONALIZATION PLAN. (a) The department shall develop and the board shall adopt a regionalization plan for keeping children closer to home in lieu of commitment to the secure facilities operated by the department under Subtitle C.

(b) The department shall consult with juvenile probation

departments in developing a regionalization plan, including the identification of:

(1) post-adjudication facility capacity that may be dedicated to support the plan; and

(2) resources needed to implement the plan.

(c) The regionalization plan must define regions of the state to be served by facilities operated by juvenile probation departments, counties, halfway houses, or private operators, based on the post-adjudication facilities identified as being available for the purpose of the plan.

(d) The department shall ensure that each region has defined, appropriate, research-based programs for the target populations under the regionalization plan.

(e) The regionalization plan must:

(1) include a budget review, redirection of staff, and funding mechanisms necessary to support the plan;

(2) create a new division of the department responsible for administering the regionalization plan and monitoring program quality and accountability;

(3) include sufficient mechanisms to divert at least:

(A) 30 juveniles from commitment to secure facilities operated by the department for the state fiscal year beginning September 1, 2015; and

(B) 150 juveniles from commitment to secure facilities operated by the department for the state fiscal year beginning September 1, 2016; and

(4) for the state fiscal year beginning September 1, 2017, and each subsequent state fiscal year, include any savings that are generated by the decreases in the population of the secure facilities operated by the department under Subtitle C that exceed the cost of implementing the plan.

(f) The division created under Subsection (e)(2) shall:

(1) approve plans and related protocols to administer the developed regional model;

(2) provide training on best practices for all local probation departments affected by the regionalization plan;

(3) assist in research-based program development;

(4) monitor contract and program measures for the regionalization plan;

(5) analyze department data to provide clear guidance to local probation departments on outcome measures; and

(6) report on performance of specific programs and placements to assist in implementing best practices and maximize the impact of state funds.

(g) A region is eligible for funding to support evidence-based, intensive in-home services only if the region meets the performance standards established by the department and adopted in contracts for placement and services.

(h) The department shall adopt rules to allow the local probation departments implementing the regionalization plan to access the data submitted by those departments in the state juvenile case management system for planning and research purposes.

(i) The regionalization plan developed under this section must be finalized not later than August 31, 2016.

(j) For the state fiscal years beginning September 1, 2015, and September 1, 2016, the legislature shall appropriate funds necessary to develop and initiate the implementation of the regionalization plan. Funds appropriated for this purpose may not be offset by projected savings generated by the decreases in the population of the secure facilities operated by the department under Subtitle C. This subsection and Subsection (i) expire September 1, 2017.

Sec. 203.018. SPECIALIZED PROGRAMS AND SPECIAL PROJECTS.

(a) The department shall develop specialized programs for children

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with a determinate sentence and children committed under Section 54.04013, Family Code. The programs must ensure safety and security for committed children and provide developmentally appropriate program strategies.

(b) The department shall establish performance-based goals related to improved outcomes that:

(1) must include measures to reduce recidivism; and

(2) shall include other well-being outcome measures.

(c) The department shall use case review strategies to identify children in department facilities who can safely and appropriately be transferred to alternative local placements or halfway houses, placed on parole, or discharged from the department.

(d) The department shall study and report to the board on the potential for repurposing existing secure facilities for the confinement of children with a determinate sentence or children committed under Section 54.04013, Family Code, or for other purposes.

(e) The department or any local probation department may not use or contract with a facility that was constructed or previously used for the confinement of adult offenders.

SECTION 5. Section 221.003, Human Resources Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Any risk and needs assessment instrument or process that is provided or approved by the department for a juvenile probation department to use under Subsection (b) must be a validated instrument or process.

SECTION 6. Section 223.001, Human Resources Code, is amended to read as follows:

Sec. 223.001. DETERMINATION OF AMOUNT OF STATE AID. (a) The department shall annually allocate funds for financial assistance to juvenile boards to provide juvenile services according to

current estimates of the number of juveniles in each county, a basic probation funding formula for departments that clearly defines what basic probation entails and which services are provided, and other factors the department determines are appropriate.

(b) The legislature may appropriate the amount of state aid necessary to supplement local funds to maintain and improve statewide juvenile services that comply with department standards and to initiate and support the regionalization plan under Section 203.017 so that savings are generated by decreases in the population of department facilities operated under Subtitle C.

(c) The department shall [~~may~~] set aside a portion of the funds appropriated to the department for discretionary state aid to fund programs designed to address special needs or projects of local juvenile boards, including projects dedicated to specific target populations based on risk and needs, and with established recidivism reduction goals. The department shall develop discretionary grant funding protocols based on documented, data-driven, and research-based practices.

(d) The department shall reimburse counties for the placement of children in the regional specialized program at a rate that offers a savings to the state in relation to the average cost per day for confining a child in a department facility operated under Subtitle C.

(e) The department may not adversely impact the state aid for a juvenile board or a juvenile probation department that does not enter into a contract to serve youth from other counties, or does not act as a regional facility.

(f) A juvenile board or juvenile probation department may not be required to accept a child for placement in a post-adjudication correctional facility, unless the child is subject to an order issued by a juvenile court served by that board or department.

SECTION 7. Sections 261.101(a) and (e), Human Resources Code, are amended to read as follows:

(a) The independent ombudsman shall:

(1) review the procedures established by the board and evaluate the delivery of services to children to ensure that the rights of children are fully observed;

(2) review complaints filed with the independent ombudsman concerning the actions of the department and investigate each complaint in which it appears that a child may be in need of assistance from the independent ombudsman;

(3) conduct investigations of complaints, other than complaints alleging criminal behavior, if the office determines that:

(A) a child committed to the department or the child's family may be in need of assistance from the office; or

(B) a systemic issue in the department's provision of services is raised by a complaint;

(4) review or inspect periodically the facilities and procedures of any institution or residence in which a child has been placed by the department, whether public or private, to ensure that the rights of children are fully observed;

(5) provide assistance to a child or family who the independent ombudsman determines is in need of assistance, including advocating with an agency, provider, or other person in the best interests of the child;

(6) review court orders as necessary to fulfill its duties;

(7) recommend changes in any procedure relating to the treatment of children committed to the department;

(8) make appropriate referrals under any of the duties and powers listed in this subsection;

(9) supervise assistants who are serving as advocates in

their representation of children committed to the department in internal administrative and disciplinary hearings;

(10) review reports received by the department relating to complaints regarding juvenile probation programs, services, or facilities and analyze the data contained in the reports to identify trends in complaints; ~~and~~

(11) report a possible standards violation by a local juvenile probation department to the appropriate division of the department; and

(12) immediately report the findings of any investigation related to the operation of a post-adjudication correctional facility in a county to the chief juvenile probation officer and the juvenile board of the county.

(e) Notwithstanding any other provision of this chapter, the powers of the office include:

(1) ~~[are limited to]~~ facilities operated and services provided by the department under Subtitle C;

(2) post-adjudication correctional facilities under Section 51.125, Family Code;

(3) any other residential facility in which a child adjudicated as having engaged in conduct indicating a need for supervision or delinquent conduct is placed by court order; and

(4) the investigation of complaints alleging a violation of the rights of the children placed in a facility described by Subdivision (2) or (3).

SECTION 8. The changes in law made by Section 54.04(d), Family Code, as amended by this Act, and Section 54.04013, Family Code, as added by this Act, apply only to conduct that occurs on or after September 1, 2017. Conduct that occurs before September 1, 2017, is governed by the law in effect when the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before September 1, 2017,

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if any element of the conduct occurs before that date.

SECTION 9. This Act takes effect September 1, 2015.

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 1630 passed the Senate on April 14, 2015, by the following vote: Yeas 31, Nays 0; May 28, 2015, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 29, 2015, House granted request of the Senate; May 31, 2015, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 1630 passed the House, with amendments, on May 26, 2015, by the following vote: Yeas 134, Nays 11, two present not voting; May 29, 2015, House granted request of the Senate for appointment of Conference Committee; May 31, 2015, House adopted Conference Committee Report by the following vote: Yeas 137, Nays 7, two present not voting.

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Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

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Governor