

Texas Juvenile Law

8th Edition

2014 Supplement



Robert Dawson

Texas Juvenile Justice Department

TEXAS JUVENILE LAW

EIGHTH EDITION

2014 Supplement

*A Compilation of Updated Case Law and Statutes Related to Texas Juvenile Law
Through the 83^d Texas Legislature, 2013*



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Editor's Preface

The Texas Juvenile Justice Department is proud to publish this 2014 Supplement to *Texas Juvenile Law, 8th Edition*. For nearly twenty years, this Supplement has been issued during the interim years to document the major conceptual and statutory changes contained in juvenile-related appellate cases and statutory laws enacted over the intervening legislative cycle. For the first time, this Supplement has been published only in a printable electronic format and for posting on the Department's website. As result of system changes and the impact on agency personnel, the release of this publication has been delayed by several months. We are nevertheless committed to ensuring that this update of the *8th Edition* will provide much needed analysis and interpretation of juvenile case and statutory law available in the state.

The 2014 Supplement includes updated case law through September 1, 2013, along with statutory amendments by the 83rd Texas Legislature in one convenient reference guide. The complexity of the juvenile justice system and the expansion of the numerous responsibilities and duties of prosecutors, defense attorneys, probation officers, facility administrators, as well as judges and other court officials, make this publication an essential supplement to the two volumes of *Texas Juvenile Law* published in December 2012.

The publication should be used in conjunction with *Texas Juvenile Law, 8th Edition* and the Statutory Supplement, Vol. II. The first part of this Supplement follows the chapters of *Texas Juvenile Law, 8th Edition*, but includes only the chapters that have been affected by new appellate case law or legislation. The chapters with no new cases or legislative changes have been omitted and are designated accordingly in the Table of Contents. It should also be noted, that this issue has focused exclusively on leading appellate case law. It is anticipated that a more comprehensive review of the case law will be incorporated in the *Texas Juvenile Law, 9th Edition* slated to be published in August 2016.

We hope this 2014 Supplement becomes your quick reference guide to updated case law, as well as the actions of the 83rd Texas Legislature that affected juvenile law. Any statutes not included may easily be accessed via the Internet on the Texas Constitution and Statutes website at www.statutes.legis.state.tx.us/Index.aspx. According to that website, changes to the statutes enacted during the 83rd Regular and First Called sessions were verified and incorporated on that site in March 15, 2013. The Legislative Reference Library of Texas also offers concise, up-to-date legislative information at www.lrl.state.tx.us/. Additionally, a recap of relevant legislative enactments by the 83rd Texas Legislature is available, along with section-by-section commentary, in the *2013 Special Legislative Issue*, State Bar of Texas, 27 Juvenile Law Section Report, No. 3 (August 2013) at www.juvenilelaw.org/Portals/0/Newsletters/2013/2013Leg.pdf.

The Texas Juvenile Justice Department hopes that practitioners around the state will find the 2014 Supplement useful. We encourage you to continue to call us with questions, feedback and suggestions to promote the interests of the children and families of Texas. You can contact our Legal Help Desk at (512) 490-7121 or email us at Legalhelp@tjjd.texas.gov.

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Editor’s Preface	i
Summary of Contents	ii

Update to Texas Juvenile Law, 8th Edition

CHAPTER 1:	Introduction to Texas Juvenile Law for Non-Lawyers [omitted]	
CHAPTER 2:	The Juvenile Board, Juvenile Court, Magistrate, Referee, Master and Associate Judge	1
CHAPTER 3:	Age Limits in the Juvenile Justice System	1
CHAPTER 4:	Criminal Violations, Delinquent Conduct and Conduct Indicating a Need for Supervision	2
CHAPTER 5:	Court and Prosecutorial Intake	2
CHAPTER 6:	Juvenile Detention and Secure Juvenile Correctional Facilities	2
CHAPTER 7:	Pre-Trial Proceedings in Juvenile Court [omitted]	
CHAPTER 8:	Right to Counsel, Guardian Ad Litem and Interpreter	6
CHAPTER 9:	The Prosecuting Attorney and the Petition, Summons and Service [omitted]	
CHAPTER 10:	Discretionary Transfer to Criminal Court	6
CHAPTER 11:	The Adjudication Hearing.....	7
CHAPTER 12:	Dispositional Powers and Procedures.....	8
CHAPTER 13:	Modification of Dispositions.....	12
CHAPTER 14:	Mental Illness or Retardation Proceedings	12
CHAPTER 15:	Access to and Confidentiality of Juvenile Records and Proceedings	13
CHAPTER 16:	Juvenile Confessions and Waivers of Rights.....	16
CHAPTER 17:	Law Enforcement and Juveniles: Arrests, Searches, First Offender Programs and Authorized Dispositions	17
CHAPTER 18:	Interstate Aspects of Juvenile Proceedings	17
CHAPTER 19:	Appeals and Collateral Attacks in Juvenile Cases.....	17
CHAPTER 20:	Sources of Law for the Juvenile Justice System [omitted]	
CHAPTER 21:	Determinate Sentencing Proceedings for the Violent or Habitual Offender	17

CHAPTER 22:	Schools and the Juvenile Justice System [omitted]	
CHAPTER 23:	Prosecution and Adjudication of Juveniles in Municipal or Justice Courts [omitted]	
CHAPTER 24:	Civil Liability of Probation Officers for Official Acts or Omissions [omitted]	
CHAPTER 25:	Victim’s Rights	19
CHAPTER 26:	Parental Rights and Responsibilities	20
CHAPTER 27:	Inter-County Transfer of Probation Supervision	20
CHAPTER 28:	Texas Juvenile Justice Department.....	21

2014 Statutory Supplement

PART ONE: The Processing of Juvenile Cases	23
---------------------------------------------------------	-----------

Chapter 1: Title 3 Juvenile Justice Code and Related Provisions	23
------------------------------------------------------------------------------	-----------

Family Code

Texas Family Code Chapter 51. General Provisions	23
Texas Family Code Chapter 52. Proceedings Before and Including Referral to Court	26
Texas Family Code Chapter 53. Proceedings Prior to Judicial Proceedings	29
Texas Family Code Chapter 54. Judicial Proceedings.....	30
Texas Family Code Chapter 55. Proceedings Concerning Children with Mental Illness or Mental Retardation [omitted]	36
Texas Family Code Chapter 56. Appeal.....	37
Texas Family Code Chapter 57. Rights of Victims	37
Texas Family Code Chapter 58. Records; Juvenile Justice Information System	37
Texas Family Code Chapter 59. Progressive Sanctions Model.....	40
Texas Family Code Chapter 60. Uniform Interstate Compact on Juveniles [omitted]	41
Texas Family Code Chapter 61. Rights and Responsibilities of Parents and Other Eligible Persons	41

Code of Criminal Procedure

Art. 4.19. Transfer of Person Certified to Stand Trial as an Adult	41
Art. 15.27. Notification to School Required.....	42
Art. 24.011. Subpoena; Child Witnesses	44
Art. 56.02. Crime Victims’ Rights	44
Art. 56.021. Rights of Victim of Sexual Assault [new]	45
Art. 56.32. Definitions.....	46
Art. 62.0045. Centralized Registry Authority	46

Penal Code

§ 8.07. Age Affecting Criminal Responsibility.....	46
§ 8.08. Child with Mental Illness, Disability or Lack of Capacity [new]	46
§12.42. Penalties for Repeat and Habitual Felony Offenders on Trial for First, Second, or Third Degree Felony	47

Government Code

§ 103.0210. Additional Fees in Certain Juvenile Cases: Family Code [Repealed]	48
§ 103.0212. Additional Fees and Costs in Criminal or Civil Cases: Family Code.....	48
§ 103.027. Miscellaneous Fees and Costs: Government Code.....	49

Human Resources Code		
§ 243.005.	Information Provided by Committing Court	49
Chapter 2: Determinate Sentence and Discretionary Transfer Cases.....		50
Family Code		
§ 51.0412.	Jurisdiction Over Incomplete Proceedings.....	50
§ 51.13.	Effect of Adjudication or Disposition	50
§ 53.045.	Offenses Eligible for Determinate Sentence	50
§ 54.04.	Disposition Hearing	51
§ 54.04011.	Trafficked Persons Program [omitted] [new]	53
§ 54.04011.	Commitment to Post-Adjudication Secure Correctional Facility [new]	53
§ 54.052.	Credit for Time Spent in Detention Facility for Child with Determinate Sentence.....	53
§ 54.11.	Release or Transfer Hearing	54
§ 59.009.	Sanction Level Six	54
§ 59.010.	Sanction Level Seven.....	55
Human Resources Code		
§ 243.005.	Information Provided by Committing Court	55
§ 244.014.	Referral of Determinate Sentence Offenders for Transfer [amended heading]	56
Government Code		
§ 508.145.	Eligibility for Release on Parole; Computation of Parole Eligibility Date	56
§ 508.149.	Inmates Ineligible for Mandatory Supervision	57
PART TWO: The Structure of the Juvenile Justice System.....		59
Chapter 3: Juvenile Boards		59
Human Resources Code		
§ 152.0016.	Trafficked Persons Program [first of two] [new]	59
§ 152.0016.	Post-Adjudication Secure Correctional Facilities; Release Under Supervision [second of two] [new]	59
§ 152.0751.	Edwards County	60
§ 152.1771.	El Paso	60
§ 152.2361.	Upshur County.....	60
§ 152.2391.	Val Verde County	60
Family Code		
§ 51.12.	Place and Conditions of Detention	61
Code of Criminal Procedure		
Art. 26.04.	Procedures for Appointing Counsel.....	61
Government Code		
§ 79.036.	Indigent Defense Information.....	61
§ 402.042.	Questions of Public Interest and Official Duties	62
§ 551.001.	Definitions	62
§ 551.021.	Minutes or Recording of Open Meeting Required	62
§ 551.022.	Minutes and Recording of Open Meeting: Public Record	62
§ 551.023.	Recording of Meeting by Person in Attendance	62
§ 551.0725.	Commissioners Courts: Deliberation Regarding Contract Being Negotiated; Closed Meeting	62
§ 551.103.	Certified Agenda or Recording Required.....	62
§ 551.104	Certified Agenda or Recording Preservation; Disclosure.....	62

§ 551.125.	Other Governmental Body.....	63
§ 551.145.	Closed Meeting Without Certified Agenda or Recording: Offense; Penalty.....	63
§ 551.146.	Disclosure of Certified Agenda or Recording of Closed Meeting; Offense; Penalty; Civil Liability.....	63
§ 552.117.	Exception: Confidentiality of Certain Addresses, Telephone Numbers, Social Security Numbers and Personal Family Information.....	63
§ 552.1175.	Confidentiality of Certain Personal Information of Peace Officers, County Jailers, Security Officers, and Employees of Certain Criminal or Juvenile Justice Agencies or Offices.....	64
Chapter 4:	Juvenile Probation Departments and Personnel [omitted]	64
Chapter 5:	Juvenile Facilities.....	64
	Family Code	
§ 51.02.	Definitions	64
§ 51.12	Place and Conditions of Detention.....	64
§ 54.04.	Disposition Hearing	65
	Code of Criminal Procedure	
Art. 4.19.	Transfer of Person Certified to Stand Trial as an Adult.....	66
	Human Resources Code	
§ 203.016	Data Regarding Placement in Disciplinary Seclusion [new]	67
§ 221.002	General Rules Governing Juvenile Boards, Probation Departments, Probation Officers, Programs and Facilities.....	67
§ 222.003	Minimum Standards for Certain Employees of Nonsecure Correctional Facilities	67
	Government Code	
§ 23.101	Primary Priorities	67
Chapter 6:	Reporting and Investigating Child Abuse, Neglect or Exploitation	68
	Family Code	
§ 261.001.	Definitions	68
§ 261.004.	Statistics and Neglect of Children	68
§ 261.101.	Persons Required to Report; Time to Report.....	68
§ 261.109.	Failure to Report; Penalty	68
Chapter 7:	Texas Juvenile Justice Department	68
	Human Resources Code	
	Human Resources Code Title 12. Juvenile Justice Services and Facilities	
§ 203.0081.	Advisory Council on Juvenile Services	68
§ 203.0016.	Data Regarding Placement in Disciplinary Seclusion [new]	69
§ 221.002.	General Rules Governing Juvenile Boards, Probation Departments, Probation Officers, Programs and Facilities.....	69
§ 221.0035	Best Practices to Identify and Assess Victims of Sex Trafficking.....	69
§ 221.0061.	Trauma-Informed Care Training [new]	69
§ 222.003.	Minimum Standards for Certain Employees of Nonsecure Correctional Facilities	69
§ 242.002.	Evaluation of Treatment Programs; Availability	69
§ 243.005.	Information Provided by Committing Court.....	70
	Government Code	
§ 411. 137.	Access to Criminal History Record Information: Texas Juvenile Probation Commission [repealed]	70

§ 411.1141.	Access to Criminal History Record Information: Texas Juvenile Justice Department.....	70
Chapter 8:	Office of the Independent Ombudsman for the Texas Juvenile Justice Department	71
	Family Code	
§ 261.051.	Appointment of Independent Ombudsman	71
Chapter 9:	Texas Department of Family and Protective Services [omitted]	71
PART THREE: Prosecution and Adjudication of Juveniles in Justice and Municipal Courts.....		73
Chapter 10:	Provisions Applicable to All Cases	73
	Penal Code	
§ 8.07.	Age Affecting Criminal Responsibility	73
§ 8.08.	Child with Mental Illness, Disability, or Lack of Capacity [new].....	73
	Family Code	
§ 51.03.	Delinquent Conduct; Conduct Indicating a Need for Supervision	73
§ 51.08.	Transfer from Criminal Court.....	74
§ 58.007.	Physical Records or Files	74
§ 58.00711.	Records Relating to Children Convicted of or Receiving Deferred Disposition for Fine-Only Misdemeanors [first of two]	74
§ 58.00711.	Records Relating to Children Charged with or Convicted of Fine-Only Misdemeanors [second of two]	74
§ 58.106.	Confidentiality.....	74
	Code of Criminal Procedure	
Art. 42.15.	Fines and Costs	74
Art. 43.091.	Waiver of Payment of Fines and Costs for Indigent Defendants and Children	75
Art. 44.2811.	Records Relating to Children Convicted of or Receiving Deferred Disposition for Fine-Only Misdemeanors [first of two]	75
Art. 44.2811.	Records Relating to Certain Fine-Only Misdemeanors Committed by a Child [second of two]	75
Art. 45.0216.	Expunction of Certain Conviction Records	75
Art. 45.0217.	Confidential Records Related to Charges Against or the Conviction of or Deferral of Disposition for a Child.....	75
Art. 45.041.	Judgment.....	76
Art. 45.0491.	Waiver of Payment of Fines and Costs for Indigent Defendants and Children	76
Art. 45.0511.	Driving Safety Court or Motorcycle Operator Course Dismissal Procedures	76
Art. 45.056.	Juvenile Case Managers	77
Art. 45.058.	Children Taken Into Custody.....	78
Chapter 11:	Provisions Applicable to Traffic Cases.....	78
	Penal Code	
§ 8.07.	Age Affecting Criminal Responsibility	78
§ 8.08.	Child with Mental Illness, Disability, or Lack of Capacity [new]	79
	Family Code	
	[Omitted – Changes unrelated to Traffic Offenses]	
	Transportation Code	
§ 502.410.	Falsification or Forgery	79
§ 545.424.	Operation of Vehicle by Person Under 18 Years of Age	79
§ 550.021.	Accident Involving Personal Injury or Death	79

Chapter 12: Provisions Applicable to Alcohol Cases80

Alcoholic Beverage Code

§ 106.115. Attendance at Alcohol Awareness Course; License Suspension.....80

Chapter 13: Provisions Applicable to Failure to Attend School Cases.....80

Family Code

§ 54.021. County, Justice, or Municipal Court Truancy80

Chapter 14: Provisions Applicable to Tobacco Cases [omitted].....81

PART FOUR: Education Issues in the Juvenile Justice System.....83

Chapter 15: Provisions Applicable to School Discipline; Law and Order.....83

Education Code

Chapter 37. Discipline; Law and Order83

Subchapter A. Alternative Settings for Behavior Management83

§ 37.001. Student Code of Conduct.....83

§ 37.0022. Removal by School Bus Driver **[new]**.....84

§ 37.0181. Professional Development Regarding Disciplinary Procedures **[new]**84

Subchapter C. Law and Order84

§ 37.081. School District Peace Officers and Security Personnel.....84

§ 37.0811. School Marshals **[new]**85

§ 37.085. Arrests Prohibited for Certain Class C Misdemeanors **[new]**.....86

Subchapter D. Protection of Buildings and Grounds.....86

§ 37.1081. School Safety Certification Program **[new]**86

§ 37.1082. School Safety Task Force **[new]**86

§ 37.124. Disruption of Classes87

§ 37.126. Disruption of Transportation.....87

Subchapter E-1. Criminal Procedure **[new]**87

§ 37.141. Definitions87

§ 37.142. Conflict of Law87

§ 37.143. Citation Prohibited; Custody of Child87

§ 37.144. Graduated Sanctions for Certain School Offenses.....87

§ 37.145. Complaint88

§ 37.146. Requisites of Complaint88

§ 37.147. Prosecuting Attorneys88

§ 37.2051. Security Criteria for Instructional Facilities **[repealed]**.....88

§ 37.306. Review of Placement in Alternative Education Program88

Chapter 16: School Attendance and Safe Schools88

Education Code

§ 25.087. Excused Absences88

§ 25.0915. Truancy Prevention Measures; Referral and Filing Requirement.....90

§ 25.0916. Uniform Truancy Policies in Certain Counties90

§ 25.092. Minimum Attendance for Class Credit or Final Grades.....91

Family Code		
§ 51.03.	Delinquent Conduct; Conduct Indicating a Need for Supervision	92
§ 51.04.	Jurisdiction	92
§ 54.021.	County, Justice or Municipal Court Truancy	92
Penal Code [omitted]		93
Code of Criminal Procedure		93
Art. 15.27	Notification to Schools	93
Government Code [omitted]		95
PART FIVE: Juvenile Information Databases		97
Chapter 17: Sex Offenders and Related Codes		97
Code of Criminal Procedure		
Chapter 62.	Sex Offender Registration Program	97
Subchapter A.	General Provisions	97
Art. 62.0045.	Centralized Registration Authority	97
Art. 62.005.	Central Database; Public Information.....	97
Subchapter B.	Registration and Verification Requirements; Related Notice	97
Art. 62.053.	Prerelease Notification.....	97
Art. 62.058.	Law Enforcement Verification of Registration Information	98
Art. 62.063.	Prohibited Employment [new]	98
Subchapter C.	Expiration of Duty to Register; General Penalties for Noncompliance.....	98
Art. 62.102.	Failure to Comply with Registration Requirements	98
Subchapter H.	Exemptions from Registration for Certain Juveniles	98
Art. 62.352.	Order Generally	98
Chapter 18: DNA [omitted]		99
Chapter 19: Gangs [omitted]		99
Chapter 20: Criminal History Record Information		99
Government Code		
Chapter 411.	Department of Public Safety of the State of Texas	99
Subchapter F.	Criminal History Record Information (Selected Statutes)	
§ 411.081.	Application of Subchapter	99
§ 411.082.	Definitions	103
§ 411.088.	Fees	103
§ 411.091.	Access to Criminal History Record Information: Texas Alcoholic Beverage Commission	104
§ 411.092.	Access to Criminal History Record Information: Banking Commissioner	104
§ 411.094.	Access to Criminal History Record Information: Higher Education Entities; Security-Sensitive Position [title change only]	104
§ 411.0945.	Access to Criminal History Record Information: Public Institution of Higher Education: On-Campus Student Housing [new]	104
§ 411.0114.	Access to Criminal History Record Information: Department of Family and Protective Services	105
§ 411.1141.	Access to Criminal History Record Information: Texas Juvenile Justice Department.....	106

§ 411.137.	Access to Criminal History Record Information: Texas Juvenile Probation Commission [repealed]	106
§ 411.1387.	Access to Criminal History Record Information: Facility, Regulatory Agency, or Private Agency	106
§ 411.1410.	Access to Criminal History Record Information: United States Armed Forces [new]	107
PART SIX: Evidentiary and Miscellaneous Statutes		109
Chapter 21: Evidentiary and Miscellaneous Statutes		109
Code of Criminal Procedure		
Art. 37.07.	Verdict Must be General; Separate Hearing on Proper Punishment	109
Chapter 38: Evidence in Criminal Actions		
Art. 38.01.	Texas Forensic Service Commission	109
Art. 38.22.	When Statements May be Used	112
Art. 38.30.	Interpreter.....	112
Art. 38.31.	Interpreters for Deaf Persons	113
Art. 38.37.	Evidence of Extraneous Offenses or Acts	113
Art. 38.41.	Certificate of Analysis	114
Art. 38.42.	Chain of Custody Affidavit	114
Art. 38.43.	Evidence Containing Biological Material.....	114
Art. 38.47.	Evidence in Aggregation Prosecution for Fraud or Theft Committed with Respect to Numerous Medicaid or Medicare Recipients.....	115
Art. 38.48.	Evidence in Prosecution for Tampering with Witness or Prospective Witness Involving Family Violence [new]	115
Art. 38.49.	Forfeiture by Wrongdoing [new]	115
Family Code		
§ 51.17.	Procedure and Evidence	116
PART SEVEN: Federal Laws Affecting Juvenile Justice		117
Chapter 22: Juvenile Justice and Delinquency Prevention Act (Select Provisions) [omitted]		
Chapter 23: Prison Rape Elimination Act of 2003 (PREA) [omitted]		
Chapter 24: Civil Rights of Institutionalized Persons of 1980 (CRIPA) [omitted]		
Chapter 25: Violent Crime Control and Law Enforcement Act of 1994 [omitted]		
PART EIGHT: Texas Juvenile Justice Department Administrative Code Provisions.....		119
Chapter 26: Administrative Rules Applicable to Community-Based Juvenile Justice Facilities, Programs and Services		119
Texas Administrative Code (TAC), Title 37, Public Safety and Corrections, Part 11		
Chapter 342 Standards for Housing Non-Texas Juveniles in Texas Detention and Corrections Facilities		
§ 342.1.	Authority to House Out-of-State Juveniles	
§ 342.2.	Registration and Standards Compliance	
§ 342.3.	Contracts with Other States for Housing Non-Texas Juveniles	

Chapter 343 Standards for Secure Juvenile Pre-Adjudication Detention and Post-Adjudication Correctional Facilities

- § 343.100. Definitions.
- § 343.212. Duties of Facility Administrator
- § 343.224. Alternate Power Source
- § 343.240. Safety Codes
- § 343.288. Disciplinary Seclusion
- § 343.302. Menu Plans
- § 343.332. Behavioral Health Care Services for Sexual Abuse Victims
- § 343.340. Suicide Prevention Plan
- § 343.346. Mental Health Referral of High Risk Suicidal Youth
- § 343.342. Review and Dissemination of Suicide Prevention Plan
- § 343.348. Supervision of High Risk Suicidal Youth
- § 343.350. Supervision of Moderate Risk Suicidal Youth
- § 343.400. Intake and Admission (Pre-Adjudication)
- § 343.404. Mental Health Screening and Referral
- § 343.446. Exceptions to General Levels of Supervision (Pre-Adjudication)
- § 343.600. Required Pre-Admission Records
- § 343.602. Intake and Admission (Post-Adjudication)
- § 343.604. Health Screening and Assessment
- § 343.638. Exceptions to General Levels of Supervision (Post-Adjudication)
- § 343.810. Mechanical Restraint
- § 343.812. Non-Ambulatory Mechanical Restraints

Chapter 344 Employment, Certification and Training for Juvenile Officers

- §344.800. Positions Requiring Certification.

Chapter 346 Funding Formulas [repealed]

Chapter 349 General Administrative Standards

- § 349.410. Administrative Review and Appeal of Investigation Findings

Chapter 355 Standards for Non-Secure Correctional Facilities [added]

- §355.100 to §355.818.

Editor’s Note and Electronic Links120

Update to Texas Juvenile Law, 8th Edition

Chapter 2: The Juvenile Board, Juvenile Court, Magistrate, Referee, Master & Associate Judge

Page 15. Add the following after the first partial paragraph in the first column.

Article 4.19 of the Code of Criminal Procedure was amended in 2013 to codify Attorney General Opinion GA-0927 into law. The legislature deleted the phrase “and treated as an adult as provided by this code” from Article 4.19 to clarify that a person under the age of 17 who is held in a county jail must be sight and sound separated from adults to the extent required under Family Code Section 51.12(f). Subsection (b) specifies that the judge of the criminal court must order a person who turns 17 pending trial to be transferred from the juvenile detention facility to the county jail.

Page 15. Add the following new section after the second paragraph in the first column.

Juvenile Board Policies and Programs. In 2013, the legislature added two identically numbered sections to the Human Resources Code that required local juvenile boards to establish new policies and programs. Senate Bill 92, added Section 152.0016 relating to the authority of local juvenile boards to establish a trafficked persons program in order to provide assistance, treatment and rehabilitation for children believed to be victims of human trafficking and who are alleged to have engaged in or who have been adjudicated for delinquent conduct or conduct indicating a need for supervision. The primary focus of the trafficked persons program is to provide children with prompt access to integrated services and placements as well as ensure regular court appearances for monitoring and compliance purposes.

Senate Bill 511 added the second Section 152.0016 provision, which authorized a five-year pilot program to divert youth from commitment to Texas Juvenile Justice Department (TJJD) state institutions and place them in community-based post-adjudication secure correctional facilities. As filed, the legislation would have applied to 12 counties that comprised nearly one-half of the state’s post-adjudication secure correctional facilities. In the final version of the bill, the legislature opted to limit the scope of the applicability of the pilot program to Travis County, the only county that met the population threshold of more than one million and less than 1.5 million. The authority to implement the pilot program expires on December 31, 2018.

The basic concept of the Travis County pilot program would allow felony offenders to be committed to a community-based post-adjudication secure correctional facility closer to home. Section 152.0016 of the Human Resources Code requires the county juvenile board to establish a policy to authorize use of the local post-adjudication secure correctional facility to commit TJJD-eligible felony offenders and to operate a parole supervision program. The statute specifies that committed felony offenders must be treated “in the same manner” as youth who are committed to TJJD. The remainder of the statute outlines the derivative steps that the local juvenile board must take to implement the program including the requirement to develop rules that: 1) establish a minimum length of stay; 2) comply with the statutory release requirements for determinate sentence offenders; 3) require home studies to be conducted prior to release of youth on parole supervision; 4) set forth parole revocation requirements; 5) outline proceedings for the release or transfer of determinate sentence offenders; and 6) develop a comprehensive plan to reduce recidivism and ensure successful reentry and reintegration into the community.

Page 15. Add the following after the second paragraph in the second column.

In 2013, the legislature expanded the courts that are eligible to preside over children referred for juvenile cases who are believed to be victims of human trafficking. Section 51.04(i), authorizes the local juvenile board to designate courts with shared jurisdiction over Title 5 proceedings (i.e., child abuse cases) to also serve as a juvenile court or alternative juvenile court. In a related provision, Section 51.0413 was added to permit a court that does not have jurisdiction over Title 5 matters to transfer any case involving a child believed to be a victim of human trafficking to a designated court with shared jurisdiction under Section 51.04(i).

Chapter 3: Age Limits in the Juvenile Justice System

Page 30. Replace the second full paragraph and statutory language in the second column with the following.

In 2003, the legislature enacted Section 54.051(i) to address the question of placing a youth who has reached the maximum age of court control on determinate sentence probation. The purpose of the original enactment was to prevent the creation of determinate sentence ineligibility merely because the person has aged out during the pendency of the case. In 2011, the legislature extended the age of jurisdictional control for youth on determinate sentence probation from 18 to 19. Conforming changes to this provision were enacted in 2013. Section 54.051(i) provides:

If the juvenile court exercises jurisdiction over a person who is 18 or 19 years of age or older, as applicable, under Section 51.041 or 51.0412, the court or jury may, if the person is otherwise eligible, place the person on probation under Section 54.04(q). The juvenile court shall set the conditions of probation and immediately transfer supervision of the person to the appropriate court exercising criminal jurisdiction under Subsection (e).

Page 30. Insert the following at the end of the first paragraph in the first column.

In *In re B.R.H.*, 426 S.W.3d 163, 2012 Tex. App. LEXIS 7622, 2012 WL 3775759, Juvenile Law Newsletter ¶ 12-4-5, (Tex. App. Houston 1st Dist. 2012) (the juvenile court did not abuse its discretion since the amended determinate sentence petition related back to the filing date of the original delinquency petition which was filed before the respondent turned 18).

Page 44. Add the following new section after the last paragraph in the second column.

Age Affecting Criminal Responsibility. In an effort to divert low-level misdemeanants from the ever-expanding justice and municipal court dockets, in 2013, the legislature amended Penal Code Section 8.07 to limit the offenses for which a child may be held criminally responsible. Subsections (d) and (e) were added to eliminate the jurisdictional authority to prosecute children of a certain age who cannot formulate the necessary intent to commit a crime. Subsection (d) prohibits prosecution of a fineable only misdemeanor or a violation of a penal ordinance of a political subdivision offense committed when a child is younger than 10 years of age. The language in Subsection (e) specifies that a child who is at least 10 but not yet 15 is presumed incapable of committing these offenses. Procedurally, the statute establishes a rebuttable presumption that may be overcome by a preponderance of evidence that proves that the child has sufficient capacity to understand the wrongfulness of his or her conduct. Policymakers contend that these procedural requirements may drastically curtail the number of prosecutions for low-level criminal conduct by children.

Chapter 4: Criminal Violations, Delinquent Conduct and Conduct Indicating a Need for Supervision

Page 47. Replace the first paragraph in the first column with the following.

There are special circumstances justifying giving criminal courts jurisdiction in each of these instances. In addition, the legislature amended Penal Code Section 8.07 in 2013 to establish a rebuttable presumption that a child who is at least 10 but younger than 15 years of age is

presumed incapable of committing a fine-only misdemeanor or violating a penal ordinance of a political subdivision. In this chapter, the exclusions and the reasons for them are discussed; in Chapter 23, the prosecutorial details of criminal prosecution and adjudications of juveniles in justice and municipal courts are discussed.

Chapter 5: Court and Prosecutorial Intake

Page 83. Replace the third paragraph in the second column with the following.

Duty to Refer for Appropriate Mental Evaluation and Services. In 2005, the legislature added Section 51.20(c), which requires juvenile probation departments to refer certain children to the local mental health or mental retardation authority for evaluation and services. In 2013, Section 51.20 was amended to add chemical dependency to the list of conditions for which an examination may be ordered by the court at its discretion or upon the request of the child's parent or guardian. A child on deferred prosecution supervision or court-ordered probation who has been determined by a qualified professional to have a mental illness or mental retardation or suffers from chemical dependency and who is not already receiving treatment services must be referred to the local mental health or mental retardation authority or to another appropriate and legally authorized agency or provider for evaluation and services. The "qualified professional" may include any qualified mental health professional who has evaluated the child. The evaluation may have occurred at school or at the juvenile probation department or through a private evaluation secured by the juvenile's parents. Section 51.20(d) requires that if a juvenile is referred to the local mental health or mental retardation authority or other agency or provider, the juvenile probation department must also report this referral to the Texas Juvenile Justice Department in a format specified by the agency.

Chapter 6: Juvenile Detention and Correctional Facilities

Page 92. Replace the second, third and fourth paragraphs in the first column with the following.

Before 1999, law enforcement agencies had the discretion to issue guidelines for informal disposition under Section 52.03 or first offender treatment under Section 52.031. Those guidelines were subject to juvenile board approval. In an attempt to encourage the disposition of more juvenile cases through such programs, the legislature required that the juvenile board issue guidelines for informal disposition or first offender treatment.

In 2013, Subsection Section 52.032(b) was added to prohibit informal handling of cases involving a child

believed to be a victim of human trafficking. Section 52.032 provides:

- a) The juvenile board of each county, in cooperation with each law enforcement agency in the county, shall adopt guidelines for the disposition of a child under Section 52.03 or 52.031. The guidelines adopted under this section shall not be considered mandatory.
- b) The guidelines adopted under Subsection (a) may not allow for the case of a child to be disposed of under Section 52.03 or 52.031 if there is probable cause to believe that the child engaged in delinquent conduct or conduct indicating a need for supervision and cause to believe that the child may be the victim of conduct that constitutes an offense under Section 20A.02, Penal Code.

It is mandatory for each juvenile board to issue guidelines. However, law enforcement agencies retain discretion as to what use to make of those guidelines. The legislature's purpose was to encourage, but not require, the disposition of cases by informal disposition or first offender programs.

Sections 52.03 and 52.031 both impose limits on what types of cases can be disposed of under those sections and what can be done with those cases that are disposed of under them. Those limits and other details of informal dispositions and first offender programs by law enforcement agencies are discussed more fully in Chapter 7.

Page 95. Replace the second full paragraph in the first column with the following.

Since detention hearings must be held promptly, real problems of providing representation are presented. In 2013, the legislature amended Section 54.01(b-1) to ensure timely representation of counsel and efficiency in juvenile cases. Section 54.01(b-1) specifies that the juvenile court must appoint an attorney within a reasonable time before the first detention hearing, unless exigent circumstances make it impossible to do so. The statute, does not define "exigent circumstances", however the plain meaning of the word would suggest an emergency or other unavoidable circumstance that prohibits the attorney's presence and participation in the initial detention hearing.

In a June 2014 Joint Report of Indigent Defense in the Texas Juvenile System, the Texas Indigent Defense Commission recommends the court's finding of exigent circumstances should be documented in the court's file. Section 51.101(a) also clarifies that an attorney who is appointed prior to the initial detention hearing under Section 54.01(b-1) or (d) in the absence of a parent or guardian continues to represent the child until the case is terminated, the family retains other counsel or the juvenile court appoints a new attorney. Representation continues

even if the child has been released from detention. If there are doubts about the ability of the parents to afford counsel, the attorney should be appointed immediately and an inquiry into the financial ability of the parents to retain counsel may be made later.

Page 95. Add the following after the first paragraph in the second column.

Section 54.01(b-1) requires the court to appoint counsel when feasible even if the attorney is unavailable at the initial detention hearing. The court should document the reason for the attorney's absence. If an attorney is not present at the initial detention hearing and a determination was made to detain the child, the child is entitled to counsel immediately following the hearing.

Page 105. Replace the fourth paragraph in the second column with the following.

Return of Runaway. The judge or referee under Section 54.011(e) may detain a status offender for a period not to exceed the time necessary to arrange for return to the child's home in another state under the Uniform Interstate Compact on Juveniles in Chapter 60 of the Family Code. In 2013, the language specifying a period "not to exceed five days" was stricken to bring Texas law into alignment with the terms of the Compact. This provision is independent of the provisions in Sections 54.01(i) through (k) that permit a runaway child from another county, state or country to request shelter in the detention facility for up to 10 days. Under Section 54.011(e), the child is being detained without regard to whether that is his or her desire; under Sections 54.01(i) through (k), the child is being detained only because he or she requests it.

Page 108. Add the following new section after second paragraph in the first column.

Detention of Child Witnesses. In 2007, Section 52.0151 was added to the Family Code to authorize the issuance of bench warrants to secure the appearance of youth witnesses confined in a TJJD state institution, a juvenile secure correctional facility or a county pre-adjudication detention facility. This provision also authorizes the transport and detention of a child witness in a local certified detention facility in or near the county where the child is to testify. Since a detention hearing is not required, juvenile justice practitioners have asked for guidance on the appropriate administrative or procedural steps to account for the presence and well-being of a child witness who has been confined for a lengthy period of time in a juvenile detention facility due to court delays in a civil or criminal proceeding.

In 2013, the legislature amended Section 52.0151 to limit the stay of a child witness to a period of no more than 30 days and permits the court that issued the bench warrant to extend the placement in 30-day increments as

necessary. The child witness must be returned if the sending court has not extended the bench warrant and allowed the 30-day period to expire. The same language was added to harmonize Article 24.011 of the Code of Criminal Procedure regarding Subpoenas; Child Witness.

Page 108. Replace subdivision (8-a) in the first column with the following.

(8-a) "Nonsecure correctional facility" means a facility described by Section 51.126.

Page 109. Replace the second full paragraph in the first column with the following.

In 2009, the legislature added Section 51.126, which applies the same rules to the operation of nonsecure correctional facilities in Texas. As of June 2014, there are 12 nonsecure correctional facilities statewide.

In most Texas counties that have a juvenile facility, the facility is operated by the juvenile probation department under the authority of the local juvenile board. In some counties, the juvenile board or the county have a contract with private vendors to operate and manage a facility.

The operation of all secure and nonsecure correctional facilities, and secure detention facilities are governed by professional standards promulgated by the Texas Juvenile Justice Department (TJJD) in 37 Texas Administrative Code Chapters 343 and 355, respectively. Thus, both state and local governments are involved in the operation of secure and nonsecure correctional juvenile facilities in Texas.

In 2009, Human Resources Code Section 141.0612 [222.003] was enacted to require TJJD to adopt certification standards for persons who are employed in nonsecure correctional facilities that accept only juvenile probationers and that are operated under contract with a governmental unit. Previously, TJJD administrative standards applied only to secure pre- and post-adjudication correctional facilities. By law, the certification standards adopted must be substantially similar to the certification requirements for detention officers under Section 141.0611 [222.002], Human Resources Code Section 141.0612(b) [222.003(b)].

Page 113. Replace the fourth full paragraph in the first column through the second full paragraph in the second column with the following.

If the juvenile court orders the person to be detained in a juvenile detention facility rather than a jail, the person may remain there until the earlier of the day the person turns 17 or the court exercising jurisdiction over the criminal case orders the person moved to the jail as provided by Code of Criminal Procedure Article 4.19. Legislative hearings indicated the purpose of this provision was to provide a mechanism for the removal of a person initially held in juvenile detention who later exhibited

behaviors making it dangerous for the person to remain there. However, no such limitation exists in the law. As written, the law simply gives the judge of the criminal court the power to order the child "to be transferred to another facility and treated as an adult as provided by this code." In 2013, Article 4.19 was amended to require the adult criminal court judge to order a certified individual to be transferred from juvenile detention to the adult jail on the person's 17th birthday.

Attorney General Opinion GA-0927 clarified that Article 4.19 of the Code of Criminal Procedure does not authorize the detention of a certified individual under the age of 17 who has been transferred for prosecution in adult criminal court in a facility that does not comply with the sight and sound separation requirements of Family Code Section 51.12(f). In 2013, Article 4.19 of the Code of Criminal Procedure was amended to delete the phrase "and treated as an adult as provided by this code," to eliminate any confusion.

The 2011 amendments specify that the certified juvenile is considered a child for the purposes of sight and sound separation. Once transferred to criminal court, the person is considered an adult for all other purposes, including the right to release on bail or bond, if applicable. In 2013, Family Code Section 54.02(h-1) was added to make it clear that if a certified youth is held in juvenile detention, the juvenile court judge is responsible for setting or denying bond as required by the Code of Criminal Procedure and other laws applicable to the pretrial detention of adults accused of criminal offenses. Therefore, if the certified individual is held in juvenile detention, detention hearings are not applicable. However, the detention facility should have some manner to keep the court apprised of the status of any cases involving certified juveniles held in juvenile detention. Trial courts are required to give docket preference to the cases transferred to adult court. Government Code Section 23.101.

A frequent question that arose after the passage of Senate Bill 1209 was what should happen when a certified individual is convicted in a criminal court before turning 17 years of age. At that point, the person is now convicted as an adult and Section 51.12(f), which is specific to pre-trial detention in a juvenile facility, no longer applies. Once convicted, the individual should be removed from juvenile detention. It should be noted that a conviction as an adult does not change the impact of PREA regulations regarding the housing of persons under the age of 18 with adult inmates or other federal and state sight and sound separation requirements.

The language in Section 51.12(b)(2) was added in 1995 and amended in 1999. It authorizes placement in a county jail of a youth 17 years of age or older who has escaped from a TYC [TJJD] facility or has violated parole. The legislature believed that such a youth is more compatible

with the population of the jail than of the juvenile detention facility. Had the youth been arrested for a criminal offense committed while 17 or older, he or she would be placed in the jail, not the juvenile detention facility. In addition, this provision aids TYC [TJJD] in its efforts to find detention space for youth 17 or older who are escapees or parole violators.

Page 114. Add the following after the second paragraph in the second column.

In 2013, the legislature re-envisioned the use of post-adjudication secure correctional facilities to commit adjudicated felony offenders closer to home as an alternative to the TJJD state institutions. Senate Bill 511, amended provisions in the Family Code and Human Resources Code to permit the juvenile court or a local juvenile probation department that operates or contracts for the operation of a post-adjudication secure correctional facility to establish a pilot program to commit juveniles who have been adjudicated for conduct constituting a felony or for a determinate sentence offense.

Page 115. Replace the paragraph *Nonsecure Correctional Facilities* in the first column with the following.

3. Nonsecure Correctional Facilities

In 2013, the legislature modified the definition of a non-secure facility and expanded its use for pre-adjudication and post-adjudication purposes in certain counties. Under prior law, a non-secure correctional facility registered with the Texas Juvenile Justice Department was defined as a facility used solely for juveniles on probation. The more descriptive language in Section 51.02 (8-a) was deleted by the legislature. As such, the current definition in Section 51.02(8-a) merely states that a non-secure facility means a facility described by Section 51.126. Nevertheless, Section 51.126 specifies that these facilities must be operated by or under contract with a governmental unit. In 2009, the legislature added Section 51.126 to bring nonsecure correctional facilities under the same administrative standards and regulations as pre-adjudication secure detention facilities and secure post-adjudication correctional facilities. Section 51.126 is identical to Section 51.125 except that it applies only to nonsecure correctional facilities. The same duties to inspect and certify apply, as well as consideration of the statutory factors concerning suitability or unsuitability for the detention of children.

Section 51.12 (a), as amended in 2013, adds nonsecure correctional facilities to the list of places where a juvenile may be detained. Subsection 51.12 (j-1) authorizes the pre-adjudication placement of a child who has been taken into custody in a nonsecure correctional facility until the child has been released after preliminary intake, prosecutorial review, release from detention, or until a detention hearing

is held. A child may also be placed in a nonsecure correctional facility upon a dispositional finding under Section 54.04(d)(5). The Family Code gives guidance on the criteria and limited circumstances under which a county may place youth in a non-secure correctional facility: Subsection (j-1) provides:

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

- (1) the nonsecure correctional facility has been appropriately registered and certified;
- (2) a certified secure detention facility is not available in the county in which the child is taken into custody;
- (3) the nonsecure correctional facility complies with the short-term detention standards adopted by the Texas Juvenile Justice Department; and
- (4) the nonsecure correctional facility has been designated by the county juvenile board for the county in which the facility is located.

See the discussion of Post-Adjudication Correctional Facilities above.

Page 121. Add the following new section after the second full paragraph in the second column.

5. Disciplinary Seclusion. In Texas, recent studies have shown that the total prison population in administrative segregation (i.e., solitary confinement or disciplinary seclusion) is higher than the national average. Research suggests that disciplinary seclusion is harmful to the rehabilitation of children with mental health issues or who have suffered various forms of trauma. In 2013, legislature added Section 203.016 of the Human Resources Code to require the Texas Juvenile Justice Department to collect data concerning the use of administrative segregation in juvenile pre-adjudication and post-adjudication secure correctional facilities and short-term detention and to make the data available to the public. The statistical information will help to track the number of children; the reasons for segregation; and duration of the period of disciplinary seclusion. Juvenile probation departments and facility administrators will be required to comply with the data reporting requirement and related administrative policies necessary for implementation of Section 203.016. Contingent upon the availability of funds from gifts, grants, and donations, the Criminal Justice Legislative Oversight Committee is required to appoint an independent third-party to conduct a review of the administrative segregation policies of secure detention facilities throughout the state. This provision expires on February 1, 2015.

6. Department of Justice Resources.

Chapter 8: Right to Counsel, Guardian Ad Litem and Interpreter

Page 132. Replace the second full paragraph and the statutory language in Section 51.101 (a)] in the second column with the following.

Appointment of Counsel and Continuation of Representation. Section 51.101 was added in 2001 as part of the Fair Defense Act to address more fully the question of appointment of counsel and the duties of appointed counsel. In 2013, the legislature amended Subsection (a) to clarify that an attorney who is appointed prior to the initial detention hearing or in the absence of a parent or guardian continues to represent the child until the case is terminated, the family retains other counsel or the juvenile court appoints a new attorney. It provides:

a. If an attorney is appointed under Section 54.01(b-1) or (d) to represent a child at the initial detention hearing and the child is detained, the attorney shall continue to represent the child until the case is terminated, the family retains an attorney, or a new attorney is appointed by the juvenile court. Release of the child from detention does not terminate the attorney's representation.

Page 133. Replace the second paragraph in the second column with the following.

In some counties, representation at the initial detention hearing used to be the exception. Legislative changes in 2013, require appointment of counsel *before* the initial detention hearing. Nevertheless, Section 51.10(c) provides that if a child is not represented at an initial detention hearing and is detained, the court must immediately appoint counsel or order the parents (if financially able to do so) to retain counsel. Section 51.101(b) makes it clear that such an attorney will remain as the attorney of record for the case in its entirety, not merely to represent the child in a future detention hearing. Again, detaining the child at the initial hearing is a strong indication that a court petition is likely to be filed.

Page 136. Add the following new section above the heading *Providing Counsel by Public Defender in the first column.*

Indigent Defense Reporting. As part of the Fair Defense Act, juvenile boards are authorized to make an attorney appointment list available to the public under Section 51.10(j). Article 26.04 of the Code of Criminal Procedure requires attorneys that are eligible for court appointments in Title 3 proceedings to submit no later than October 15th of each year, information for the preceding fiscal year, that describes the percentage of the attorney's practice time dedicated to juvenile appointments accepted

in the county. The first report is due on October 15, 2014. The Texas Indigent Defense Commission (TIDC) form to facilitate compliance with this reporting requirement is available on the TIDC website www.txcourts.gov/tidc. In 2013, the legislature enacted a related provision in Section 79.036 (a-1) of the Government Code that requires each county to prepare and provide information on the number of appointments under Title 3 of the Family Code and criminal proceedings made to each attorney accepting appointments in the county. TIDC will publish its findings in a report by January 1, 2015. *Editor's Note:* The report *Guidelines for Indigent Defense Caseloads* is now available on the TIDC website.

Page 137. Add the following new section above the last paragraph in the first column.

Public Defender's Office Plans. Under Title 3 of the Family Code, juvenile boards must ensure quality and ease of access to legal representation by indigent juveniles and their families under the Texas Fair Defense Act. The TIDC sets standards and administers grants to fund indigent services throughout the state. In 2013, the legislature added indigent defense reporting requirements under Section 79.036 (a) of the Government Code. Each county must submit information to the TIDC in odd-numbered years regarding: 1) any plan or proposal submitted to commissioners court to establish a public defender's office; 2) any plans for the operation of a managed counsel program; and 3) any contract for indigent defense services. The county entity responsible for compliance with the TIDC requirements must also submit information regarding the efficacy of and any revisions to previously submitted plans, proposals or contracts.

Page 165. Add the following sentence at the end of the second paragraph in the first column.

In 2013, Section 54.02(k) was amended to specify that the petition and notice are not required on the parent, custodian, guardian or guardian ad litem as they are no longer considered parties to the proceeding if the respondent is 18 years or older at the time the petition is filed.

Chapter 10: Discretionary Transfer to Criminal Court

Page 177. Insert the following after the third paragraph in the second column.

In 2013, Section 51.0412 was amended to provide that the court retains jurisdiction over a petition for discretionary transfer provided that the petition is filed prior to the respondent's 18th birthday and all other criteria are met.

Page 181. Replace the fourth paragraph in the first column with the following.

Report Required for Discretionary Certification.

Under prior law, the provisions of Section 54.02(d) were mandatory for discretionary certification whether the subject is a child under age 18 or a person 18 or older. Failure of the juvenile court to order the study, evaluation and investigation, or to obtain and consider the report will result in reversal of any discretionary transfer order. As amended in 2013, Section 54.02(l) provides that in certification proceedings involving a person over the age of 18, (i.e., a “post-18” certification) the decision to certify may be made without conducting the diagnostic study or complying with the other requirements of Subsection (d). The court is required to order an examination under Section 51.20(a), if the defense attorney makes a request at least 10 days before the hearing. A Section 51.20 evaluation may be ordered to determine mental illness or retardation and may include an evaluation of whether or not the person suffers from chemical dependency. The report is still mandatory for discretionary certifications of juveniles *under* the age of 18. In *R.E.M. v. State*, 532 S.W.2d 645 (Tex.Civ.App.—San Antonio 1975, no writ and reh’g denied), the child, on instruction from his attorney, refused to talk with any persons who might seek to interview him for the court-ordered diagnostic study. The attorney then purported to waive the child’s right to a diagnostic study and none was conducted. On appeal from the transfer order, the appellate court held that the waiver was ineffective since the child did not join in it as required by Section 51.09 and that the requirement of a diagnostic study was mandatory:

Page 183. Replace the second paragraph with the following.

Full Investigation. In addition to the diagnostic study, Section 54.02(d) requires the juvenile court to order and obtain a “full investigation of the child, his circumstances, and the circumstances of the alleged offense.” It is important to note that the requirements of Subsection (d) are mandatory for certification proceedings involving juveniles under the age of 18. In *In re I.B.*, 619 S.W.2d 584 (Tex.Civ.App.—Amarillo 1981, no writ), it was argued that the juvenile court ordered but did not obtain a full investigation:

Page 185. Replace the third paragraph of the section Disclosure of Report in the second column with the following.

In 2013, the legislature increased the five-day disclosure requirement for the report considered in the determinate sentence release/transfer hearing in Section 54.11(d) so that it is identical to the time frame required under Section 54.02(e) for certifications. For the determinate sentence release/transfer hearing, supporting documentation must also be provided to juvenile’s attorney along with the report required under Section 54.11(d). It is also similar to the

disclosure requirements for the detention hearing, Section 54.01(c), the disposition hearing, Section 54.04(b), and the modification of disposition hearing, Section 54.05(e). The only difference is that in those three hearings disclosure is required at or before the hearing, while Section 54.02(e) now requires disclosure “at least five days” before the hearing. The requirement of earlier disclosure exists because of the potentially more serious consequences of a transfer hearing.

Page 199. Replace the second full paragraph of the second column with the following.

The relief prayed for in the petition should clearly indicate that the prosecutor is seeking to invoke the mandatory transfer procedure. If the prayer includes discretionary transfer of a juvenile under the age of 18, then the certification report in Section 54.02(d) will be required.

Chapter 11: The Adjudication Hearing

Page 212. Add the following new section after the first paragraph in the first column just before *Juvenile’s Presence at Hearing*.

Trafficked Persons Program and Deferred Adjudication. In 2013, the legislature added Section 54.0326 to authorize the designation of certain juvenile courts and diversion programs for juveniles who may be the victims of human trafficking. Section 54.0326 authorizes shared human trafficking jurisdiction to defer adjudication proceedings until the child’s 18th birthday and requires the child to participate in a trafficked persons program upon oral or written request of the child. Upon evidence of successful completion of the program, the court shall dismiss the child’s case with prejudice.

Page 218. Replace the third full paragraph in first column with the following.

Under Section 51.13(d), a felony adjudication resulting in commitment or sentence to TYC [TJJD] or a post-adjudication secure correctional facility under Section 54.04011 counts as a prior felony conviction under the repeat offender provisions of Penal Code Sections 12.42(a), (b) and (c)(1), should the juvenile respondent later be charged in criminal court with a first, second or third degree felony. This provision applies only to repeat offenders under Section 12.42, not to the habitual offender under Section 12.42(d) or mandatory life for a second sex offense under Section 12.42(c)(2). Since a juvenile felony adjudication counts as a prior felony conviction, it would be admissible in evidence in criminal proceedings. See *Thompson v. State*, 267 S.W.3d 514 (Tex.App.—Austin 2008, pet. ref’d) (juvenile felony adjudication counts as a final felony conviction for purposes of sentence enhancement); *Gamble v. State*, UNPUBLISHED, No. 01-06-01028-CR, 2008 WL 2548512, *Juvenile Law Newsletter* ¶ 08-3-11(Tex.App.—Houston [1st

Dist.] 2008, pet. ref'd) (juvenile judgment for burglary of a habitation was a conviction of a second degree felony for enhancement purposes). Therefore, the juvenile court judge should admonish the respondent as to this provision providing for enhancement of the range of punishment in a criminal case based upon a juvenile felony adjudication and commitment or sentence.

Chapter 12: Dispositional Powers and Procedures

Page 249. Add the following at the end of the first sentence in the first column.

In 2013, Subsection 51.07(b) was added to provide that for children who are involved in both juvenile and child protective proceedings under Title 5 of the Family Code, the county of residence for transfer of disposition purposes is the county in which the court having continuing exclusive jurisdiction over the child is located.

Page 253. Replace the first partial paragraph in the first column with the following.

...that the child's attorney be given access to them. Section 54.04(b) provides in part:

On or before the second working day before the date of the disposition hearing, the court shall provide the attorney for the child and the prosecuting attorney with access to all written matter to be considered in disposition.

Page 253. Replace the last paragraph in the first column with the following.

The access requirement of Section 54.04(b) contrasts with those for certification hearings in Section 54.02(e) and determinate sentence release/transfer hearings under Section 54.11(d). Since 2009, Section 54.02(e) requires that access be provided "[a]t least five days" before the hearing. In 2013, the legislature made the disclosure requirement for determinate sentence release/transfer hearings under Section 54.11(d) identical to the five-day disclosure time frame for certifications under Section 54.02(e). Section 54.04(b) was also changed in 2013 to permit access to be given to the attorney for the child and the prosecuting attorney on or before the second day of the disposition hearing. Obviously, the juvenile court should strive for more generous access than the minimum required by law. There will also be occasions in which last minute but legally permissible access will require postponing the disposition hearing to enable counsel to evaluate the report effectively.

Page 254: Add the following after the third paragraph before *The Finding Regarding Home Conditions*.

Under prior law, the Family Code permitted the use of nonsecure correctional facilities solely for juveniles on

probation. In 2013, the legislature re-defined and expanded the use of nonsecure correctional facilities for the placement of certain youth under the jurisdiction of the juvenile court. At the disposition stage, the court must make the removal from home finding required under Section 54.04(c) prior to placement in a registered nonsecure correctional facility.

Page 273. Add the following paragraph at the end of the section *Indeterminate Commitment* in the second column.

Community-Based Secure Correctional Facility Commitment. Senate Bill 511, enacted in 2013, authorized a five-year pilot program that expands the dispositional powers of Travis County juvenile courts to commit felony offenders to a community-based post-adjudication secure correctional facility closer to home. A juvenile who is found to have engaged in delinquent conduct constituting a felony may, after disposition, be committed locally for an indeterminate or determinate sentence stay in lieu of commitment to TJJD. Section 152.0016 of the Human Resources Code requires the juvenile board to implement the necessary policies and programs for the local post-adjudication secure correctional facility and operate a parole supervision program that mirrors those available in the Texas Juvenile Justice Department [TJJD] state institutions. Subsection (e) specifies that a felony offender who is properly committed to the local post-adjudication security correctional facility must be treated "in the same manner" as a youth committed to TJJD. Conforming provisions in Chapter 59 of the Family Code were amended to authorize the juvenile board or local juvenile probation department participating in the SB 511 pilot program to commit youth as recommended under Sections 59.009 and 59.010 of the Progressive Sanctions Model. The pilot program for community-based post-adjudication secure correctional facility commitments will expire in December 2018.

Page 285. Replace the section *Victims and Treatment of Restitution Payments* in the first column with the following.

Victims and Treatment of Restitution Payments. In 2007, the legislature enacted two versions of Section 54.0481, the second of which relates to victim restitution payments to be collected by local juvenile probation departments. In 2009, the second version of Section 54.0481 was renumbered as Section 54.0482. The statute clarifies the procedure for collecting and processing these payments and ultimately addresses the use of these funds if they are not claimed by the victims. Section 54.0482 on Treatment of Restitution Payments reads:

a) A juvenile probation department that receives a payment to a victim as the result of a juvenile court order for restitution shall immediately:

(1) deposit the payment in an interest-bearing account in the county treasury; and

(2) notify the victim that a payment has been received.

(b) The juvenile probation department shall promptly remit the payment to a victim who has been notified under Subsection (a) and makes a claim for payment.

(b-1) If the victim does not make a claim for payment on or before the 30th day after the date of being notified under Subsection (a), the juvenile probation department shall notify the victim by certified mail, sent to the last known address of the victim, that a payment has been received.

(c) On or before the fifth anniversary of the date the juvenile probation department receives a payment for a victim that is not claimed by the victim, the department shall make and document a good faith effort to locate and notify the victim that an unclaimed payment exists, including:

(1) confirming, if possible, the victim's most recent address with the Department of Public Safety; and

(2) making at least one additional certified mailing to the victim.

(d) A juvenile probation department satisfies the good faith requirement under Subsection (c) by sending by certified mail to the victim, during the period the child is required by the juvenile court order to make payments to the victim, a notice that the victim is entitled to an unclaimed payment.

(e) If a victim claims a payment on or before the fifth anniversary of the date on which the juvenile probation department mailed a notice to the victim under Subsection (b-1), the juvenile probation department shall pay the victim the amount of the original payment, less any interest earned while holding the payment.

(f) If a victim does not claim a payment on or before the fifth anniversary of the date on which the juvenile probation department mailed a notice to the victim under Subsection (b-1), the department:

(1) has no liability to the victim or anyone else in relation to the payment; and

(2) shall transfer the payment from the interest-bearing account to a special fund of the county treasury, the unclaimed juvenile restitution fund.

(g) The county may spend money in the unclaimed juvenile restitution fund only for the same purposes for which the county may spend juvenile state aid.

Section 54.0482(a) requires the juvenile probation department that receives restitution funds under a juvenile court order to deposit the funds in an interest-bearing account in the county treasury and to notify the victim that the funds have been received. If the victim claims the payment, the probation department must promptly send the funds to the victim. The victim has five years from the date the original notice was received to claim the funds.

In 2013, the legislature eliminated the requirement that the notice should be sent by certified mail to the victim's last known address each time a payment has been received. Subsection 54.0482 now permits the juvenile probation department to provide notice of receipt of payment in any manner (e.g., telephone, email or regular mail). Subsection (b-1) specifies that notice by certified mail is only required if the victim has not claimed the payment within 30 days of the initial notice. This change will help to cut costs for juvenile probation departments.

The juvenile probation department must also make a good faith effort to locate and notify victims of unclaimed restitution payments. If the victim does not claim a payment on or before the fifth anniversary of the date on which the notice under Subsection (b-1) was sent by certified mail, the probation department has no liability to the victim or anyone else related to the funds and the monies must be transferred to a special fund of the county treasury called the unclaimed juvenile restitution fund. The county may spend the money in this fund only for the same purposes for which the county can spend state aid funding received from TJPC [TJJD], which includes juvenile probation department services, programs and facilities.

Page 289. Replace the last paragraph in the first column with the following.

A county commissioners court is authorized to create a centralized registration authority where all registered sex offenders must register. [Article 62.0045, Code of Criminal Procedure] Under prior law, this provision applied only counties with a population of 100,000 or more. In 2013, the legislature expanded the authority of counties of any size to establish a centralized sex offender registration authority. This may be the sheriff's office of the county or the chief of police's office of a municipality.

Page 307. Replace the statutory language Section 243.005, HRC at the bottom of the first column.

In addition to the information provided under Section 61.065 [§243.004], the committing court is required to provide the agency a copy of the following documents under Section 243.005:

- (1) the petition and the adjudication and disposition orders for the child, including the child's thumbprint;
- (2) if the commitment is a result of revocation of probation, a copy of the conditions of probation and the revocation order;
- (3) the social history report for the child;
- (4) any psychological or psychiatric reports concerning the child;
- (5) the contact information sheet for the child's parents or guardian;
- (6) any law enforcement incident reports concerning the offense for which the child is committed;
- (7) any sex offender registration information concerning the child;
- (8) any juvenile probation department progress reports concerning the child;
- (9) any assessment documents concerning the child;
- (10) the computerized referral and case history for the child, including case disposition;
- (11) the child's birth certificate;
- (12) the child's social security number or social security card, if available;
- (13) the name, address, and telephone number of the court administrator in the committing county;
- (14) Title IV-E eligibility screening information for the child, if available;
- (15) the address in the committing county for forwarding funds collected to which the committing county is entitled;
- (16) any of the child's school or immunization records that the committing county possesses;
- (17) any victim information concerning the case for which the child is committed;
- (18) any of the child's pertinent medical records that the committing court possesses;
- (19) the Texas Juvenile Justice Department standard assessment tool results for the child;
- (20) the Department of Public Safety CR-43J form or tracking incident number concerning the child; and

(21) documentation that the committing court has required the child to provide a DNA sample to the Department of Public Safety.

Page 308. Add the following paragraph to the first column before *Progressive Sanctions Model*.

Section 243.005, Human Resources Code requires additional supporting documentation that must be forwarded to the Texas Juvenile Justice Department (TJJD) by the juvenile court when a child has been committed to TJJD. As added in 2013, the committing court is required in Subdivisions 19-21 to provide, as applicable, the child's assessment results on TJJD's standard assessment instrument; the child's tracking incident number and the Department of Public Safety's CR-43J form; as well as documentation that verifies the collection of a DNA sample as required by law.

Page 311. Replace the third paragraph beginning in the first column with the following.

The following conduct would fit within the assignment model for Sanction Level One: running away from home [Section 51.03(b)(3)]; truancy [Section 51.03(b)(2)]; fineable only non-traffic misdemeanor transferred to the juvenile court by a justice or municipal court [Subsections 51.03(b)(1), and (f)]; violation of a court order against the child in a child-at-risk program [Section 51.03(b)(6)]; and Class C misdemeanor Electronic Transmission of Certain Visual Material Depicting Minor offenses ("sexting") under Penal Code Section 43.261, [Section 51.03(b)(8)].

The following CINS would not come within the assignment model for Sanction Level One: inhalation abuse in violation of a city ordinance or by state law [Section 51.03(b)(4)]; conduct in violation of student standards for which a student has been expelled [Sections 51.03(b) (5)]; Class A and B misdemeanor Electronic Transmission of Certain Visual Material Depicting Minor offenses ("sexting") under Penal Code Section 43.261, [Section 51.03(b)(7) as added by SB 407 in 2011]; and conduct constituting prostitution under Penal Code Section 43.02 [Section 51.03(b)(7) as added by HB 2015 in 2011].

In 2007, the legislature elevated inhalation abuse under Section 51.03(b)(4) to a Sanction Level Two offense to reflect its seriousness, and to promote stronger prevention and intervention programs to combat this problem. Inhalation abuse in violation of a state statute is also excluded because it is a Class B misdemeanor.

In 2011, the legislature created two new CINS offenses, in two different pieces of legislation. As a result, both offenses were numbered as Family Code Section 51.03(b)(7). This numbering error was corrected in 2013 so that Family Code Section 51.03(b)(7) refers to prostitution conduct and Section 51.03(b)(8) refers to "sexting."

The offense of Electronic Transmission of Certain Visual Material Depicting a Minor under Penal Code Section 43.261 (“sexting”) was created in 2011. Although the offense ranges from a Class A to a Class C misdemeanor, the juvenile court has exclusive jurisdiction over it as a CINS offense. In 2013, the legislature clarified that although Class B misdemeanors and higher are defined as delinquent conduct, “sexting” is considered CINS, not delinquent conduct, regardless of the offense level. Subsection (a)(8) as quoted earlier, was added to Sanction Level One. Since Sanction Level One is limited to CINS offenses that are not Class A or B misdemeanors, only Class C misdemeanor levels of the “sexting” offense are at Sanction Level One. However, the fact that the legislature added the education program as a disposition option only at Sanction Level One should not be interpreted to mean it can only be assigned at that level, as Family Code Section 54.0404 provides that the program may be ordered for any child found to have engaged in conduct indicating need for supervision. See Chapter 4 for further discussion.

Page 315. Replace part of section *Sanction Level Six* in the second column through the sentence after subsection (c).

Sanction Level Six. Sanction Level Six describes programs that are associated with an indeterminate commitment to TYC [TJJD] for delinquent conduct. Section 59.009 provides the descriptions for sanction level six programs:

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

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

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

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

(4) if appropriate, impose additional sanctions.

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

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

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

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

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

A disposition that fits the primary sanction indeterminate commitment to TYC [TJJD]—would be a Sanction Level Six disposition. An indeterminate commitment to a local post-adjudication secure correctional facility under 54.04011(c)(1) under the pilot program established under Senate Bill 511 in 2013 is also considered a Sanction Level Six disposition.

Page 316. Replace the paragraph in the first column under *Sanction Level Seven* through the statutory language after subdivision (3) in the second column.

Sanction Level Seven. Sanction Level Seven describes programs that are associated with a determinate sentence commitment to TJJD or certification to criminal court. Section 59.010 provides the descriptions for Sanction Level Seven programs:

(a) For a child at sanction level seven, the juvenile court may certify and transfer the child under Section 54.02 or sentence the child to commitment to the Texas Juvenile Justice Department under Section 54.04(d)(3), 54.04(m), or 54.05(f) or to a post-adjudication secure correctional facility under Section 54.04011(c)(2). The department, juvenile board, or local juvenile probation department, as applicable, may:

(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than 12 months or more than 10 years unless the department, board, or probation department extends the period and the reason for the extension is documented;

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

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

(4) impose any other appropriate sanction.

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

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

(2) require a parole officer to monitor the child closely for not less than 12 months; and

(3) impose any other appropriate condition of supervision.

A disposition that fits the primary sanction—determinate sentence to TYC [TJJD] or to a local post-adjudication secure correctional facility authorized in 2013 under Section 54.04011(c)(1)—would be a Sanction Level Seven disposition. A juvenile court certification of a case to criminal court is also a Sanction Level Seven disposition.

Chapter 13: Modification of Dispositions

Page 334. Replace the first paragraph in the second column with the following.

If the juvenile violates probation before becoming 18 or 19, depending on the offense date, probation may be revoked. Under Section 54.05(j), the juvenile court may commit the child to TYC [TJJD] or to a local post-adjudication secure correctional facility operated by a local juvenile board or juvenile probation department for a determinate sentence that “does not exceed the original sentence assessed by the court or jury.” The court can commit for a shorter sentence than originally assessed, but not for a longer one. See Chapter 21 for a complete discussion of Section 54.051 and transfer of determinate sentence probation to appropriate district court.

Chapter 14: Mental Illness or Retardation Proceedings

Page 350. Replace Section 51.20 Examination in the first column and ending after the fourth paragraph of the second column with the following.

Section 51.20 Examination. Section 51.20 authorizes a physical, mental, or chemical dependency examination in a wide variety of circumstances:

(a) At any stage of the proceedings under this title, including when a child is initially detained in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility, the juvenile court may, at its discretion or at the request of the child's parent or guardian, order a child who is referred to the juvenile court or who is alleged by a petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision to be examined by a disinterested expert, including a physician, psychiatrist, or psychologist, qualified by education and clinical training in mental health or mental retardation and experienced in forensic evaluation, to determine whether the child has a mental illness as defined by Section 571.003, Health and Safety Code, is a person with mental retardation as defined by Section 591.003, Health and Safety Code, or suffers from chemical dependency as defined by Section 464.001, Health and Safety Code. If the examination is to include a determination of the child's fitness to proceed, an expert may be appointed to conduct the examination only if the expert is qualified under Subchapter B, Chapter 46B, Code of Criminal Procedure, to examine a defendant in a criminal case, and the examination and the report resulting from an examination under this subsection must comply with the requirements under Subchapter B, Chapter 46B, Code of Criminal Procedure, for the examination and resulting report of a defendant in a criminal case.

(b) If, after conducting an examination of a child ordered under Subsection (a) and reviewing any other relevant information, there is reason to believe that the child has a mental illness or mental retardation or suffers from chemical dependency, the probation department shall refer the child to the local mental health or mental retardation authority or to another appropriate and legally authorized agency or provider for evaluation and services, unless the prosecuting attorney has filed a petition under Section 53.04.

(c) If, while a child is under deferred prosecution supervision or court-ordered probation, a qualified professional determines that the child has a mental illness or mental retardation or suffers from chemical dependency and the child is not currently receiving treatment services for the mental illness, mental retardation, or chemical dependency, the probation department shall refer the child to the local mental health or mental retardation authority or to another appropriate and legally authorized agency or provider for evaluation and services.

(d) A probation department shall report each referral of a child to a local mental health or mental retardation authority or another agency or provider made under Subsection (b) or (c) to the Texas Juvenile Justice Department in a format specified by the department.

(e) At any stage of the proceedings under this title, the juvenile court may order a child who has been referred to the juvenile court or who is alleged by the petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision to be subjected to a physical examination by a licensed physician.

This section authorizes a mental, physical, or chemical dependency examination of any child who has been referred to the juvenile court. Unlike the predecessor provision (Section 55.01), there is no requirement that a petition for adjudication or certification must have been filed. Section 51.20(a) was rewritten in 2003 to conform it to a revision of the criminal court competency to stand trial chapter of the Code of Criminal Procedure, which is now Chapter 46B. The primary purpose was to assure that professionals who examine children regarding fitness to proceed meet the qualifications imposed by Chapter 46B and that their reports comply with those provisions.

The section appears in Chapter 51, rather than Chapter 55, because it is not restricted to examinations to determine mental illness or mental retardation. A court might use this section, for example, to order physical and mental examinations of children entering boot camp programs to determine their ability to handle the physical and mental stress of such programs. The provision is also broad enough to encompass educational achievement testing. In 2013, the legislature authorized the juvenile court to order chemical dependency examinations at its discretion or at the request of the child's parent or guardian.

Section 51.20(b) had no counterpart in prior law. It provides that if as a result of the examination under Subsection (a) there is reason to believe the child may be mentally ill or mentally retarded or suffers from chemical dependency, the probation department must refer the child to the local mental health or mental retardation authority or to another appropriate and legally authorized agency or provider for evaluation and services unless a petition has already been filed. The important purpose of this provision is to secure evaluation and services as soon as the need for them becomes apparent. Often, care and treatment can be arranged on a voluntary basis without the delay entailed by using the formal procedures of Chapter 55.

Sections 51.20(c) and (d) were added in 2005 and amended in 2013 to require the juvenile probation department to refer a child who is under deferred prosecution supervision or court-ordered probation to the local MHMR authority or to another appropriate and legally

authorized agency or provider if it is determined by a mental health professional that the child has a mental illness or mental retardation or suffers from chemical dependency. Such referrals must be reported to the Texas Juvenile Justice Department (TJJD) in a format specified by the Department. TJJD will collect the data on how many of these referrals are made to the local MHMR authority to compare against the mental health agencies' data in an effort to determine what percentage of these youth with documented treatment need are being served. The data will be collected electronically using JCMS/Caseworker and the Electronic Data Interchange (EDI) specifications for counties that do not utilize JCMS/Caseworker.

Chapter 15: Access to and Confidentiality of Juvenile Records and Proceedings

Page 382. Replace the first paragraph in first column with the following.

7. Use as Prior Felony Conviction. A 1995 amendment to Section 51.13 created an exception to the declaration in Section 51.13(a) that a juvenile adjudication is not a conviction of crime. Section 51.13(d), as amended in 2013 states:

An adjudication under Section 54.03 that a child engaged in conduct that occurred on or after January 1, 1996, and that constitutes a felony offense resulting in commitment to the Texas Juvenile Justice Department under Section 54.04(d)(2), (d)(3), or (m) or 54.05(f) or commitment to a post-adjudication secure correctional facility under Section 54.04011 is a final felony conviction only for the purposes of Sections 12.42(a), (b), and (c)(1) or Section 12.425, Penal Code.

Page 382. Replace the third paragraph in the first column with the following.

Penal Code Section 12.425 (formerly Section 12.42(e)) provides that a state jail felony can be used to enhance punishment only if it was committed with a deadly weapon or the defendant was previously convicted of a felony listed in Code of Criminal Procedure Article 42.12, Section 3g or for which there was in the judgment in the prior case an affirmative finding of the use of a deadly weapon. See *Fortier v. State*, 105 S.W.3d 697 (Tex.App.—Amarillo 2003, pet. ref'd), holding that a juvenile adjudication for the state jail felony of unauthorized use of a motor vehicle cannot, under Penal Code Section 12.42(e), be used to enhance an adult criminal sentence.

Page 382. Add the following after the last sentence in the first paragraph in the second column.

As amended in 2013, Section 51.13(d) makes a commitment to a post-adjudication secure correctional facility under Section 54.04011 a felony conviction for enhancement purposes.

Page 386. Replace the first full paragraph in the second column with the following.

Code of Criminal Procedure Article 44.2811 was added to ensure confidentiality of the records in the event of an appeal. To further alert practitioners to the change, Family Code Section 58.00711 was added. It references the confidentiality provision in Article 45.0217.

As initially envisioned, these confidentiality provisions applied only to records “relating to a child who is convicted of and has satisfied the judgment for” a non-traffic related fine-only misdemeanor. This was very similar to the now repealed non-disclosure orders that preceded this change in law. Legislators indicated this was not the intent and requested courts to make all municipal and justice records of juveniles confidential even if there has not yet been, or potentially never will be, a conviction.

Shortly after the enactment of Senate Bill 393/394 and House Bill 528 in 2013, Section 58.0711 was the subject of Attorney General Opinion 1035-GA (2014) which examined whether the provisions were in conflict and which should be given effect under the law. Senate Bills 393/394 made identical modifications to the conditional confidentiality established in 2011. In contrast, the amendments to House Bill 528 conferred absolute confidentiality of justice or municipal court records regardless of the procedural status of the case. The Office of Court Administration requested the AG’s Office to weigh in on the issues presented in the 2013 legislation. In its analysis, the AG concluded that there was no irreconcilable conflict and that the court could comply simultaneously with the requirements of each bill. Therefore, municipal and justice courts are required to keep criminal non-traffic, fine-only cases confidential from the time a child is charged with an offense and throughout all proceedings. The opinion also clarified, however, that justice and municipal court proceedings involving children may be open to the public and court dockets can be publicly posted.

Page 386. Replace the third paragraph and statutory language in the second column with the following.

Juvenile Court, Prosecutor and Probation Records. As amended in 2013, Section 58.007(b) establishes the confidentiality rules for records of the juvenile court, clerk of court, probation department and juvenile prosecutor:

Except as provided by Section 54.051(d-1) and by Article 15.27, Code of Criminal Procedure [relating to school notification of arrests of juveniles who are students], the records and files of a juvenile court, a

clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under this title may be inspected or copied only by:

(1) the judge, probation officers, and professional staff or consultants of the juvenile court;

Page 387. Add the following paragraph after the statutory language in the first column.

In 2013, the legislature amended Section 58.007(b) to allow a child’s defense attorney to inspect and make copies of the offense reports in the district attorney’s case file. The cross-reference to Section 54.051(d-1) also makes it clear that certain records pertaining to determinate sentence transfers to adult court are excepted from the confidentiality limitations of this section and are part of the district clerk’s public records.

Page 390. Replace the statutory language in subsection (b) in the third paragraph of the second column as follows.

Family Code Subsections 58.007(b), as amended in 2013, and (c) make most juvenile records confidential:

(b) Except as provided by Section 54.051(d-1) and by Article 15.27, Code of Criminal Procedure [relating to school notification of arrests of juveniles who are students], the records and files of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under this title may be inspected or copied only by:

Page 401. Replace the first full paragraph in the second column with the following.

A long list of non-criminal justice agencies is permitted access to criminal history information and, therefore, to information in JJIS. Government Code Section 411.090 and following sections authorize over 40 public and private agencies and organizations to have access to information under Government Code Section 411.083. Examples are the State Board for Educator Certification for persons who have applied for a teaching certificate, the Banking Commission for persons who have applied for a license, the Texas Department of Licensing and Regulation, which controls occupational licensing of various kinds, Institutions of Higher Education, School Districts, Private Schools, State Board of Medical Examiners, Board of Law Examiners, and Texas Structural Pest Control Board. Youth-related agencies such as the Texas Juvenile Justice Department (TJJD) and many other organizations are also given access.

In 2013, the legislature gave agencies of the armed forces of the United States specific authority to obtain criminal history information (including juvenile delinquency

history) from the Department of Public Safety. While existing Section 58.106 permits disclosure of unsealed, unrestricted juvenile information in the statewide juvenile justice information system database, 2013 amendments to Chapter 58, Subchapter C allow release of information that have been placed on automatic restricted access with written permission of the person seeking to enlist and with leave of the juvenile court. Section 411.1410 (e) of the Government Code provides for the destruction of the information after the purpose for which it was obtained has been accomplished and prohibits the release to any person except on court order or with the consent of the person who is the subject of the records.

Page 413. Replace the second sentence of the first full paragraph in the second column as follows.

However, physical clerk of court records can be destroyed under Section 58.0071(b) at any time if the custodian electronically duplicates and stores the information contained in the records and files. Attorney General Opinion No. GA-1017 (2013).

Page 414. Replace the fourth paragraph in the first column as follows.

In 2011, the legislature created a sealing option for the offense of Electronic Transmission of Certain Visual Material of a Minor (“sexting”) under Penal Code Section 43.261 that mirrors the option for juveniles completing drug court. The primary difference is that the education program is designed to address the issue of sexting required under Education Code Section 37.218. Family Code Section 58.003(c-5) [as corrected in 2013].

Page 415. Replace the second full paragraph in the second column with the following.

In 2011, 58.003(g-1) was amended to read “Any records collected or maintained by the Texas Juvenile

Justice Department, including statistical data submitted under Section 221.007, Human Resources Code, are not subject to a sealing order issued under [Section 58.003.]” This was amended as a non-substantive conforming change in Senate Bill 653, the legislation that abolished TJPC and TYC. Unlike the predecessor agency TJPC, the former TYC maintained individual level juvenile records and so the amendment created an unintended substantive change. The individual-level records maintained by TJJD (which include all the records regarding any offense transferred by the juvenile court at the time of commitment) would not be eligible for sealing if the 2011 statutory provision was strictly interpreted. As such, a sealing order related to the records of a child committed to TJJD would be rendered meaningless. Since this error was a conforming amendment, TJJD complied with all sealing orders related to the juveniles committed to the custody of the state.

In 2013, Section 58.003(g-1) was amended to clarify that TJJD’s community-based and institutional statistical data are exempt from sealing. Physical and electronic records relating to youth committed to a TJJD state institution are not subject to this exemption.

Page 417. Replace the last paragraph in the second column with the following.

As originally enacted in 2005, Section 58.003(g-1) applied to any records, including statistical data, collected or maintained by the former Texas Juvenile Probation Commission. As a result of the agency merger, Subsection (g-1) was amended in 2013 to clarify that TJJD’s community-based and institutional statistical data are exempt from sealing. Physical and electronic records relating to youth committed to any TJJD state institution may be ordered sealed under Section 58.003.

Page 419. Replace the first full paragraph in the first column with the following.

The Penal Code references are to the repeat offender provisions. Under Section 51.13(d), a felony adjudication resulting in a TJJD commitment or a commitment to a post adjudication secure facility under Section 54.04011 constitutes a prior felony conviction later in criminal court under the repeat offender provisions of the Penal Code. Section 58.003(k) permits the prosecutor to reopen sealed felony adjudication records to prove prior felony adjudications.

Page 423. DELETE the second paragraph in the in the first column. Editor’s Note: This paragraph is an 8th Edition publication error.

Editor’s Note: This paragraph is an 8th Edition publication error.

Page 423. Add the following sections after the second full paragraph in the first column.

Access to Restricted Records by the Juvenile Subject.

In 2013, the legislature amended Section 58.204 to offer a person with a history of juvenile delinquency the ability to become more pro-active in obtaining needed records or identifying information in the possession of a variety of unknown record holders and entities. Senate Bill 2682 and House Bill 694 contained provisions that authorize the Department of Public Safety (DPS) to disclose restricted access records under certain circumstances. Specifically, DPS may disclose restricted records only if the person who is the subject of the records has requested permission of the juvenile court and obtained a court order authorizing: 1) the person to receive his or her own records; 2) disclosure of the records to the military or other entity; or 3) disclosure of the records to a party to a civil suit in which facts relating to the juvenile records are at issue. [Sections 58.204 (b)(3); (b)(3); (b)(4) and (b)(5)].

Policymakers contend that a court order preserves the integrity of the prohibition against waiver and prevents employers, universities, or other entities from compelling applicants to obtain and produce delinquency history as a condition of employment or acceptance. Related Subsection (b) (5) prohibits the use of records that have been placed on restricted access as a tool to exclude evidence of facts that have been put into issue in a civil suit.

Disclosure of Juvenile Records for Military Recruitment Purposes. Enlistment in the armed forces may be an important opportunity for many juvenile offenders. In addition to age, citizenship, physical fitness, education and trainability, every potential recruit must meet the military enlistment eligibility standards for criminal and moral history. Juvenile justice personnel have expressed frustration concerning the inability to assist youth in navigating the implications of a history of juvenile delinquency.

In 2013, Section 58.204(b)(3) was amended to authorize the Department of Public Safety to disclose restricted access delinquency history information contained in the juvenile justice information system (JJIS) database to military personnel, including recruiters, for the state national guard or any branch of the armed forces of the United States. The applicant must provide written permission to DPS to release juvenile delinquency summary history for the limited purpose of enlistment into the military. DPS has developed a form entitled Request for Criminal History Record Information on Applicants for Enlistment in the Armed Forces [Form CR-64] which is available on its website at www.txdps.state.tx.us. In order to obtain the criminal/juvenile delinquency history information, the requesting entity must complete the form, obtain the military applicant's signature and pay DPS a nominal fee to conduct the search. Recruiters currently have similar access under Section 58.106 (a)(1) for records that have not been placed on restricted access. Records maintained by the local juvenile probation department, court or prosecutor may disclose information to the military with written permission from the person who is subject of the records in the same manner in which unrestricted records can be released (i.e., by court order or in accordance with juvenile board guidelines).

Restricted Access and Extended Jurisdiction. In 2011, the legislature lowered eligibility for restricted access from age 21 to 17, but did not carve out an exception for juveniles on active probation, under the jurisdiction of the juvenile court, or committed to the custody of the Texas Juvenile Justice Department (TJJD). In 2013, the legislature addressed this oversight by amending Section 58.207(c) to suspend the requirement to comply with an order of restricted access under these circumstances. This change in law was aimed at ensuring interagency exchange of information to ensure continuity of supervision and services

for youth who remain under the court's jurisdiction or in statute custody.

Chapter 16: Juvenile Confessions and Waivers of Rights

Page 444. Add the following at the end of second full paragraph in the second column.

But cf. a case by the same name, In *Martinez v. State*, 337 S.W.3d 446, 2011 Tex. App. LEXIS 1673 (Tex. App. Eastland 2011) (a written statement of a juvenile is admissible in evidence even if the juvenile was in a detention facility or in the custody of an officer when he gave the statement.)

Page 451. Replace the second full paragraph in the second column with the following.

Even before that provision was enacted in 1991, a Court of Appeals had held that the momentary presence of a law enforcement officer in the room during the signing of a written statement did not invalidate the statement. *Spears v. State*, 801 S.W.2d 571 (Tex.App.—Fort Worth 1990, pet. ref'd); See also *In the Matter of M.A.C.*, 339 S.W.3d 781 (Tex.App.—Eastland 2011, no pet.) (recorded statement taken in the presence of an armed detective admissible since Section 51.095(f) does not contain the weapon prohibition located in Section 51.095(a)(1)(B)(i)); *Herring v. State*, 395 S.W.3d 161, 2013 Tex. Crim. App. Lexis 636, 2013 WL 1438249 (Tex. Crim. App. 2013) (law enforcement presence when statutory warnings are given prior to confession will not make the statement inadmissible).

Page 458. Replace the first paragraph in the first column with the following.

...must be voluntary under the totality approach. However, these rules do not restrict the admissibility of confessions in hearings to consider transfer to criminal court. In those hearings, many courts have held that a confession is admissible even if it was not taken in compliance with Section 51.095. See, for example, *In re M.E.C.*, 620 S.W.2d 684 (Tex.Civ.App.—Dallas 1981, no writ); *In the Matter of P.A.C.*, 562 S.W.2d 913 (Tex.Civ.App.—Amarillo 1978, no writ). See also Chapter 10 for a fuller discussion of the kind of evidence that can be considered in those hearings. A Court of Appeals has held that the confession statute must be complied with before a statement is admissible in a transfer hearing. *In the Matter of S.A.R.*, 931 S.W.2d 585 (Tex.App.—San Antonio 1996, writ denied). But, in *Dominguez v. State*, UNPUBLISHED, No. 13-10-493-CR, 2012 Tex. App. Lexis 6146, 2012 WL 3043072, *Juvenile Law Newsletter* ¶12-3-1 (Tex. App. — Corpus Christi 2012, no pet.h.) the Court of Appeals ruled that once certified as an adult, the Family Code protections for the taking of a confession of a juvenile no longer applies.

Chapter 17: Law Enforcement and Juveniles: Arrests, Searches, First Offender Programs and Authorized Dispositions

Page 508. Replace the second full paragraph in the first column with the following.

Juvenile Board Guidelines. Section 52.032 was originally enacted in 1999 and amended 2013 to mandate that each juvenile board promulgate guidelines for such programs:

(a) The juvenile board of each county, in cooperation with each law enforcement agency in the county, shall adopt guidelines for the disposition of a child under Section 52.03 or 52.031. The guidelines adopted under this section shall not be considered mandatory.

(b) The guidelines adopted under Subsection (a) may not allow for the case of a child to be disposed of under Section 52.03 or 52.031 if there is probable cause to believe that the child engaged in delinquent conduct or conduct indicating a need for supervision and cause to believe that the child may be the victim of conduct that constitutes an offense under Section 20A.02, Penal Code.

Subsection (b), added in 2013, prohibits a case involving a child believed to be a victim of human sex trafficking from being disposed of under informal guidelines without referral to juvenile court in order to ensure appropriate intervention measures. Under juvenile board guidelines, a law enforcement agency may operate an informal disposition program, a first offender program or both.

Chapter 18: Interstate Aspects of Juvenile Proceedings

Page 526. Replace the last paragraph in the second column with the following.

If the child is a status offender as defined by Section 51.02(15) of the Family Code, the juvenile court may detain him or her under Section 54.011(e), but only “for a necessary period, not to exceed the period allowed under the Interstate Compact for Juveniles, to enable the child’s return to the child’s home in another state under Chapter 60.” In 2013, the language specifying a period “not to exceed five days” was stricken to bring Texas law into alignment with the terms of the Compact. The primary applicability of this provision is to facilitate return of the interstate runaway child.

Chapter 19: Appeals and Collateral Attacks in Juvenile Cases

Page 536. Replace the last sentence in the third full paragraph of first column with the following.

In determinate sentence act cases, probation would remain available under Section 54.051(i), enacted in 2003 and amended in 2011, even if the respondent is 18 or 19 years of age, as applicable, when the case returns to the juvenile court.

Chapter 21: Determinate Sentencing Proceedings for the Violent or Habitual Offender

Page 589. Add the following after the first full paragraph in the first column.

In 2013, Senate Bill 511 contained conforming language in Section 52.052 to allow credit toward a determinate sentence for a youth committed to a local post-adjudication secure correctional facility established by a juvenile board or local juvenile probation department.

Page 589. Replace the section *Transfer of Supervision to Criminal Court* in the third full paragraph in the second column and the statutory language [Section 51.051 (a) – (i)].

Transfer of Supervision to Criminal Court. If the probation term is scheduled to extend beyond the probationer’s 18th birthday [if offense committed before September 1, 2011] or 19th birthday [if offense committed on or after September 1, 2011], the juvenile court must discharge the child on his or her 18th or 19th birthday, as appropriate, unless the court has earlier acted to transfer supervision to the appropriate criminal court Community Supervision and Corrections Department. Section 54.051, as amended in 2003, 2005, 2011 and 2013, sets out the transfer procedures:

(a) On motion of the state concerning a child who is placed on probation under Section 54.04(q) for a period, including any extension ordered under Section 54.05, that will continue after the child’s 19th birthday, the juvenile court shall hold a hearing to determine whether to transfer the child to an appropriate district court or discharge the child from the sentence of probation.

(b) The hearing must be conducted before the person’s 19th birthday, or before the person’s 18th birthday if the offense for which the person was placed on probation occurred before September 1, 2011, and must be conducted in the same manner as a hearing to modify disposition under Section 54.05.

(c) If, after a hearing, the court determines to discharge the child, the court shall specify a date on or before the child's 19th birthday to discharge the child from the sentence of probation.

(d) If, after a hearing, the court determines to transfer the child, the court shall transfer the child to an appropriate district court on the child's 19th birthday.

(d-1) After a transfer to district court under Subsection (d), only the petition, the grand jury approval, the judgment concerning the conduct for which the person was placed on determinate sentence probation, and the transfer order are a part of the district clerk's public record.

(e) A district court that exercises jurisdiction over a person transferred under Subsection (d) shall place the person on community supervision under Article 42.12, Code of Criminal Procedure, for the remainder of the person's probationary period and under conditions consistent with those ordered by the juvenile court.

(e-1) The restrictions on a judge placing a defendant on community supervision imposed by Section 3g, Article 42.12, Code of Criminal Procedure, do not apply to a case transferred from the juvenile court. The minimum period of community supervision imposed by Section 3(b), Article 42.12, Code of Criminal Procedure, does not apply to a case transferred from the juvenile court.

(e-2) If a person who is placed on community supervision under this section violates a condition of that supervision or if the person violated a condition of probation ordered under Section 54.04(q) and that probation violation was not discovered by the state before the person's 19th birthday, the district court shall dispose of the violation of community supervision or probation, as appropriate, in the same manner as if the court had originally exercised jurisdiction over the case. If the judge revokes community supervision, the judge may reduce the prison sentence to any length without regard to the minimum term imposed by Section 23(a), Article 42.12, Code of Criminal Procedure.

(e-3) The time that a person serves on probation ordered under Section 54.04(q) is the same as time served on community supervision ordered under this section for purposes of determining the person's eligibility for early discharge from community supervision under Section 20, Article 42.12, Code of Criminal Procedure.

(f) The juvenile court may transfer a child to an appropriate district court as provided by this section without a showing that the child violated a condition of probation ordered under Section 54.04(q).

(g) If the juvenile court places the child on probation for an offense for which registration as a sex offender is

required by Chapter 62, Code of Criminal Procedure, and defers the registration requirement until completion of treatment for the sex offense under Subchapter H, Chapter 62, Code of Criminal Procedure, the authority under that article to reexamine the need for registration on completion of treatment is transferred to the court to which probation is transferred.

(h) If the juvenile court places the child on probation for an offense for which registration as a sex offender is required by Chapter 62, Code of Criminal Procedure, and the child registers, the authority of the court to excuse further compliance with the registration requirement under Subchapter H, Chapter 62, Code of Criminal Procedure, is transferred to the court to which probation is transferred.

(i) If the juvenile court exercises jurisdiction over a person who is 18 or 19 years of age or older, as applicable, under Section 51.041 or 51.0412, the court or jury may, if the person is otherwise eligible, place the person on probation under Section 54.04(q). The juvenile court shall set the conditions of probation and immediately transfer supervision of the person to the appropriate court exercising criminal jurisdiction under Subsection (e).

Page 592. Replace the first full paragraph in the first column with the following.

Section 54.051(i), added in 2003 and amended in 2011, authorizes the juvenile court to grant determinate sentence probation even though the person before the court is already 18 or 19 years of age, as applicable, if the juvenile court has jurisdiction of the case under applicable provisions. Upon the granting of probation under this subsection, the person must be immediately transferred to criminal court for supervision in the adult system. The reason for this provision is to keep the probation option open even though there was a delay in processing the case that resulted in the person aging out before disposition. Otherwise probation would be foreclosed by the mere delay in processing the case.

Page 601. Replace the statutory language in the paragraph entitled "Evidence" with the following.

Evidence. As amended in 2013, Section 54.11(d) provides for using written evidence in the hearing:

At a hearing under this section the court may consider written reports and supporting documents from probation officers, professional court employees, professional consultants, or employees of the Texas Juvenile Justice Department, in addition to the testimony of witnesses. On or before the fifth day before the date of the hearing, the court shall provide the attorney for the person to be transferred or released under supervision with access to all written matter to be considered by the court. All written matter is admissible in evidence at the hearing.

Chapter 25: Victim's Rights

Page 704. Replace the statutory language in the second column with the following.

Crime Victims' Legislation in Juvenile Cases. In 1989, the legislature enacted a crime victims' bill of rights for juvenile cases. Chapter 57 of the Family Code closely follows Chapter 56 of the Code of Criminal Procedure. Section 57.002(a) as amended in 2013 provides:

(a) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the juvenile justice system:

(1) the right to receive from law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;

(2) the right to have the court or person appointed by the court take the safety of the victim or the victim's family into consideration as an element in determining whether the child should be detained before the child's conduct is adjudicated;

(3) the right, if requested, to be informed of relevant court proceedings, including appellate proceedings, and to be informed in a timely manner if those court proceedings have been canceled or rescheduled;

(4) the right to be informed, when requested, by the court or a person appointed by the court concerning the procedures in the juvenile justice system, including general procedures relating to:

(A) the preliminary investigation and deferred prosecution of a case; and

(B) the appeal of the case;

(5) the right to provide pertinent information to a juvenile court conducting a disposition hearing concerning the impact of the offense on the victim and the victim's family by testimony, written statement, or any other manner before the court renders its disposition;

(6) the right to receive information regarding compensation to victims as provided by Subchapter B, Chapter 56, Code of Criminal Procedure, including information related to the costs that may be compensated under that subchapter and the amount of compensation, eligibility for compensation, and procedures for application for compensation under that subchapter, the payment of medical expenses under Section 56.06, Code of Criminal Procedure, for a victim of a sexual assault, and when requested, to referral to available social service agencies that may offer additional assistance;

(7) the right to be informed, upon request, of procedures for release under supervision or transfer of the person to the custody of the Texas Department of Criminal Justice for parole, to participate in the release or transfer for parole process, to be notified, if requested, of the person's release, escape, or transfer for parole proceedings concerning the person, to provide to the Texas Juvenile Justice Department for inclusion in the person's file information to be considered by the commission before the release under supervision or transfer for parole of the person, and to be notified, if requested, of the person's release or transfer for parole;

(8) the right to be provided with a waiting area, separate or secure from other witnesses, including the child alleged to have committed the conduct and relatives of the child, before testifying in any proceeding concerning the child, or, if a separate waiting area is not available, other safeguards should be taken to minimize the victim's contact with the child and the child's relatives and witnesses, before and during court proceedings;

(9) the right to prompt return of any property of the victim that is held by a law enforcement agency or the attorney for the state as evidence when the property is no longer required for that purpose;

(10) the right to have the attorney for the state notify the employer of the victim, if requested, of the necessity of the victim's cooperation and testimony in a proceeding that may necessitate the absence of the victim from work for good cause;

(11) the right to be present at all public court proceedings related to the conduct of the child as provided by Section 54.08, subject to that section; and

(12) any other right appropriate to the victim that a victim of criminal conduct has under Article 56.02 or 56.021, Code of Criminal Procedure.

Page 705. Replace the third paragraph in the second column including subdivision (15) with the following.

As a result, Article 56.02(a)(13), added in 2009 and renumbered in 2013, now also applies to juvenile cases. Subsection (a)(13) grants the following right to a victim, victim's guardian or close relative of a deceased victim:

(13) for a victim of an assault or sexual assault who is younger than 17 years of age or whose case involves family violence, as defined by Section 71.004, Family Code, the right to have the court consider the impact on the victim of a continuance requested by the defendant; if requested by the attorney representing the state or by counsel for the defendant, the court shall state on the record the reason for granting or denying the continuance.

In 2013, subsections (a) 11 and 14 were repealed from the provisions of Article 56.02 and moved to newly created Article 56.021, Code relating to the Rights of Victims of Sexual Assault. Section 57.002 of the Family Code was amended in subsection (a)(12) to confer identical rights to victims of sexual assault involving a juvenile. New subsection (a)(16) expands the rights of a victim of a capital felony or the victim's guardian or relative to be contacted by a victim outreach specialist and to have a victim service provider designated to act as a liaison between the victim and the juvenile's defense attorney.

Page 710. Add the following sentence after the last paragraph in the second column.

In 2013, the legislature added the definition of human trafficking to Section 56.32(14) of the Code of Criminal Procedure. Now, victims of human trafficking are eligible to receive one-time only assistance payments under the Crime Victims' Compensation Act.

Chapter 26: Parental Rights and Responsibilities

Pages 726. Replace the first paragraph in the first column with the following.

In 2013, Section 61.0031(d), which requires notice and appearance of a parent, was harmonized with 2007 changes to the inter-county transfer statutes which authorized the waiver of the permanent supervision transfer hearing under Section 51.073(c). The amended provision eliminates the parental notice and appearance requirement under Subsection (d) when the receiving county adopts the original terms and conditions ordered by the sending county and permanent supervision is finalized by an agreed order. If a hearing is necessary to impose new or different terms of probation, the parent must be provided with the required notice in order to maintain the enforceability of the transfer order. See Chapter 27 for an additional discussion of Inter-County Transfer of Probation Supervision.

Pages 726. Replace the second paragraph in the first column with the following.

Inter-County Transfers and Notice of Appearance.

Section 61.0031(b) authorizes the juvenile court to transfer any orders affecting parents to the new county in which the parent now resides or to which the parent has moved or intends to move. Amendments in 2013 to Section 61.0031 make it clear that notice and appearances is not required if the hearing under Section 51.073 has been waived. If a hearing is held to impose new or different terms of probation in the receiving county, failure to provide notice to the parent will render the order unenforceable. For additional discussion of the process of

Inter-County Transfer of Probation Supervision, see Chapter 27.

Chapter 27: Inter-County Transfer of Probation Supervision

Page 732. Replace Section 51.072 beginning with subdivision (18) in the list and add the following paragraph in the second column.

(18) any victim information concerning the case for which the child is on probation; and

(19) if applicable, documentation that the sending county has required the child to provide a DNA sample to the Department of Public Safety under Section 54.0405 or 54.0409 or under Subchapter G, Chapter 411, Government Code.

Youth who have been adjudicated and placed on probation for certain felonies or sex offenses are required under Sections 54.0405 and 54.0409 of the Family Code to submit a DNA sample in accordance with Chapter 411 of the Government Code. Subsection 51.072(f)(19) was added in 2013, along with Subsection 51.072(f-2), which provides that the sending county's failure to provide the required DNA documentation, is grounds for the receiving county to refuse acceptance of the interim supervision until the sending county provides the documentation.

Page 733. Add the following paragraph below the third full paragraph in the first column.

Return of Child to Receiving County After Modification. Since the enactment of the inter-county transfer provisions in 2005, juvenile justice practitioners have cited a number of continuity of supervision issues and other concerns regarding the limited options of the sending county after it conducts a modification proceeding of a child who has been returned for a violation or the commission of a new offense. In 2013, the legislature amended Section 51.072 to give the sending county the ability to return the child to the current county of residence (i.e., back to the receiving county). This procedural change will facilitate the continuity of services and offer the best opportunity for effective supervision at the local level.

As amended, Section 51.072 (j-1) and (j-2) permits the return of a child to the receiving county during the period of interim supervision. Policymakers incorporated in the statutory language additional guidance to inter-county transfer officers for making the agreement to return the child to the receiving county. Specifically, the inter-county transfer officers may consider the child's circumstances, including whether: 1) the person having legal custody of the child resides in the receiving county; 2) whether the child has been ordered by the juvenile court to reside with a parent or other person in the sending county or another

county; and 3) the case meets the statutory requirements of collaborative supervision. Subsection (j-2) clarifies that the term of interim supervision under Subsection (j-1) may not exceed the 180-day time frame in which jurisdiction transfers to the receiving county.

Page 736. Replace the last paragraph in the first column with the following.

F. Parents and Inter-County Transfer Orders. In 2005, the legislature amended Family Code Chapter 61 on Parental Rights and Responsibilities to coincide with the implementation of the inter-county transfer of probation supervision statutes. As amended, Section 61.0031(b) authorizes the juvenile court to transfer any orders affecting parents to the new county in which the parent now resides or to which the parent has moved or intends to move. Section 61.0031(d), amended in 2013, eliminates the parental notice and appearance requirement when the receiving county adopts the original terms and conditions ordered by the sending county and permanent supervision is finalized by an agreed order. If a hearing is necessary to impose new or different terms of probation, the parent must be provided with the required notice in order to maintain the enforceability of the transfer order. Chapter 26 for additional discussion on Parental Rights and Responsibilities.

Page 736. Replace the first full paragraph in the second column with the following.

G. Inter-County Transfer Implementation Recommendations

The Texas Juvenile Probation Commission (TJPC) [Texas Juvenile Justice Department (TJJD)] developed an informational packet that contains practical tips to assist counties with the legislative amendments to Sections 51.072–51.075 and Section 61.0031 of the Family Code. The Inter-County Transfer of Probation Supervision: Overview and Implementation Recommendations contains sample documents, forms and pleadings for use by local juvenile probation departments, prosecutors and judges in establishing local policies and procedures regarding inter-county transfer of probation supervision. All sample documents, forms and pleadings are available on the TJJD website at www.tjjd.texas.gov.

Chapter 28: Texas Juvenile Justice Department

Page 743. Insert the following to the list of Part 11 rules in the second column after “Chapter 351...”

Chapter 355. Standards for Nonsecure Correctional Facilities.

Page 745. Add the following new sections after the paragraph Specialized Treatment Programs.

Trauma-Informed Training. In recent years, mental health professionals have highlighted the long-term effects of traumatic childhood experiences (i.e., abuse and neglect, violence, disasters, sudden death of a relative or friend) and the implications on the psychological and emotional well-being of children. Studies suggest that the exposure to multiple traumatic events may increase the risk for substance abuse, depression, suicide and delinquent behavior. In 2013, the legislature required the Texas Juvenile Justice Department (TJJD) board to adopt administrative rules that require juvenile probation officers, juvenile supervision officers, and court-supervised community-based program personnel to receive trauma-informed care pre-service training. The legislature requires TJJD to develop a mandatory pre-service training module on trauma-informed care. The training must be based on best practices and provide knowledge of how to interact with juveniles who have experienced traumatic events. The requirements of Section 221.002 (c-1) and a related amendment in Section 221.0061, Human Resources Code are a response by policymakers to ensure that juvenile justice practitioners and child-serving professionals develop skills in recognizing signs of traumatic stress in children and facilitating appropriate intervention services and programs.

Victims of Human Trafficking: Identification and Assessment. In 2013, the legislature enacted statutes aimed at ensuring earlier identification and assessment of children believed to be victims of human sex trafficking. Section 221.0035, Human Resources Code requires the Texas Juvenile Justice Department (TJJD) to evaluate the practices and screening procedures used by local juvenile probation departments and to develop a recommended set of best practices that may be used to improve the department’s ability to identify victims of sex trafficking. Sex trafficking of children under Section 20A.02 (a)(7), Penal Code occurs when a person causes a child to engage in, or become the victim of, specific prohibited conduct. The language in the statute also provides guidance on the key components of implementing best practices, including examining the child’s history of referrals and adjudications; inquiring about prior history of sexual abuse; assessing the need for rape crisis counseling or other counseling; and asking questions to ascertain whether the juvenile is at high risk of being or becoming a victim of sex trafficking.

2014 Statutory Supplement

PART ONE: The Processing of Juvenile Cases

Chapter 1: Title 3 Juvenile Justice Code and Related Provisions

Family Code

Chapter 51. General Provisions

§51.02. Definitions.

(8-a) "Nonsecure correctional facility" means a facility described by Section 51.126, ~~[other than a secure correctional facility, that accepts only juveniles who are on probation and that is operated by or under contract with a governmental entity, as defined by Section 101.001, Civil Practice and Remedies Code].~~

§51.03. Delinquent Conduct; Conduct Indicating a Need for Supervision.

(b) Conduct indicating a need for supervision is:

(1) subject to Subsection (f), conduct, other than a traffic offense, that violates:

(A) the penal laws of this state of the grade of misdemeanor that are punishable by fine only; or

(B) the penal ordinances of any political subdivision of this state;

(2) the absence of a child on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school;

(3) the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return;

(4) conduct prohibited by city ordinance or by state law involving the inhalation of the fumes or vapors of paint and other protective coatings or glue and other adhesives and the volatile chemicals itemized in Section 485.001, Health and Safety Code;

(5) an act that violates a school district's previously communicated written standards of student conduct for

which the child has been expelled under Section 37.007(c), Education Code;

(6) conduct that violates a reasonable and lawful order of a court entered under Section 264.305; ~~or~~

(7) notwithstanding Subsection (a)(1), conduct described by Section 43.02(a)(1) or (2), Penal Code; or

(8) notwithstanding Subsection (a)(1), [(7)] conduct that violates Section 43.261, Penal Code.

§51.04. Jurisdiction.

...

(b) In each county, the county's juvenile board shall designate one or more district, criminal district, domestic relations, juvenile, or county courts or county courts at law as the juvenile court, subject to Subsections (c), ~~and (d), and~~ (i) [of this section].

...

(e) A designation made under Subsection (b), ~~or (c), or~~ (i) [of this section] may be changed from time to time by the authorized boards or judges for the convenience of the people and the welfare of children. However, there must be at all times a juvenile court designated for each county. It is the intent of the legislature that in selecting a court to be the juvenile court of each county, the selection shall be made as far as practicable so that the court designated as the juvenile court will be one which is presided over by a judge who has a sympathetic understanding of the problems of child welfare and that changes in the designation of juvenile courts be made only when the best interest of the public requires it.

...

(i) If the court designated as the juvenile court under Subsection (b) does not have jurisdiction over proceedings under Subtitle E, Title 5, the county's juvenile board may designate at least one other court that does have jurisdiction over proceedings under Subtitle E, Title 5, as a juvenile court or alternative juvenile court.

§51.0412. Jurisdiction Over Incomplete Proceedings.

The court retains jurisdiction over a person, without regard to the age of the person, who is a respondent in an adjudication proceeding, a disposition proceeding, a proceeding to modify disposition, a proceeding for waiver of jurisdiction and transfer to criminal court under Section 54.02(a), or a motion for transfer of determinate sentence probation to an appropriate district court if:

(1) the petition or motion ~~[to modify]~~ was filed while the respondent was younger than 18 ~~[years of age]~~ or ~~[the motion for transfer was filed while the respondent was younger than]~~ 19 years of age, as applicable;

(2) the proceeding is not complete before the respondent becomes 18 or 19 years of age, as applicable; and

(3) the court enters a finding in the proceeding that the prosecuting attorney exercised due diligence in an attempt to complete the proceeding before the respondent became 18 or 19 years of age, as applicable.

§51.0413. Jurisdiction Over and Transfer of Combination of Proceedings. [new]

(a) A juvenile court designated under Section 51.04(b) or, if that court does not have jurisdiction over proceedings under Subtitle E, Title 5, the juvenile court designated under Section 51.04(i) may simultaneously exercise jurisdiction over proceedings under this title and proceedings under Subtitle E, Title 5, if there is probable cause to believe that the child who is the subject of those proceedings engaged in delinquent conduct or conduct indicating a need for supervision and cause to believe that the child may be the victim of conduct that constitutes an offense under Section 20A.02, Penal Code.

(b) If a proceeding is instituted under this title in a juvenile court designated under Section 51.04(b) that does not have jurisdiction over proceedings under Subtitle E, Title 5, the court shall assess the case and may transfer the proceedings to a court designated as a juvenile court or alternative juvenile court under Section 51.04(i) if the receiving court agrees and if, in the course of the proceedings, evidence is presented that constitutes cause to believe that the child who is the subject of those proceedings is a child described by Subsection (a).

§51.07. Transfer to Another County for Disposition.

(a) When a child has been found to have engaged in delinquent conduct or conduct indicating a need for supervision under Section 54.03, the juvenile court may transfer the case and transcripts of records and documents to the juvenile court of the county where the child resides for disposition of the case under Section 54.04. Consent by

the court of the county where the child resides is not required.

(b) For purposes of Subsection (a), while a child is the subject of a suit under Title 5, the child is considered to reside in the county in which the court of continuing exclusive jurisdiction over the child is located.

§51.072. Transfer of Probation Supervision Between Counties: Interim Supervision.

(f) Not later than 10 business days after a receiving county has agreed to provide interim supervision of a child, the juvenile probation department of the sending county shall provide the juvenile probation department of the receiving county with a copy of the following documents:

(1) the petition and the adjudication and disposition orders for the child, including the child's thumbprint;

(2) the child's conditions of probation;

(3) the social history report for the child;

(4) any psychological or psychiatric reports concerning the child;

(5) the Department of Public Safety CR 43J form or tracking incident number concerning the child;

(6) any law enforcement incident reports concerning the offense for which the child is on probation;

(7) any sex offender registration information concerning the child;

(8) any juvenile probation department progress reports concerning the child and any other pertinent documentation for the child's probation officer;

(9) case plans concerning the child;

(10) the Texas Juvenile Justice Department ~~[Probation Commission]~~ standard assessment tool results for the child;

(11) the computerized referral and case history for the child, including case disposition;

(12) the child's birth certificate;

(13) the child's social security number or social security card, if available;

(14) the name, address, and telephone number of the contact person in the sending county's juvenile probation department;

(15) Title IV-E eligibility screening information for the child, if available;

(16) the address in the sending county for forwarding funds collected to which the sending county is entitled;

(17) any of the child's school or immunization records that the juvenile probation department of the sending county possesses; ~~and~~

(18) any victim information concerning the case for which the child is on probation; and

(19) if applicable, documentation that the sending county has required the child to provide a DNA sample to the Department of Public Safety under Section 54.0405 or 54.0409 or under Subchapter G, Chapter 411, Government Code.

(f-2) On initiating a transfer of probation supervision under this section, for a child ordered to submit a DNA sample as a condition of probation, the sending county shall provide to the receiving county documentation of compliance with the requirements of Section 54.0405 or 54.0409 or of Subchapter G, Chapter 411, Government Code, as applicable. If the sending county has not provided the documentation required under this section within the time provided by Subsection (f), the receiving county may refuse to accept interim supervision until the sending county has provided the documentation.

(j-1) Notwithstanding Subsection (j), the sending county may request interim supervision from the receiving county that issued a directive under Subsection (i)(2). Following the conclusion of any judicial proceedings in the sending county or on the completion of any residential placement ordered by the juvenile court of the sending county, the sending and receiving counties may mutually agree to return the child to the receiving county. The sending and receiving counties may take into consideration whether:

(1) the person having legal custody of the child resides in the receiving county;

(2) the child has been ordered by the juvenile court of the sending county to reside with a parent, guardian, or other person who resides in the sending county or any other county; and

(3) the case meets the statutory requirements for collaborative supervision.

(j-2) The period of interim supervision under Subsection (j-1) may not exceed the period under Subsection (m).

551.08. Transfer from Criminal Court.

(f) A court shall waive original jurisdiction for a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only, other than a traffic offense, and refer the child to juvenile court if the court or another court has previously dismissed a complaint against the child under Section 8.08, Penal Code.

551.101. Appointment of Attorney and Continuation of Representation.

(a) If an attorney is appointed under Section 54.01(b-1) or (d) to represent a child at the initial detention hearing and the child is detained, the attorney shall continue to represent the child until the case is terminated, the family retains an attorney, or a new attorney is appointed by the juvenile court. Release of the child from detention does not terminate the attorney's representation.

551.12. Place and Conditions of Detention.

(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 complies with the requirements of Subsection (f);

(4) secure detention facility as provided by Subsection (j); ~~or~~

(5) county jail or other facility as provided by Subsection (l); or

(6) nonsecure correctional facility as provided by Subsection (j-1).

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

(1) the nonsecure correctional facility has been appropriately registered and certified;

(2) a certified secure detention facility is not available in the county in which the child is taken into custody;

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

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

§51.13. Effect of Adjudication or Disposition.

Text of subsection (d) effective on December 1, 2013

(d) An adjudication under Section 54.03 that a child engaged in conduct that occurred on or after January 1, 1996, and that constitutes a felony offense resulting in commitment to the Texas Juvenile Justice Department [~~Youth Commission~~] under Section 54.04(d)(2), (d)(3), or (m) or 54.05(f) or commitment to a post-adjudication secure correctional facility under Section 54.04011 is a final felony conviction only for the purposes of Sections 12.42(a), (b), and (c)(1) or Section 12.425 [~~and (e)~~], Penal Code.

(e) A finding that a child engaged in conduct indicating a need for supervision as described by Section 51.03(b)(8) [~~51.03(b)(7)~~] is a conviction only for the purposes of Sections 43.261(c) and (d), Penal Code.

§51.17. Procedure and Evidence.

(c) Except as otherwise provided by this title, the Texas Rules of Evidence applicable [~~apply~~] to criminal cases and Articles 33.03 and 37.07 and Chapter 38, Code of Criminal Procedure, apply in a judicial proceeding under this title.

§51.20. Physical or Mental Examination.

(a) At any stage of the proceedings under this title, including when a child is initially detained in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility, the juvenile court may, at its discretion or at the request of the child's parent or guardian, order a child who is referred to the juvenile court or who is alleged by a petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision to be examined by a disinterested expert, including a physician, psychiatrist, or psychologist, qualified by education and clinical training in mental health or mental retardation and experienced in forensic evaluation, to determine whether the child has a mental illness as defined by Section 571.003, Health and Safety Code, [~~or~~] is a person with mental retardation as defined by Section 591.003, Health and Safety Code, or suffers from chemical dependency as defined by Section 464.001, Health and Safety Code. If the examination is to include a determination of the child's fitness to proceed, an expert may be appointed to conduct the examination only if the expert is qualified under Subchapter B, Chapter 46B, Code of Criminal Procedure, to examine a defendant in a criminal case, and the examination and the report resulting from an examination under this subsection must comply with the requirements under Subchapter B, Chapter 46B, Code of Criminal Procedure, for the examination and resulting report of a defendant in a criminal case.

(b) If, after conducting an examination of a child ordered under Subsection (a) and reviewing any other relevant information, there is reason to believe that the child has a mental illness or mental retardation or suffers from chemical dependency, the probation department shall refer the child to the local mental health or mental retardation authority or to another appropriate and legally authorized agency or provider for evaluation and services, unless the prosecuting attorney has filed a petition under Section 53.04.

(c) If, while a child is under deferred prosecution supervision or court-ordered probation, a qualified professional determines that the child has a mental illness or mental retardation or suffers from chemical dependency and the child is not currently receiving treatment services for the mental illness, [~~or~~] mental retardation, or chemical dependency, the probation department shall refer the child to the local mental health or mental retardation authority or to another appropriate and legally authorized agency or provider for evaluation and services.

(d) A probation department shall report each referral of a child to a local mental health or mental retardation authority or another agency or provider made under Subsection (b) or (c) to the Texas Juvenile Justice Department [~~Texas Juvenile Probation Commission~~] in a format specified by the department [~~commission~~].

Chapter 52. Proceedings Before and Including Referral to Juvenile Court.

§52.0151. Bench Warrant; Attachment of Witness in Custody.

(a) If a witness is in a placement in the custody of the Texas Juvenile Justice Department [~~Youth Commission~~], a juvenile secure detention facility, or a juvenile secure correctional facility, the court may issue a bench warrant or direct that an attachment issue to require a peace officer or probation officer to secure custody of the person at the placement and produce the person in court. Once the person is no longer needed as a witness or the period prescribed by Subsection (c) has expired without extension, the court shall order the peace officer or probation officer to return the person to the placement from which the person was released.

(c) A witness held in custody under this section may be placed in a certified juvenile detention facility for a period not to exceed 30 days. The length of placement may be extended in 30-day increments by the court that issued the original bench warrant. If the placement is not extended, the period under this section expires and the witness may be returned as provided by Subsection (a).

§52.03. Disposition Without Referral to Court.

(a) A law-enforcement officer authorized by this title to take a child into custody may dispose of the case of a child taken into custody or accused of a Class C misdemeanor, other than a traffic offense, without referral to juvenile court or charging a child in a court of competent criminal jurisdiction, if:

(1) guidelines for such disposition have been adopted by the juvenile board of the county in which the disposition is made as required by Section 52.032;

(2) the disposition is authorized by the guidelines; and

(3) the officer makes a written report of the officer's disposition to the law-enforcement agency, identifying the child and specifying the grounds for believing that the taking into custody or accusation of criminal conduct was authorized.

§52.031. First Offender Program.

(a) A juvenile board may establish a first offender program under this section for the referral and disposition of children taken into custody, or accused prior to the filing of a criminal charge, of [for]:

(1) conduct indicating a need for supervision;

(2) a Class C misdemeanor, other than a traffic offense; or

(3) delinquent conduct other than conduct that constitutes:

(A) a felony of the first, second, or third degree, an aggravated controlled substance felony, or a capital felony; or

(B) a state jail felony or misdemeanor involving violence to a person or the use or possession of a firearm, illegal knife, or club, as those terms are defined by Section 46.01, Penal Code, or a prohibited weapon, as described by Section 46.05, Penal Code.

(a-1) A child accused of a Class C misdemeanor, other than a traffic offense, may be referred to a first offender program established under this section prior to the filing of a complaint with a criminal court.

(b) Each juvenile board in the county in which a first offender program is established shall designate one or more law enforcement officers and agencies, which may be law enforcement agencies, to process a child under the first offender program.

(c) The disposition of a child under the first offender program may not take place until guidelines for the disposition have been adopted by the juvenile board of the county in which the disposition is made as required by Section 52.032.

Text of subsection amended by Acts 2013, 83rd Leg., R.S., SB 393

(d) A law enforcement officer taking a child into custody or accusing a child of an offense described in Subsection (a)(2) may refer the child to the law enforcement officer or agency designated under Subsection (b) for disposition under the first offender program and not refer the child to juvenile court or a court of competent criminal jurisdiction only if:

(1) the child has not previously been adjudicated as having engaged in delinquent conduct;

(2) the referral complies with guidelines for disposition under Subsection (c); and

(3) the officer reports in writing the referral to the agency, identifying the child and specifying the grounds for taking the child into custody or accusing a child of an offense described in Subsection (a)(2).

Text of subsection as amended by Acts 2013, 83rd Leg., R.S. SB 1114

(d) A law enforcement officer taking a child into custody for conduct described by Subsection (a) or before issuing a citation to a child for an offense described by Subsection (a-1) may refer the child to the law enforcement officer or agency designated under Subsection (b) for disposition under the first offender program and not refer the child to juvenile court for the conduct or file a complaint with a criminal court for the offense only if:

(1) the child has not previously been adjudicated as having engaged in delinquent conduct;

(2) the referral complies with guidelines for disposition under Subsection (c); and

(3) the officer reports in writing the referral to the agency, identifying the child and specifying the grounds for taking the child into custody or for accusing the child of an offense.

(e) A child referred for disposition under the first offender program may not be detained in law enforcement custody.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., SB 393

(f) The parent, guardian, or other custodian of the child must receive notice that the child has been referred for disposition under the first offender program. The notice must:

(1) state the grounds for taking the child into custody or accusing a child of an offense described in Subsection (a)(2);

(2) identify the law enforcement officer or agency to which the child was referred;

(3) briefly describe the nature of the program; and

(4) state that the child's failure to complete the program will result in the child being referred to the juvenile court or a court of competent criminal jurisdiction.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., SB 1114

(f) The parent, guardian, or other custodian of the child must receive notice that the child has been referred for disposition under the first offender program. The notice must:

(1) state the grounds for taking the child into custody for conduct described by Subsection (a), or for accusing the child of an offense described by Subsection (a-1);

(2) identify the law enforcement officer or agency to which the child was referred;

(3) briefly describe the nature of the program; and

(4) state that the child's failure to complete the program will result in the child being referred to the juvenile court for the conduct or a complaint being filed with a criminal court for the offense.

(g) The child and the parent, guardian, or other custodian of the child must consent to participation by the child in the first offender program.

(h) Disposition under a first offender program may include:

(1) voluntary restitution by the child or the parent, guardian, or other custodian of the child to the victim of the conduct of the child;

(2) voluntary community service restitution by the child;

(3) educational, vocational training, counseling, or other rehabilitative services; and

(4) periodic reporting by the child to the law enforcement officer or agency to which the child has been referred.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., SB 393

(i) The case of a child who successfully completes the first offender program is closed and may not be referred to juvenile court or a court of competent criminal jurisdiction, unless the child is taken into custody under circumstances described by Subsection (j)(3).

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., SB 1114

(i) The case of a child who successfully completes the first offender program is closed and may not be referred to juvenile court or filed with a criminal court, unless the child is taken into custody under circumstances described by Subsection (j)(3).

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., SB 393

(j) The case of a child referred for disposition under the first offender program shall be referred to juvenile court or a court of competent criminal jurisdiction if:

(1) the child fails to complete the program;

(2) the child or the parent, guardian, or other custodian of the child terminates the child's participation in the program before the child completes it; or

(3) the child completes the program but is taken into custody under Section 52.01 before the 90th day after the date the child completes the program for conduct other than the conduct for which the child was referred to the first offender program.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., SB 1114

(j) The case of a child referred for disposition under the first offender program shall be referred to juvenile court or, if the child is accused of an offense described by Subsection (a-1), filed with a criminal court if:

(1) the child fails to complete the program;

(2) the child or the parent, guardian, or other custodian of the child terminates the child's participation in the program before the child completes it; or

(3) the child completes the program but is taken into custody under Section 52.01 before the 90th day after the date the child completes the program for conduct other

than the conduct for which the child was referred to the first offender program.

(k) A statement made by a child to a person giving advice or supervision or participating in the first offender program may not be used against the child in any proceeding under this title or any criminal proceeding.

(l) The law enforcement agency must report to the juvenile board in December of each year the following:

(1) the last known address of the child, including the census tract;

(2) the gender and ethnicity of the child referred to the program; and

(3) the offense committed by the child.

§52.032. Informal Disposition Guidelines.

(a) The juvenile board of each county, in cooperation with each law enforcement agency in the county, shall adopt guidelines for the disposition of a child under Section 52.03 or 52.031. The guidelines adopted under this section shall not be considered mandatory.

(b) The guidelines adopted under Subsection (a) may not allow for the case of a child to be disposed of under Section 52.03 or 52.031 if there is probable cause to believe that the child engaged in delinquent conduct or conduct indicating a need for supervision and cause to believe that the child may be the victim of conduct that constitutes an offense under Section 20A.02, Penal Code.

Chapter 53. Proceedings Prior to Judicial Proceedings

§53.045. Offenses Eligible for Determinate Sentence [Violent or Habitual Offenders].

(a) Except as provided by Subsection (e), the prosecuting attorney may refer the petition to the grand jury of the county in which the court in which the petition is filed presides if the petition alleges that the child engaged in delinquent conduct that constitutes habitual felony conduct as described by Section 51.031 or that included the violation of any of the following provisions:

(1) Section 19.02, Penal Code (murder);

(2) Section 19.03, Penal Code (capital murder);

(3) Section 19.04, Penal Code (manslaughter);

(4) Section 20.04, Penal Code (aggravated kidnapping);

(5) Section 22.011, Penal Code (sexual assault) or Section 22.021, Penal Code (aggravated sexual assault);

(6) Section 22.02, Penal Code (aggravated assault);

(7) Section 29.03, Penal Code (aggravated robbery);

(8) Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual), if the offense is punishable as a felony, other than a state jail felony;

(9) Section 22.05(b), Penal Code (felony deadly conduct involving discharging a firearm);

(10) Subchapter D, Chapter 481, Health and Safety Code, if the conduct constitutes a felony of the first degree or an aggravated controlled substance felony (certain offenses involving controlled substances);

(11) Section 15.03, Penal Code (criminal solicitation);

(12) Section 21.11(a)(1), Penal Code (indecent with a child);

(13) Section 15.031, Penal Code (criminal solicitation of a minor);

(14) Section 15.01, Penal Code (criminal attempt), if the offense attempted was an offense under Section 19.02, Penal Code (murder), or Section 19.03, Penal Code (capital murder), or an offense listed by Section 3g(a)(1), Article 42.12, Code of Criminal Procedure;

(15) Section 28.02, Penal Code (arson), if bodily injury or death is suffered by any person by reason of the commission of the conduct;

(16) Section 49.08, Penal Code (intoxication manslaughter); or

(17) Section 15.02, Penal Code (criminal conspiracy), if the offense made the subject of the criminal conspiracy includes a violation of any of the provisions referenced in Subdivisions (1) through (16).

(b) A grand jury may approve a petition submitted to it under this section by a vote of nine members of the grand jury in the same manner that the grand jury votes on the presentment of an indictment.

(c) The grand jury has all the powers to investigate the facts and circumstances relating to a petition submitted under this section as it has to investigate other criminal activity but may not issue an indictment unless the child is transferred to a criminal court as provided by Section 54.02 of this code.

(d) If the grand jury approves of the petition, the fact of approval shall be certified to the juvenile court, and the certification shall be entered in the record of the case. For the purpose of the transfer of a child to the Texas Department of Criminal Justice as provided by Section 245.151(c), Human Resources Code, a juvenile court petition approved by a grand jury under this section is an indictment presented by the grand jury.

(e) The prosecuting attorney may not refer a petition that alleges the child engaged in conduct that violated Section 22.011(a)(2), Penal Code, or Sections 22.021(a)(1)(B) and (2)(B), Penal Code, unless the child is more than three years older than the victim of the conduct.

Chapter 54. Judicial Proceedings

§54.01. Detention Hearing.

(b-1) Unless the court finds that the appointment of counsel is not feasible due to exigent circumstances, the court shall appoint counsel within a reasonable time before the first detention hearing is held to represent the child at that hearing.

(d) A detention hearing may be held without the presence of the child's parents if the court has been unable to locate them. If no parent or guardian is present, the court shall appoint counsel or a guardian ad litem for the child, subject to the requirements of Subsection (b-1).

§54.011. Detention Hearings for Status Offenders and Nonoffenders; Penalty.

(e) A status offender may be detained for a necessary period, not to exceed the period allowed under the Interstate Compact for Juveniles [five days], to enable the child's return to the child's home in another state under Chapter 60.

§54.02. Waiver of Jurisdiction and Discretionary Transfer to Criminal Court.

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

...

(k) The petition and notice requirements of Sections 53.04, 53.05, 53.06, and 53.07 of this code must be satisfied, and the summons must state that the hearing is for the purpose of considering waiver of jurisdiction under Subsection (j) [of this section]. The person's parent, custodian, guardian, or guardian ad litem is not considered a party to a proceeding under Subsection (j) and it is not

necessary to provide the parent, custodian, guardian, or guardian ad litem with notice.

(l) The juvenile court shall conduct a hearing without a jury to consider waiver of jurisdiction under Subsection (j) [of this section]. Except as otherwise provided by this subsection, a waiver of jurisdiction under Subsection (j) may be made without the necessity of conducting the diagnostic study or complying with the requirements of discretionary transfer proceedings under Subsection (d). If requested by the attorney for the person at least 10 days before the transfer hearing, the court shall order that the person be examined pursuant to Section 51.20(a) and that the results of the examination be provided to the attorney for the person and the attorney for the state at least five days before the transfer hearing.

...

s) If a child is transferred to criminal court under this section, only the petition for discretionary transfer, the order of transfer, and the order of commitment, if any, are a part of the district clerk's public record.

Section 54.021(a). County, Justice, or Municipal Court: Truancy.

*Subsection as reenacted by Acts 2011 82nd Leg., RS
HB 734 and SB 1489*

(a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to the constitutional county court, if the county has a population of 1.75 million or more, or to an appropriate justice or municipal court, with the permission of the county, justice, or municipal court, for disposition in the manner provided by Subsection (b) if the child is 12 years of age or older and is alleged to have engaged in conduct described in Section 51.03(b)(2). A waiver of jurisdiction under this subsection may be for an individual case or for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2). The waiver of a juvenile court's exclusive original jurisdiction for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) is effective for a period of one year.

§54.0326. Deferral of Adjudication and Dismissal of Certain Cases on Completion of Trafficked Persons Program. [new]

(a) This section applies to a juvenile court or to an alternative juvenile court exercising simultaneous jurisdiction over proceedings under this title and Subtitle E, Title 5, in the manner authorized by Section 51.0413.

(b) A juvenile court may defer adjudication proceedings under Section 54.03 until the child's 18th birthday and require a child to participate in a program established under Section 152.0016, Human Resources Code, if the child:

(1) is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision and may be a victim of conduct that constitutes an offense under Section 20A.02, Penal Code; and

(2) presents to the court an oral or written request to participate in the program.

(c) Following a child's completion of the program, the court shall dismiss the case with prejudice at the time the child presents satisfactory evidence that the child successfully completed the program.

§ 54.04. Disposition Hearing.

(b) At the disposition hearing, the juvenile court, notwithstanding the Texas Rules of Evidence or Chapter 37, Code of Criminal Procedure, may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of witnesses. On or before the second day before the date of [Prior to] the disposition hearing, the court shall provide the attorney for the child and the prosecuting attorney with access to all written matter to be considered by the court in disposition. The court may order counsel not to reveal items to the child or the child's parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

...

Text of subsection effective until December 1, 2013

(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 [~~Youth Commission~~]; 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 [~~Youth Commission~~];

(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 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 [~~Youth Commission~~] 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 [~~Youth Commission~~] 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; ~~or~~

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

Text of subsection effective December 1, 2013

(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 [~~Youth Commission~~]; 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 [~~Youth Commission~~];

(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 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 or a post-adjudication secure correctional facility under Section 54.04011(c)(1) [~~Youth Commission~~] 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) [~~Youth Commission~~] 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; [~~or~~]

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

Text of subsection effective December 1, 2013

(q) If a court or jury sentences a child to commitment in the Texas Juvenile Justice Department or a post-adjudication secure correctional facility [~~Youth Commission~~] under Subsection (d)(3) for a term of not more than 10 years, the court or jury may place the child on probation under Subsection (d)(1) as an alternative to making the disposition under Subsection (d)(3). The court shall prescribe the period of probation ordered under this subsection for a term of not more than 10 years. The court may, before the sentence of probation expires, extend the probationary period under Section 54.05, except that the sentence of probation and any extension may not exceed 10 years. The court may, before the child's 19th birthday, discharge the child from the sentence of probation. If a sentence of probation ordered under this subsection and any extension of probation ordered under Section 54.05 will continue after the child's 19th birthday, the court shall discharge the child from the sentence of probation on the child's 19th birthday unless the court transfers the child to an appropriate district court under Section 54.051.

...

Text of subsection effective December 1, 2013

(z) Nothing in this section may be construed to prohibit a juvenile court or jury in a county to which Section 54.04011 applies from committing a child to a post-adjudication secure correctional facility in accordance with that section after a disposition hearing held in accordance with this section.

§54.04011. Trafficked Persons Program. [new] [first of two]

(a) This section applies to a juvenile court or to an alternative juvenile court exercising simultaneous jurisdiction over proceedings under this title and Subtitle E, Title 5, in the manner authorized by Section 51.0413.

(b) A juvenile court may require a child adjudicated to have engaged in delinquent conduct or conduct indicating a need for supervision and who is believed to be a victim of conduct that constitutes an offense under Section 20A.02, Penal Code, to participate in a program established under Section 152.0016, Human Resources Code.

(c) The court may require a child participating in the program to periodically appear in court for monitoring and compliance purposes.

(d) Following a child's successful completion of the program, the court may order the sealing of the records of the case in the manner provided by Sections 58.003(c-7) and (c-8).

§54.04011. Commitment to Post-adjudication Secure Correctional Facility. [second of two]

See expiration provision in Subsection (f)

(a) In this section, "post-adjudication secure correctional facility" means a facility operated by or under contract with a juvenile board or local juvenile probation department under Section 152.0016, Human Resources Code.

(b) This section applies only to a county in which the juvenile board or local juvenile probation department operates or contracts for the operation of a post-adjudication secure correctional facility.

(c) After a disposition hearing held in accordance with Section 54.04, the juvenile court of a county to which this section applies may commit a child who is found to have engaged in delinquent conduct that constitutes a felony to a post-adjudication secure correctional facility:

(1) without a determinate sentence, if:

(A) the child is found to have engaged in conduct that violates a penal law of the grade of felony and the petition was not approved by the grand jury under Section 53.045;

(B) the child is found to have engaged in conduct that violates a penal law of the grade of felony and the petition was approved by the grand jury under Section 53.045 but the court or jury does not make the finding described by Section 54.04(m)(2); or

(C) the disposition is modified under Section 54.05(f); or

(2) with a determinate sentence, if:

(A) the child is found to have engaged in conduct that included a violation of a penal law listed in Section 53.045 or that is considered habitual felony conduct as described by Section 51.031, the petition was approved by the grand jury under Section 53.045, and, if applicable, the court or jury makes the finding described by Section 54.04(m)(2); or

(B) the disposition is modified under Section 54.05(f).

(d) Nothing in this section may be construed to prohibit:

(1) a juvenile court or jury from making a disposition under Section 54.04, including:

(A) placing a child on probation on such reasonable and lawful terms as the court may determine, including placement in a public or private post-adjudication secure correctional facility under Section 54.04(d)(1)(B)(iii); or

(B) placing a child adjudicated under Section 54.04(d)(3) or (m) on probation for a term of not more than 10 years, as provided in Section 54.04(q); or

(2) the attorney representing the state from filing a motion concerning a child who has been placed on probation under Section 54.04(q) or the juvenile court from holding a hearing under Section 54.051(a).

(e) The provisions of 37 T.A.C. Section 343.610 do not apply to this section.

(f) This section expires on December 31, 2018.

§54.0482. Treatment of Restitution Payments.

(a) A juvenile probation department that receives a payment to a victim as the result of a juvenile court order for restitution shall immediately:

(1) deposit the payment in an interest-bearing account in the county treasury; and

(2) notify the victim [~~by certified mail, sent to the last known address of the victim,~~] that a payment has been received.

...

(b-1) If the victim does not make a claim for payment on or before the 30th day after the date of being notified

under Subsection (a), the juvenile probation department shall notify the victim by certified mail, sent to the last known address of the victim, that a payment has been received.

...

(e) If a victim claims a payment on or before the fifth anniversary of the date on which the juvenile probation department mailed a notice to the victim under Subsection (b-1) [(a)], the juvenile probation department shall pay the victim the amount of the original payment, less any interest earned while holding the payment.

(f) If a victim does not claim a payment on or before the fifth anniversary of the date on which the juvenile probation department mailed a notice to the victim under Subsection (b-1) [(a)], the department:

(1) has no liability to the victim or anyone else in relation to the payment; and

(2) shall transfer the payment from the interest-bearing account to a special fund of the county treasury, the unclaimed juvenile restitution fund.

§54.05. Hearing to Modify Disposition.

Text of subsection effective until December 1, 2013

(b) Except for a commitment to the Texas Youth Commission or a disposition under Section 54.0402, or a placement on determinate sentence probation under Section 54.04(q), all dispositions automatically terminate when the child reaches the child's 18th birthday.

Text of subsection effective December 1, 2013

(b) Except for a commitment to the Texas Juvenile Justice Department or to a post-adjudication secure correctional facility under Section 54.0401, [~~Youth Commission or~~] a disposition under Section 54.0402, or a placement on determinate sentence probation under Section 54.04(q), all dispositions automatically terminate when the child reaches the child's 18th birthday.

...

(e) After the hearing on the merits or facts, the court may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of other witnesses. On or before the second day before the date of [Prior to] the hearing to modify disposition, the court shall provide the attorney for the child and the prosecuting attorney with access to all written matter to be considered by the court in deciding whether to modify disposition. The court may order counsel not to reveal items to the child or his parent,

guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

Text of subsection effective until December 1, 2013

(f) Except as provided by Subsection (j), a disposition based on a finding that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony may be modified so as to commit the child to the Texas Youth Commission if the court after a hearing to modify disposition finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court. A disposition based on a finding that the child engaged in habitual felony conduct as described by Section 51.031 or in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) may be modified to commit the child to the Texas Youth Commission with a possible transfer to the Texas Department of Criminal Justice for a definite term prescribed by Section 54.04(d)(3) if the original petition was approved by the grand jury under Section 53.045 and if after a hearing to modify the disposition the court finds that the child violated a reasonable and lawful order of the court.

Text of subsection effective December 1, 2013

(f) Except as provided by Subsection (j), a disposition based on a finding that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony may be modified so as to commit the child to the Texas Juvenile Justice Department or, if applicable, a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code, [~~Youth Commission~~] if the court after a hearing to modify disposition finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court. A disposition based on a finding that the child engaged in habitual felony conduct as described by Section 51.031 or in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) may be modified to commit the child to the Texas Juvenile Justice Department or, if applicable, a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code, [~~Youth Commission~~] with a possible transfer to the Texas Department of Criminal Justice for a definite term prescribed by, as applicable, Section 54.04(d)(3) or Section 152.0016(g), Human Resources Code, if the original petition was approved by the grand jury under Section 53.045 and if after a hearing to modify the disposition the court finds that the child violated a reasonable and lawful order of the court.

...

Text of subsection effective until December 1, 2013

(j) If, after conducting a hearing to modify disposition without a jury, the court finds by a preponderance of the evidence that a child violated a reasonable and lawful condition of probation ordered under Section 54.04(q), the court may modify the disposition to commit the child to the Texas Youth Commission under Section 54.04(d)(3) for a term that does not exceed the original sentence assessed by the court or jury.

Text of subsection effective December 1, 2013

(j) If, after conducting a hearing to modify disposition without a jury, the court finds by a preponderance of the evidence that a child violated a reasonable and lawful condition of probation ordered under Section 54.04(q), the court may modify the disposition to commit the child to the Texas Juvenile Justice Department [~~Youth Commission~~] under Section 54.04(d)(3) or, if applicable, a post-adjudication secure correctional facility operated under Section 152.0016, Human Resources Code, for a term that does not exceed the original sentence assessed by the court or jury.

Text of subsection effective until December 1, 2013

(m) If the court places the child on probation outside the child's home or commits the child to the Texas Youth Commission, the court:

(1) shall include in the court's order a determination that:

(A) it is in the child's best interests to be placed outside the child's home;

(B) reasonable efforts were made to prevent or eliminate the need for the child's removal from the child's home and to make it possible for the child to return home; and

(C) the child, in the child's home, cannot be provided the quality of care and level of support and supervision that the child needs to meet the conditions of probation; and

(2) may approve an administrative body to conduct a permanency hearing pursuant to 42 U.S.C. Section 675 if required during the placement or commitment of the child.

Text of subsection effective December 1, 2013

(m) If the court places the child on probation outside the child's home or commits the child to the Texas Juvenile Justice Department or to a post-adjudication secure

correctional facility operated under Section 152.0016, Human Resources Code [~~Youth Commission~~], the court:

(1) shall include in the court's order a determination that:

(A) it is in the child's best interests to be placed outside the child's home;

(B) reasonable efforts were made to prevent or eliminate the need for the child's removal from the child's home and to make it possible for the child to return home; and

(C) the child, in the child's home, cannot be provided the quality of care and level of support and supervision that the child needs to meet the conditions of probation; and

(2) may approve an administrative body to conduct a permanency hearing pursuant to 42 U.S.C. Section 675 if required during the placement or commitment of the child.

§54.051. Transfer of Determinate Sentence Probation to Appropriate District Court.

(b) The hearing must be conducted before the person's [~~child's~~] 19th birthday, or before the person's 18th birthday if the offense for which the person was placed on probation occurred before September 1, 2011, and must be conducted in the same manner as a hearing to modify disposition under Section 54.05.

...

(d-1) After a transfer to district court under Subsection (d), only the petition, the grand jury approval, the judgment concerning the conduct for which the person was placed on determinate sentence probation, and the transfer order are a part of the district clerk's public record.

(e) A district court that exercises jurisdiction over a person [~~child~~] transferred under Subsection (d) shall place the person [~~child~~] on community supervision under Article 42.12, Code of Criminal Procedure, for the remainder of the person's [~~child's~~] probationary period and under conditions consistent with those ordered by the juvenile court.

...

(e-2) If a person [~~child~~] who is placed on community supervision under this section violates a condition of that supervision or if the person [~~child~~] violated a condition of probation ordered under Section 54.04(q) and that probation violation was not discovered by the state before the person's [~~child's~~] 19th birthday, the district court shall dispose of the violation of community supervision or probation, as appropriate, in the same manner as if the

court had originally exercised jurisdiction over the case. If the judge revokes community supervision, the judge may reduce the prison sentence to any length without regard to the minimum term imposed by Section 23(a), Article 42.12, Code of Criminal Procedure.

(e-3) The time that a person [~~child~~] serves on probation ordered under Section 54.04(q) is the same as time served on community supervision ordered under this section for purposes of determining the person's [~~child's~~] eligibility for early discharge from community supervision under Section 20, Article 42.12, Code of Criminal Procedure.

...

§54.052. Credit for Time Spent in Detention Facility for Child with Determinate Sentence.

(a) This section applies only to a child who is committed to:

(1) the Texas Juvenile Justice Department [~~Youth Commission~~] under a determinate sentence under Section 54.04(d)(3) or (m) or Section 54.05(f); or

(2) a post-adjudication secure correctional facility under a determinate sentence under Section 54.04011(c)(2).

(b) The judge of the court in which a child is adjudicated shall give the child credit on the child's sentence for the time spent by the child, in connection with the conduct for which the child was adjudicated, in a secure detention facility before the child's transfer to a Texas Juvenile Justice Department [~~Youth Commission~~] facility or a post-adjudication secure correctional facility, as applicable.

(d) The Texas Juvenile Justice Department or the juvenile board or local juvenile probation department operating or contracting for the operation of the post-adjudication secure correctional facility under Section 152.0016, Human Resources Code, as applicable. [~~Youth Commission~~] shall grant any credit under this section in computing the child's eligibility for parole and discharge.

§54.11. Release or Transfer Hearing.

(a) On receipt of a referral under Section 244.014(a), Human Resources Code, for the transfer to the Texas Department of Criminal Justice of a person committed to the Texas Juvenile Justice Department under Section 54.04(d)(3), 54.04(m), or 54.05(f), [~~or~~] on receipt of a request by the Texas Juvenile Justice Department under Section 245.051(d), Human Resources Code, for approval of the release under supervision of a person committed to the Texas Juvenile Justice Department under Section 54.04(d)(3), 54.04(m), or 54.05(f), or on receipt of a referral under Section 152.0016(g), Human Resources Code, the

court shall set a time and place for a hearing on the release of the person.

...

(h) The hearing on a person who is referred for transfer under Section 152.0016(j) or 244.014(a), Human Resources Code, shall be held not later than the 60th day after the date the court receives the referral.

(i) On conclusion of the hearing on a person who is referred for transfer under Section 152.0016(j) or 244.014(a), Human Resources Code, the court may, as applicable, order:

(1) the return of the person to the Texas Juvenile Justice Department or post-adjudication secure correctional facility; or

(2) the transfer of the person to the custody of the Texas Department of Criminal Justice for the completion of the person's sentence.

(j) On conclusion of the hearing on a person who is referred for release under supervision under Section 152.0016(g) or 245.051(c), Human Resources Code, the court may, as applicable, order the return of the person to the Texas Juvenile Justice Department or post-adjudication secure correctional facility:

(1) with approval for the release of the person under supervision; or

(2) without approval for the release of the person under supervision.

(k) In making a determination under this section, the court may consider the experiences and character of the person before and after commitment to the Texas Juvenile Justice Department or post-adjudication secure correctional facility [~~youth commission~~], the nature of the penal offense that the person was found to have committed and the manner in which the offense was committed, the abilities of the person to contribute to society, the protection of the victim of the offense or any member of the victim's family, the recommendations of the Texas Juvenile Justice Department, county juvenile board, local juvenile probation department, [~~Youth Commission~~] and prosecuting attorney, the best interests of the person, and any other factor relevant to the issue to be decided.

Chapter 55. Proceedings Concerning Children with Mental Illness or Mental Retardation [omitted]

Chapter 56. Appeal

§56.03. Appeal by State in Cases of Offenses Eligible for Determinate Sentence ~~[violent or habitual offender]~~. *[Title change only.]*

Chapter 57. Rights of Victims

§57.002. Victim's Rights.

(a) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the juvenile justice system:

...

(7) the right to be informed, upon request, of procedures for release under supervision or transfer of the person to the custody of the Texas Department of Criminal Justice for parole, to participate in the release or transfer for parole process, to be notified, if requested, of the person's release, escape, or transfer for parole proceedings concerning the person, to provide to the Texas Juvenile Justice Department ~~[Youth Commission]~~ for inclusion in the person's file information to be considered by the commission before the release under supervision or transfer for parole of the person, and to be notified, if requested, of the person's release or transfer for parole;

...

(12) any other right appropriate to the victim that a victim of criminal conduct has under Article 56.02 or 56.021, Code of Criminal Procedure.

(b) In notifying a victim of the release or escape of a person, the Texas Youth Commission shall use the same procedure established for the notification of the release or escape of an adult offender under Article 56.11, Code of Criminal Procedure.

Chapter 58. Records, Juvenile Justice Information System.

Subchapter A. Records

§58.003. Sealing of Records.

(c-1) Notwithstanding Subsections (a) and (c) and subject to Subsection (b), a juvenile court may order the sealing of records concerning a child adjudicated as having engaged in delinquent conduct or conduct indicating a need for supervision that violated a penal law of the grade of misdemeanor or felony if the child successfully completed a drug court program under Chapter 123,

~~Government [469, Health and Safety] Code, or former law.~~
The court may:

(1) order the sealing of the records immediately and without a hearing; or

(2) hold a hearing to determine whether to seal the records.

~~(c-5) [(c-3)]~~ Notwithstanding Subsections (a) and (c) and subject to Subsection (b), a juvenile court may order the sealing of records concerning a child found to have engaged in conduct indicating a need for supervision that violates Section 43.261, Penal Code, or taken into custody to determine whether the child engaged in conduct indicating a need for supervision that violates Section 43.261, Penal Code, if the child attends and successfully completes an educational program described by Section 37.218, Education Code, or another equivalent educational program. The court may:

(1) order the sealing of the records immediately and without a hearing; or

(2) hold a hearing to determine whether to seal the records.

~~(c-6) [(c-4)]~~ A prosecuting attorney or juvenile probation department may maintain until a child's 17th birthday a separate record of the child's name and date of birth and the date on which the child successfully completed the educational program, if the child's records are sealed under Subsection ~~(c-5) [(c-3)]~~. The prosecuting attorney or juvenile probation department, as applicable, shall send the record to the court as soon as practicable after the child's 17th birthday to be added to the child's other sealed records.

~~(c-7) Notwithstanding Subsections (a) and (c) and subject to Subsection (b), a juvenile court may order the sealing of records concerning a child found to have engaged in delinquent conduct or conduct indicating a need for supervision or taken into custody to determine whether the child engaged in delinquent conduct or conduct indicating a need for supervision if the child successfully completed a trafficked persons program under Section 152.0016, Human Resources Code. The court may:~~

~~(1) order the sealing of the records immediately and without a hearing; or~~

~~(2) hold a hearing to determine whether to seal the records.~~

~~(c-8) If the court orders the sealing of a child's records under Subsection (c-7), a prosecuting attorney or juvenile probation department may maintain until the child's 18th~~

birthday a separate record of the child's name and date of birth and the date the child successfully completed the trafficked persons program. The prosecuting attorney or juvenile probation department, as applicable, shall send the record to the court as soon as practicable after the child's 18th birthday to be added to the child's other sealed records.

(d) The court may grant to a child the relief authorized in Subsection (a), (c-1), ~~(c-3)~~, or (c-5) at any time after final discharge of the child or after the last official action in the case if there was no adjudication, subject, if applicable, to Subsection (e). If the child is referred to the juvenile court for conduct constituting any offense and at the adjudication hearing the child is found to be not guilty of each offense alleged, the court shall immediately and without any additional hearing order the sealing of all files and records relating to the case.

(g-1) Statistical data ~~[Any records]~~ collected or maintained by the Texas Juvenile Justice Department, including statistical data submitted under Section 221.007, Human Resources Code, is ~~[are]~~ not subject to a sealing order issued under this section.

§58.007. Physical Records or Files.

(b) Except as provided by Section 54.051(d-1) and by Article 15.27, Code of Criminal Procedure, the records and files of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under this title may be inspected or copied ~~[are open to inspection]~~ only by:

(1) the judge, probation officers, and professional staff or consultants of the juvenile court;

(2) a juvenile justice agency as that term is defined by Section 58.101;

(3) an attorney for a party to the proceeding;

(4) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or

(5) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

§58.00711. Records Relating to Children Convicted of or Receiving Deferred Disposition for Fine-Only Misdemeanors. [first of two]

*Text of section as amended by Acts 2013, 83rd Leg., R.S.
SB 394 (Effective September 1, 2013)*

HB 528 (Effective January 1, 2014)

(a) This section applies only to a misdemeanor offense punishable by fine only, other than a traffic offense.

(b) Except as provided by Article 45.0217(b), Code of Criminal Procedure, all records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition for an ~~[a fine only misdemeanor]~~ offense described by Subsection (a) ~~[other than a traffic offense]~~ are confidential and may not be disclosed to the public.

*Text of section as amended by Acts 2013, 83rd Leg., R.S.
SB 394 (Effective September 1, 2013)*

HB 528 (Effective January 1, 2014)

§58.00711. Records Relating to Children Charged with or Convicted of Fine-Only Misdemeanors. [second of two]

Except as provided by Article 45.0217(b), Code of Criminal Procedure, all records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is charged with, is convicted of, is found not guilty of, had a charge dismissed for, or is granted deferred disposition ~~[and has satisfied the judgment]~~ for a fine-only misdemeanor offense other than a traffic offense are confidential and may not be disclosed to the public.

Subchapter B. Juvenile Justice Information System

§58.106. Confidentiality.

(a) Except as otherwise provided by this section, information contained in the juvenile justice information system is confidential information for the use of the department and may not be disseminated by the department except:

(1) with the permission of the juvenile offender, to military personnel of this state or the United States;

(2) to a person or entity to which the department may grant access to adult criminal history records as provided by Section 411.083, Government Code;

(3) to a juvenile justice agency;

(4) to the Texas Youth Commission and the Texas Juvenile Probation Commission for analytical purposes;

(5) to the office of independent ombudsman of the Texas Youth Commission; and

(6) to a county, justice, or municipal court exercising jurisdiction over a juvenile, including a court exercising jurisdiction over a juvenile under Section 54.021.

§58.110. Reporting.

(c) The clerk of the court exercising jurisdiction over a juvenile offender's case shall report the disposition of the case to the department. ~~A clerk of the court who violates this subsection commits an offense. An offense under this subsection is a Class C misdemeanor.~~

Subchapter C. Automatic Restriction of Access to Records

§58.203. Certification.

(a) The department shall certify to the juvenile probation department to which a referral was made that resulted in information being submitted to the juvenile justice information system that the records relating to a person's juvenile case are subject to automatic restriction of access if:

(1) the person is at least 17 years of age;

(2) the juvenile case did not include ~~[violent or habitual felony]~~ conduct resulting in determinate sentence proceedings in the juvenile court under Section 53.045; and

(3) the juvenile case was not certified for trial in criminal court under Section 54.02.

§58.204. Restricted Access on Certification.

(b) On certification of records in a case under Section 58.203, the department may permit access to the information in the juvenile justice information system relating to the case of an individual only:

(1) by a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code; ~~or~~

(2) for research purposes, by the Texas Juvenile Justice Department;

*Text of subsection as amended by Acts 2013, 83rd Leg.,
R.S. HB 694*

(3) with the written permission of the individual, by military personnel, including a recruiter, of this state or the United States if the individual is an applicant for enlistment in the armed forces.

*Text of subsection as amended by Acts 2013, 83rd Leg.,
R.S. HB 2862*

(3) by the person who is the subject of the records on an order from the juvenile court granting the petition filed by or on behalf of the person who is the subject of the records;

(4) with the permission of the juvenile court at the request of the person who is the subject of the records; or

(5) with the permission of the juvenile court, by a party to a civil suit if the person who is the subject of the records has put facts relating to the person's records at issue in the suit ~~[Probation Commission, the Texas Youth Commission, or the Criminal Justice Policy Council].~~

§58.207. Juvenile Court Orders on Certification.

(a) On certification of records in a case under Section 58.203, the juvenile court shall order:

(1) that the following records relating to the case may be accessed only as provided by Section 58.204(b):

(A) if the respondent was committed to the Texas Juvenile Justice Department ~~[Youth Commission]~~, records maintained by the department ~~[commission]~~;

(B) records maintained by the juvenile probation department;

(C) records maintained by the clerk of the court;

(D) records maintained by the prosecutor's office; and

(E) records maintained by a law enforcement agency; and

(2) the juvenile probation department to make a reasonable effort to notify the person who is the subject of records for which access has been restricted of the action restricting access and the legal significance of the action for the person, but only if the person has requested the notification in writing and has provided the juvenile probation department with a current address.

(b) Except as provided by Subsection (c), on ~~[On]~~ receipt of an order under Subsection (a)(1), the agency maintaining the records:

(1) may allow access only as provided by Section 58.204(b); and

(2) shall respond to a request for information about the records by stating that the records do not exist.

*Text of subsection as added by Acts 2013, 83rd Leg.,
R.S. HB 694*

(c) Notwithstanding Subsection (b) of this section and Section 58.206(b), with the written permission of the subject of the records, an agency under Subsection (a)(1) may allow military personnel, including a recruiter, of this state or the United States to access juvenile records in the same manner authorized by law for records to which access has not been restricted under this section.

*Text of subsection as added by Acts 2013, 83rd Leg., R.S.
HB 2862*

(c) Subsection (b) does not apply if:

(1) the subject of an order issued under Subsection (a)(1) is under the jurisdiction of the juvenile court or the Texas Juvenile Justice Department; or

(2) the agency has received notice that the records are not subject to restricted access under Section 58.211.

(d) Notwithstanding Subsection (b) and Section 58.206(b), with the permission of the subject of the records, an agency listed in Subsection (a)(1) may permit the state military forces or the United States military forces to have access to juvenile records held by that agency. On receipt of a request from the state military forces or the United States military forces, an agency may provide access to juvenile records held by that agency in the same manner authorized by law for records that have not been restricted under Subsection (a).

§58.209. Information to Child by Probation Officer or Texas Juvenile Justice Department.

(a) When a child is placed on probation for an offense that may be eligible for automatic restricted access at age 17 or when a child is received by the Texas Juvenile Justice Department [~~Youth Commission~~] on an indeterminate commitment, a probation officer or an official at the Texas Juvenile Justice Department [~~Youth Commission~~] reception center, as soon as practicable, shall explain the substance of the following information to the child:

(1) if the child was adjudicated as having committed delinquent conduct for a felony or jailable misdemeanor, that the child probably has a juvenile record with the department and the Federal Bureau of Investigation;

(2) that the child's juvenile record is a permanent record that is not destroyed or erased unless the record is eligible for sealing and the child or the child's family hires a lawyer and files a petition in court to have the record sealed;

(3) that the child's juvenile record, other than treatment records made confidential by law, can be accessed by police, sheriff's officers, prosecutors, probation officers, correctional officers, and other criminal and juvenile justice officials in this state and elsewhere;

(4) that the child's juvenile record, other than treatment records made confidential by law, can be accessed by employers, educational institutions, licensing agencies, and other organizations when the child applies for employment or educational programs;

(5) if the child's juvenile record is placed on restricted access when the child becomes 17 years of age, that access will be denied to employers, educational institutions, and others except for criminal justice agencies; ~~and~~

(6) that restricted access does not require any action by the child or the child's family, including the filing of a petition or hiring of a lawyer, but occurs automatically at age 17; ~~and~~

(7) that if the child is under the jurisdiction of the juvenile court or the Texas Juvenile Justice Department on or after the child's 17th birthday, the law regarding restricted access will not apply until the person is discharged from the jurisdiction of the court or department, as appropriate.

(b) The probation officer or Texas Juvenile Justice Department official shall:

(1) give the child a written copy of the explanation provided; and

(2) communicate the same information to at least one of the child's parents or, if none can be found, to the child's guardian or custodian.

(c) The Texas Juvenile Justice Department [~~Youth Commission~~] shall adopt rules to implement this section and to facilitate the effective explanation of the information required to be communicated by this section.

Chapter 59. Progressive Sanctions Model

§59.009. Sanction Level Six.

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

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

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

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

(4) if appropriate, impose additional sanctions.

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

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

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

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

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

§59.010. Sanction Level Seven.

(a) For a child at sanction level seven, the juvenile court may certify and transfer the child under Section 54.02 or sentence the child to commitment to the Texas Juvenile Justice Department [~~Youth Commission~~] under Section 54.04(d)(3), 54.04(m), or 54.05(f) or to a post-adjudication secure correctional facility under Section 54.04011(c)(2). The department, juvenile board, or local juvenile probation department, as applicable, [~~commission~~] may:

(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than 12 months or more than 10 years unless the department, board, or probation department [~~commission~~] extends the period and the reason for the extension is documented;

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

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

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

(4) impose any other appropriate sanction.

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

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

(2) require a parole officer to monitor the child closely for not less than 12 months; and

(3) impose any other appropriate condition of supervision.

§59.012. Reports by Criminal Justice Policy Council. [repealed]

Chapter 60. Uniform Interstate Compact on Juveniles. [omitted]

Chapter 61. Rights and Responsibilities of Parents and Other Eligible Persons.

Subchapter A. Entry of Orders Against Parents and Other Eligible Persons

§61.0031. Transfer of Order Affecting Parent or Other Eligible Person to County of Child's Residence.

(d) The juvenile court to which the order has been transferred shall require the parent or other eligible person to appear before the court to notify the person of the existence and terms of the order, unless the permanent supervision hearing under Section 51.073(c) has been waived. Failure to do so renders the order unenforceable.

Code of Criminal Procedure

Art. 4.19. Transfer of Person Certified to Stand Trial as an Adult [Child].

(a) Notwithstanding the order of a juvenile court to detain a person under the age of 17 who has been certified to stand trial as an adult [~~child~~] in a certified juvenile detention facility under Section 54.02(h), Family Code, the judge of the criminal court having jurisdiction over the

person [child] may order the person [child] to be transferred to an adult [another] facility [and treated as an adult as provided by this code]. A child who is transferred to an adult facility must be detained under conditions meeting the requirements of Section 51.12, Family Code.

(b) On the 17th birthday of a person described by Subsection (a) who is detained in a certified juvenile detention facility under Section 54.02(h), Family Code, the judge of the criminal court having jurisdiction over the person shall order the person to be transferred to an adult facility.

Art. 15.27. Notification to Schools Required.

(a) A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h), shall attempt to ascertain whether the person is so enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or before the next school day, whichever is earlier. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or before the next school day, whichever is earlier. If the individual is a student, the superintendent or the superintendent's designee shall immediately notify all instructional and support personnel who have responsibility for supervision of the student. All personnel shall keep the information received in this subsection confidential. The State Board for Educator Certification may revoke or suspend the certification of personnel who intentionally violate this subsection. Within seven days after the date the oral notice is given, the head of the law enforcement agency or the person designated by the head of the agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. The written notification must include the facts contained in the oral notification, the name of the person who was orally notified, and the date and time of the oral notification. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable the superintendent or the superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense

by the Penal Code. The information contained in the notice shall be considered by the superintendent or the superintendent's designee in making such a determination.

(a-1) The superintendent or a person designated by the superintendent in the school district shall send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice under Subsection (a).

(b) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication and whether the student is required to register as a sex offender under Chapter 62. Oral notification must be given within 24 hours of the time of the order or before the next school day, whichever is earlier. The superintendent shall, within 24 hours of receiving notification from the office of the prosecuting attorney, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded and a statement of whether the student is required to register as a sex offender under Chapter 62.

(c) A parole, probation, or community supervision office, including a community supervision and corrections department, a juvenile probation department, the paroles division of the Texas Department of Criminal Justice, and the Texas Youth Commission, having jurisdiction over a student described by Subsection (a), (b), or (e) who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, referral to a juvenile court, conviction, or adjudication occurred shall within 24 hours of learning of the student's transfer or reenrollment, or before the next school day, whichever is earlier, notify the superintendent or a person designated by the superintendent of the school district to which the student transfers or is returned or, in the case of a private school, the principal or a school employee designated by the principal of the school to which the student transfers or is returned of the arrest or referral in a manner similar to that provided for by Subsection (a) or (e)(1), or of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (e)(2). The superintendent of the school district to which the student transfers or is returned or, in the case of a private school, the

principal of the school to which the student transfers or is returned shall, within 24 hours of receiving notification under this subsection or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

(d) [Repealed].

(e)(1) A law enforcement agency that arrests, or refers to a juvenile court under Chapter 52, Family Code, an individual who the law enforcement agency knows or believes is enrolled as a student in a private primary or secondary school shall make the oral and written notifications described by Subsection (a) to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(2) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a private primary or secondary school, the office of prosecuting attorney shall make the oral and written notifications described by Subsection (b) of this article to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(3) The principal of a private school in which the student is enrolled or a school employee designated by the principal shall send to a school employee having direct supervisory responsibility over the student the information contained in the confidential notice, for the same purposes as described by Subsection (a-1) of this article.

(f) A person who receives information under this article may not disclose the information except as specifically authorized by this article. A person who intentionally violates this article commits an offense. An offense under this subsection is a Class C misdemeanor.

(g) The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a disciplinary alternative education program under Section 37.006, Education Code, if:

(1) prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or

(2) the court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

(h) This article applies to any felony offense and the following misdemeanors:

(1) an offense under Section 20.02, 21.08, 22.01, 22.05, 22.07, or 71.02, Penal Code;

(2) the unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana, as defined by Chapter 481, Health and Safety Code; or

(3) the unlawful possession of any of the weapons or devices listed in Sections 46.01(1)-(14) or (16), Penal Code, or a weapon listed as a prohibited weapon under Section 46.05, Penal Code.

(i) A person may substitute electronic notification for oral notification where oral notification is required by this article. If electronic notification is substituted for oral notification, any written notification required by this article is not required.

(j) The notification provisions of this section concerning a person who is required to register as a sex offender under Chapter 62 do not lessen the requirement of a person to provide any additional notification prescribed by that chapter.

(k) Oral or written notice required under this article must include all pertinent details of the offense or conduct, including details of any:

(1) assaultive behavior or other violence;

(2) weapons used in the commission of the offense or conduct; or

(3) weapons possessed during the commission of the offense or conduct.

(l) If a school district board of trustees learns of a failure by the superintendent of the district or a district principal to provide a notice required under Subsection (a), (a-1), or (b), the board of trustees shall report the failure to the State Board for Educator Certification. If the governing body of a private primary or secondary school learns of a failure by the principal of the school to provide a notice required under Subsection (e), and the principal holds a certificate issued under Subchapter B, Chapter 21, Education Code, the governing body shall report the failure to the State Board for Educator Certification.

(m) If the superintendent of a school district in which the student is enrolled learns of a failure of the head of a law enforcement agency or a person designated by the head of the agency to provide a notification under Subsection (a), the superintendent or principal shall report the failure to notify to the Texas Commission on Law Enforcement [~~Officer Standards and Education~~].

(n) If a juvenile court judge or official designated by the juvenile board learns of a failure by the office of the prosecuting attorney to provide a notification required under Subsection (b) or (g), the official shall report the failure to notify to the elected prosecuting attorney responsible for the operation of the office.

(o) If the supervisor of a parole, probation, or community supervision department officer learns of a failure by the officer to provide a notification under Subsection (c), the supervisor shall report the failure to notify to the director of the entity that employs the officer.

Art. 24.011. Subpoena; Child Witnesses.

(c) If the witness is in a placement in the custody of the Texas Juvenile Justice Department [~~Youth Commission~~], a juvenile secure detention facility, or a juvenile secure correctional facility, the court may issue a bench warrant or direct that an attachment issue to require a peace officer or probation officer to secure custody of the person at the placement and produce the person in court. When the person is no longer needed as a witness or the period prescribed by Subsection (d-1) has expired without extension, the court shall order the peace officer or probation officer to return the person to the placement from which the person was released.

(d-1) A witness younger than 17 years of age held in custody under this article may be placed in a certified juvenile detention facility for a period not to exceed 30 days. The length of placement may be extended in increments of 30 days by the court that issued the original bench warrant. If the placement is not extended, the period under this article expires and the witness may be returned as provided by Subsection (c).

Art. 56.02. Crime Victims' Rights.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., HB 899

(a) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system:

(1) the right to receive from law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;

(2) the right to have the magistrate take the safety of the victim or his family into consideration as an element in fixing the amount of bail for the accused;

(3) the right, if requested, to be informed:

(A) by the attorney representing the state of relevant court proceedings, including appellate

proceedings, and to be informed if those proceedings have been canceled or rescheduled prior to the event; and

(B) by an appellate court of decisions of the court, after the decisions are entered but before the decisions are made public;

(4) the right to be informed, when requested, by a peace officer concerning the defendant's right to bail and the procedures in criminal investigations and by the district attorney's office concerning the general procedures in the criminal justice system, including general procedures in guilty plea negotiations and arrangements, restitution, and the appeals and parole process;

(5) the right to provide pertinent information to a probation department conducting a presentencing investigation concerning the impact of the offense on the victim and his family by testimony, written statement, or any other manner prior to any sentencing of the offender;

(6) the right to receive information regarding compensation to victims of crime as provided by Subchapter B, including information related to the costs that may be compensated under that subchapter and the amount of compensation, eligibility for compensation, and procedures for application for compensation under that subchapter, the payment for a medical examination under Article 56.06 for a victim of a sexual assault, and when requested, to referral to available social service agencies that may offer additional assistance;

(7) the right to be informed, upon request, of parole procedures, to participate in the parole process, to be notified, if requested, of parole proceedings concerning a defendant in the victim's case, to provide to the Board of Pardons and Paroles for inclusion in the defendant's file information to be considered by the board prior to the parole of any defendant convicted of any crime subject to this subchapter, and to be notified, if requested, of the defendant's release;

(8) the right to be provided with a waiting area, separate or secure from other witnesses, including the offender and relatives of the offender, before testifying in any proceeding concerning the offender; if a separate waiting area is not available, other safeguards should be taken to minimize the victim's contact with the offender and the offender's relatives and witnesses, before and during court proceedings;

(9) the right to prompt return of any property of the victim that is held by a law enforcement agency or the attorney for the state as evidence when the property is no longer required for that purpose;

(10) the right to have the attorney for the state notify the employer of the victim, if requested, of the

necessity of the victim's cooperation and testimony in a proceeding that may necessitate the absence of the victim from work for good cause;

~~(11) the right to counseling, on request, regarding acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) infection and testing for acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS, if the offense is an offense under Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code;~~

~~(12) the right to request victim-offender mediation coordinated by the victim services division of the Texas Department of Criminal Justice;~~

~~(12) [(13)] the right to be informed of the uses of a victim impact statement and the statement's purpose in the criminal justice system, to complete the victim impact statement, and to have the victim impact statement considered:~~

~~(A) by the attorney representing the state and the judge before sentencing or before a plea bargain agreement is accepted; and~~

~~(B) by the Board of Pardons and Paroles before an inmate is released on parole;~~

~~[(14) to the extent provided by Articles 56.06 and 56.065, for a victim of a sexual assault, the right to a forensic medical examination if, within 96 hours of the sexual assault, the assault is reported to a law enforcement agency or a forensic medical examination is otherwise conducted at a health care facility;] and~~

~~(13) [(15)] for a victim of an assault or sexual assault who is younger than 17 years of age or whose case involves family violence, as defined by Section 71.004, Family Code, the right to have the court consider the impact on the victim of a continuance requested by the defendant; if requested by the attorney representing the state or by counsel for the defendant, the court shall state on the record the reason for granting or denying the continuance; and~~

~~(16) [sic] if the offense is a capital felony, the right to:~~

~~(A) receive by mail from the court a written explanation of defense-initiated victim outreach if the court has authorized expenditures for a defense-initiated victim outreach specialist;~~

~~(B) not be contacted by the victim outreach specialist unless the victim, guardian, or relative has~~

consented to the contact by providing a written notice to the court; and

(C) designate a victim service provider to receive all communications from a victim outreach specialist acting on behalf of any person.

(b) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the right to be present at all public court proceedings related to the offense, subject to the approval of the judge in the case.

(c) The office of the attorney representing the state, and the sheriff, police, and other law enforcement agencies shall ensure to the extent practicable that a victim, guardian of a victim, or close relative of a deceased victim is afforded the rights granted by ~~[Subsection (a) of] this article and Article 56.021~~ and, on request, an explanation of those rights.

(d) A judge, attorney for the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this article or Article 56.021. The failure or inability of any person to provide a right or service enumerated in this article or Article 56.021 may not be used by a defendant in a criminal case as a ground for appeal, a ground to set aside the conviction or sentence, or a ground in a habeas corpus petition. A victim, guardian of a victim, or close relative of a deceased victim does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.

Art. 56.021. Rights of Victim of Sexual Assault. [new]

(a) In addition to the rights enumerated in Article 56.02, if the offense is a sexual assault, the victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system:

(1) if requested, the right to a disclosure of information regarding any evidence that was collected during the investigation of the offense, unless disclosing the information would interfere with the investigation or prosecution of the offense, in which event the victim, guardian, or relative shall be informed of the estimated date on which that information is expected to be disclosed;

(2) if requested, the right to a disclosure of information regarding the status of any analysis being performed of any evidence that was collected during the investigation of the offense;

(3) if requested, the right to be notified:

(A) at the time a request is submitted to a crime laboratory to process and analyze any evidence that was collected during the investigation of the offense;

(B) at the time of the submission of a request to compare any biological evidence collected during the investigation of the offense with DNA profiles maintained in a state or federal DNA database; and

(C) of the results of the comparison described by Paragraph (B), unless disclosing the results would interfere with the investigation or prosecution of the offense, in which event the victim, guardian, or relative shall be informed of the estimated date on which those results are expected to be disclosed;

(4) if requested, the right to counseling regarding acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) infection;

(5) for the victim of the offense, testing for acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS; and

(6) to the extent provided by Articles 56.06 and 56.065, for the victim of the offense, the right to a forensic medical examination if, within 96 hours of the offense, the offense is reported to a law enforcement agency or a forensic medical examination is otherwise conducted at a health care facility.

(b) A victim, guardian, or relative who requests to be notified under Subsection (a)(3) must provide a current address and phone number to the attorney representing the state and the law enforcement agency that is investigating the offense. The victim, guardian, or relative must inform the attorney representing the state and the law enforcement agency of any change in the address or phone number.

(c) A victim, guardian, or relative may designate a person, including an entity that provides services to victims of sexual assault, to receive any notice requested under Subsection (a)(3).

Art. 56.32. Definitions.

(a) In this subchapter:

(14) "Trafficking of persons" means any offense that results in a person engaging in forced labor or services and that may be prosecuted under Section 20A.02, 20A.03, 43.03, 43.04, 43.05, 43.25, 43.251, or 43.26, Penal Code.

Art. 62.0045. Centralized Registration Authority.

(a) The commissioners court of a county may designate the office of [in]the sheriff of the county [with a population of 100,000 or more] or may, through interlocal agreement, designate the office of a chief of police of a municipality in

that county to serve as a mandatory countywide registration location for persons subject to this chapter.

(b) Notwithstanding any other provision of this chapter, a person [who is] subject to this chapter is required to perform the registration and verification requirements of Articles [shall register under under Article] 62.051 and [or verify registration under Article] 62.058 and the change of address requirements of Article 62.055 only with respect to the centralized registration authority for the county, regardless of whether the person resides in any municipality located in that county. If the person resides in a municipality, and the local law enforcement authority in the municipality does not serve as the person's centralized registration authority, the centralized registration authority, not later than the third day after the date the person registers or verifies registration or changes address with that authority, shall provide to the local law enforcement authority in that municipality notice of the person's registration, [or] verification of registration, or change of address, as applicable, with the centralized registration authority.

(c) This section does not affect a person's duty to register with secondary sex offender registries under this chapter, such as those described by Articles 62.059 and 62.153.

Penal Code

§8.07. Age Affecting Criminal Responsibility.

(d) Notwithstanding Subsection (a), a person may not be prosecuted for or convicted of an offense described by Subsection (a)(4) or (5) that the person committed when younger than 10 years of age.

(e) A person who is at least 10 years of age but younger than 15 years of age is presumed incapable of committing an offense described by Subsection (a)(4) or (5), other than an offense under a juvenile curfew ordinance or order. This presumption may be refuted if the prosecution proves to the court by a preponderance of the evidence that the actor had sufficient capacity to understand that the conduct engaged in was wrong at the time the conduct was engaged in. The prosecution is not required to prove that the actor at the time of engaging in the conduct knew that the act was a criminal offense or knew the legal consequences of the offense.

§8.08. Child with Mental Illness, Disability, or Lack of Capacity. [new]

(a) On motion by the state, the defendant, or a person standing in parental relation to the defendant, or on the court's own motion, a court with jurisdiction of an offense described by Section 8.07(a)(4) or (5) shall determine whether probable cause exists to believe that a child,

including a child with a mental illness or developmental disability:

(1) lacks the capacity to understand the proceedings in criminal court or to assist in the child's own defense and is unfit to proceed; or

(2) lacks substantial capacity either to appreciate the wrongfulness of the child's own conduct or to conform the child's conduct to the requirement of the law.

(b) If the court determines that probable cause exists for a finding under Subsection (a), after providing notice to the state, the court may dismiss the complaint.

(c) A dismissal of a complaint under Subsection (b) may be appealed as provided by Article 44.01, Code of Criminal Procedure.

(d) In this section, "child" has the meaning assigned by Article 45.058(h), Code of Criminal Procedure.

\$12.42. Penalties for Repeat and Habitual Felony Offenders on Trial for First, Second, or Third Degree Felony.

(a) Except as provided by Subsection (c)(2), if it is shown on the trial of a felony of the third degree that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a), on conviction the defendant shall be punished for a felony of the second degree.

As reenacted in Acts of the 82nd Leg. R.S., HB 3384 and HB 3

(b) Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a felony of the second degree that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a), on conviction the defendant shall be punished for a felony of the first degree.

(c)(1) If it is shown on the trial of a felony of the first degree that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a), on conviction the defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 15 years. In addition to imprisonment, an individual may be punished by a fine not to exceed \$10,000.

(2) Notwithstanding Subdivision (1), a defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life if:

(A) the defendant is convicted of an offense:

(i) under Section 20A.02(a)(7) or (8), 21.11(a)(1), 22.021, or 22.011, Penal Code;

(ii) under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually; or

(iii) under Section 30.02, Penal Code, punishable under Subsection (d) of that section, if the defendant committed the offense with the intent to commit a felony described by Subparagraph (i) or (ii) or a felony under Section 21.11, Penal Code; and

(B) the defendant has been previously convicted of an offense:

(i) under Section 43.25 or 43.26, Penal Code, or an offense under Section 43.23, Penal Code, punishable under Subsection (h) of that section;

(ii) under Section 20A.02(a)(7) or (8), 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code;

(iii) under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually;

(iv) under Section 30.02, Penal Code, punishable under Subsection (d) of that section, if the defendant committed the offense with the intent to commit a felony described by Subparagraph (ii) or (iii); or

(v) under the laws of another state containing elements that are substantially similar to the elements of an offense listed in Subparagraph (i), (ii), (iii), or (iv).

(3) Notwithstanding Subdivision (1) or (2), a defendant shall be punished for a capital felony if it is shown on the trial of an offense under Section 22.021 otherwise punishable under Subsection (f) of that section that the defendant has previously been finally convicted of:

(A) an offense under Section 22.021 that was committed against a victim described by Section 22.021(f)(1) or was committed against a victim described by Section 22.021(f)(2) and in a manner described by Section 22.021(a)(2)(A); or

(B) an offense that was committed under the laws of another state that:

(i) contains elements that are substantially similar to the elements of an offense under Section 22.021; and

(ii) was committed against a victim described by Section 22.021(f)(1) or was committed against a victim

described by Section 22.021(f)(2) and in a manner substantially similar to a manner described by Section 22.021(a)(2)(A).

(4) Notwithstanding Subdivision (1) or (2), and except as provided by Subdivision (3) for the trial of an offense under Section 22.021 as described by that subdivision, a defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life without parole if it is shown on the trial of an offense under Section 20A.03 or of a sexually violent offense, committed by the defendant on or after the defendant's 18th birthday, that the defendant has previously been finally convicted of:

(A) an offense under Section 20A.03 or of a sexually violent offense [~~21.02 or 22.021~~]; or

(B) an offense that was committed under the laws of another state and that contains elements that are substantially similar to the elements of an offense under Section 20A.03 or of a sexually violent offense [~~21.02 or 22.021~~].

(5) A previous conviction for a state jail felony punishable under Section 12.35(a) may not be used for enhancement purposes under Subdivision (2).

*As reenacted in Acts of the 82nd Leg. R.S.,
HB 3384 and HB 3*

(d) Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a felony offense other than a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction the defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years. A previous conviction for a state jail felony punishable under Section 12.35(a) may not be used for enhancement purposes under this subsection.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 834, Sec. 6, eff. September 1, 2011.

(f) For the purposes of Subsections (a), (b), and (c)(1), [~~and c~~] an adjudication by a juvenile court under Section 54.03, Family Code, that a child engaged in delinquent conduct on or after January 1, 1996, constituting a felony offense for which the child is committed to the Texas Juvenile Justice Department [~~Youth Commission~~] under Section 54.04(d)(2), (d)(3), or (m), Family Code, or Section 54.05(f), Family Code, or to a post-adjudication secure correctional facility under Section 54.04011, Family Code, is a final felony conviction.

(g) For the purposes of Subsection (c)(2):

(1) a defendant has been previously convicted of an offense listed under Subsection (c)(2)(B) if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision; and

(2) a conviction under the laws of another state for an offense containing elements that are substantially similar to the elements of an offense listed under Subsection (c)(2)(B) is a conviction of an offense listed under Subsection (c)(2)(B).

(h) In this section, "sexually violent offense" means an offense:

(1) described by Article 62.001(6), Code of Criminal Procedure; and

(2) for which an affirmative finding has been entered under Article 42.015(b) or Section 5(e)(2), Article 42.12, Code of Criminal Procedure, for an offense other than an offense under Section 21.02 or 22.021.

Government Code

Sec. 103.0210. Additional Fees in Certain Juvenile Cases: Family Code. [Repealed].

Sec. 103.0212. Additional Fees and Costs in Criminal or Civil Cases: Family Code.

An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Family Code if ordered by the court or otherwise required:

(2) in juvenile court:

(A) fee schedule for deferred prosecution services (Sec. 53.03, Family Code) . . . maximum fee of \$15 a month;

(B) a request fee for a teen court program (Sec. 54.032, Family Code) . . . \$20, if the court ordering the fee is located in the Texas-Louisiana border region, but otherwise not to exceed \$10;

(C) court costs for juvenile probation diversion fund (Sec. 54.0411, Family Code) . . . \$20;

(D) a juvenile delinquency prevention fee (Sec. 54.0461, Family Code) . . . \$50;

(E) a court fee for child's probationary period (Sec. 54.061, Family Code) . . . not to exceed \$15 a month;

(F) a fee to cover costs of required duties of teen court (Sec. 54.032, Family Code) . . . \$20, if the court ordering the fee is located in the Texas-Louisiana border region, but otherwise not to exceed \$10;

(G) a fee for DNA testing on commitment to certain facilities (Sec. 54.0462, Family Code) . . . \$50; ~~and~~

(H) a fee for DNA testing after placement on probation or as otherwise required by law (Sec. 54.0462, Family Code) . . . \$34;

(I) a program fee for a teen dating violence court program (Sec. 54.0325, Family Code) . . . \$10; and

(J) a fee to cover the cost to the court of administering a teen dating violence court program (Sec. 54.0325, Family Code) . . . not to exceed \$10.

Sec. 103.027. Miscellaneous Fees and Costs: Government Code

Amended to conform to HB 79, Acts of the 82nd Leg., 1st Called Session, 2011

(a) Fees and costs shall be paid or collected under the Government Code as follows:

(1) filing a certified copy of a judicial finding of fact and conclusion of law if charged by the secretary of state (Sec. 51.905, Government Code) . . . \$15;

(2) cost paid by each surety posting the bail bond for an offense other than a misdemeanor punishable by fine only under Chapter 17, Code of Criminal Procedure, for the assistant prosecutor supplement fund and the fair defense account (Sec. 41.258, Government Code) . . . \$15, provided the cost does not exceed \$30 for all bail bonds posted at that time for an individual and the cost is not required on the posting of a personal or cash bond;

(3) to participate in a court proceeding in this state, a nonresident attorney fee (Sec. 82.0361, Government Code) . . . \$250 except as waived or reduced under supreme court rules for representing an indigent person; and

(4) on a party's appeal of a final decision in a contested case, the cost of preparing the original or a certified copy of the record of the agency proceeding, if required by the agency's rule, as a court cost (Sec. 2001.177, Government Code) . . . as assessed by the court, all or part of the cost of preparation[;]

~~[(5) compensation to a referee in juvenile court in Wichita County taxed as costs if the judge determines the parties are able to pay the costs (Sec. 54.403, Government Code) . . . as determined by the judge; and~~

~~[(6) the expense of preserving the record as a court cost in Brazos County if imposed on a party by the referring court or magistrate (Sec. 54.1111, Government Code) . . . actual cost].~~

Human Resources Code

\$243.005. Information Provided by Committing Court.

In addition to the information provided under Section 243.004, a court that commits a child to the department shall provide the department with a copy of the following documents:

- (1) the petition and the adjudication and disposition orders for the child, including the child's thumbprint;
- (2) if the commitment is a result of revocation of probation, a copy of the conditions of probation and the revocation order;
- (3) the social history report for the child;
- (4) any psychological or psychiatric reports concerning the child;
- (5) the contact information sheet for the child's parents or guardian;
- (6) any law enforcement incident reports concerning the offense for which the child is committed;
- (7) any sex offender registration information concerning the child;
- (8) any juvenile probation department progress reports concerning the child;
- (9) any assessment documents concerning the child;
- (10) the computerized referral and case history for the child, including case disposition;
- (11) the child's birth certificate;
- (12) the child's social security number or social security card, if available;
- (13) the name, address, and telephone number of the court administrator in the committing county;
- (14) Title IV-E eligibility screening information for the child, if available;

(15) the address in the committing county for forwarding funds collected to which the committing county is entitled;

(16) any of the child's school or immunization records that the committing county possesses;

(17) any victim information concerning the case for which the child is committed; ~~and~~

(18) any of the child's pertinent medical records that the committing court possesses;

(19) the Texas Juvenile Justice Department standard assessment tool results for the child;

(20) the Department of Public Safety CR-43J form or tracking incident number concerning the child; and

(21) documentation that the committing court has required the child to provide a DNA sample to the Department of Public Safety.

Chapter 2: Determinate Sentence and Discretionary Transfer Cases

Family Code

§51.0412. Jurisdiction Over Incomplete Proceedings.

The court retains jurisdiction over a person, without regard to the age of the person, who is a respondent in an adjudication proceeding, a disposition proceeding, a proceeding to modify disposition, a proceeding for waiver of jurisdiction and transfer to criminal court under Section 54.02(a), or a motion for transfer of determinate sentence probation to an appropriate district court if:

(1) the petition or motion ~~[to modify]~~ was filed while the respondent was younger than 18 ~~[years of age]~~ or ~~[the motion for transfer was filed while the respondent was younger than]~~ 19 years of age, as applicable;

(2) the proceeding is not complete before the respondent becomes 18 or 19 years of age, as applicable; and

(3) the court enters a finding in the proceeding that the prosecuting attorney exercised due diligence in an attempt to complete the proceeding before the respondent became 18 or 19 years of age, as applicable.

§51.13. Effect of Adjudication or Disposition.

Text of subsection effective December 1, 2013

(d) An adjudication under Section 54.03 that a child engaged in conduct that occurred on or after January 1, 1996, and that constitutes a felony offense resulting in commitment to the Texas Juvenile Justice Department ~~[Youth Commission]~~ under Section 54.04(d)(2), (d)(3), or (m) or 54.05(f) or commitment to a post-adjudication secure correctional facility under Section 54.04011 is a final felony conviction only for the purposes of Sections 12.42(a), (b), and (c)(1) or Section 12.425~~[and (e)]~~, Penal Code.

(e) A finding that a child engaged in conduct indicating a need for supervision as described by Section 51.03(b)(8)~~[51.03(b)(7)]~~ is a conviction only for the purposes of Sections 43.261(c) and (d), Penal Code.

§53.045. Offenses Eligible for Determinate Sentence [Violent or Habitual Offenders].

(a) Except as provided by Subsection (e), the prosecuting attorney may refer the petition to the grand jury of the county in which the court in which the petition is filed presides if the petition alleges that the child engaged in delinquent conduct that constitutes habitual felony conduct as described by Section 51.031 or that included the violation of any of the following provisions:

- (1) Section 19.02, Penal Code (murder);
- (2) Section 19.03, Penal Code (capital murder);
- (3) Section 19.04, Penal Code (manslaughter);
- (4) Section 20.04, Penal Code (aggravated kidnapping);
- (5) Section 22.011, Penal Code (sexual assault) or Section 22.021, Penal Code (aggravated sexual assault);
- (6) Section 22.02, Penal Code (aggravated assault);
- (7) Section 29.03, Penal Code (aggravated robbery);
- (8) Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual), if the offense is punishable as a felony, other than a state jail felony;
- (9) Section 22.05(b), Penal Code (felony deadly conduct involving discharging a firearm);
- (10) Subchapter D, Chapter 481, Health and Safety Code, if the conduct constitutes a felony of the first degree or an aggravated controlled substance felony (certain offenses involving controlled substances);
- (11) Section 15.03, Penal Code (criminal solicitation);
- (12) Section 21.11(a)(1), Penal Code (indecency with a child);

(13) Section 15.031, Penal Code (criminal solicitation of a minor);

(14) Section 15.01, Penal Code (criminal attempt), if the offense attempted was an offense under Section 19.02, Penal Code (murder), or Section 19.03, Penal Code (capital murder), or an offense listed by Section 3g(a)(1), Article 42.12, Code of Criminal Procedure;

(15) Section 28.02, Penal Code (arson), if bodily injury or death is suffered by any person by reason of the commission of the conduct;

(16) Section 49.08, Penal Code (intoxication manslaughter); or

(17) Section 15.02, Penal Code (criminal conspiracy), if the offense made the subject of the criminal conspiracy includes a violation of any of the provisions referenced in Subdivisions (1) through (16).

(b) A grand jury may approve a petition submitted to it under this section by a vote of nine members of the grand jury in the same manner that the grand jury votes on the presentment of an indictment.

(c) The grand jury has all the powers to investigate the facts and circumstances relating to a petition submitted under this section as it has to investigate other criminal activity but may not issue an indictment unless the child is transferred to a criminal court as provided by Section 54.02 of this code.

(d) If the grand jury approves of the petition, the fact of approval shall be certified to the juvenile court, and the certification shall be entered in the record of the case. For the purpose of the transfer of a child to the Texas Department of Criminal Justice as provided by Section 245.151(c), Human Resources Code, a juvenile court petition approved by a grand jury under this section is an indictment presented by the grand jury.

(e) The prosecuting attorney may not refer a petition that alleges the child engaged in conduct that violated Section 22.011(a)(2), Penal Code, or Sections 22.021(a)(1)(B) and (2)(B), Penal Code, unless the child is more than three years older than the victim of the conduct.

§ 54.04. Disposition Hearing.

(b) At the disposition hearing, the juvenile court, notwithstanding the Texas Rules of Evidence or Chapter 37, Code of Criminal Procedure, may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of witnesses. On or before the second day before the date of [Prior to] the disposition hearing, the court shall provide the

attorney for the child and the prosecuting attorney with access to all written matter to be considered by the court in disposition. The court may order counsel not to reveal items to the child or the child's parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

Text of subsection effective until December 1, 2013

(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 [~~Youth Commission~~]; 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 [~~Youth Commission~~];

(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 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 [~~Youth Commission~~] 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 [~~Youth Commission~~] 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; [ø]

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

Text of subsection effective December 1, 2013

(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 [~~Youth Commission~~]; 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 [~~Youth Commission~~];

(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 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 or a post-adjudication secure correctional facility under Section 54.04011(c)(1) [~~Youth Commission~~] 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) [~~Youth Commission~~] 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; [ø]

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

...

Text of subsection effective December 1, 2013

(q) If a court or jury sentences a child to commitment in the Texas Juvenile Justice Department or a post-adjudication secure correctional facility ~~[Youth Commission]~~ under Subsection (d)(3) for a term of not more than 10 years, the court or jury may place the child on probation under Subsection (d)(1) as an alternative to making the disposition under Subsection (d)(3). The court shall prescribe the period of probation ordered under this subsection for a term of not more than 10 years. The court may, before the sentence of probation expires, extend the probationary period under Section 54.05, except that the sentence of probation and any extension may not exceed 10 years. The court may, before the child's 19th birthday, discharge the child from the sentence of probation. If a sentence of probation ordered under this subsection and any extension of probation ordered under Section 54.05 will continue after the child's 19th birthday, the court shall discharge the child from the sentence of probation on the child's 19th birthday unless the court transfers the child to an appropriate district court under Section 54.051.

Text of subsection effective until December 1, 2013

(z) Nothing in this section may be construed to prohibit a juvenile court or jury in a county to which Section 54.04011 applies from committing a child to a post-adjudication secure correctional facility in accordance with that section after a disposition hearing held in accordance with this section.

§54.04011. Trafficked Persons Program. [omitted] [new]

§54.04011. Commitment to Post Adjudication Secure Correctional Facility. [second of two]

See expiration provision in Subsection (f)

(a) In this section, "post-adjudication secure correctional facility" means a facility operated by or under contract with a juvenile board or local juvenile probation department under Section 152.0016, Human Resources Code.

(b) This section applies only to a county in which the juvenile board or local juvenile probation department operates or contracts for the operation of a post-adjudication secure correctional facility.

(c) After a disposition hearing held in accordance with Section 54.04, the juvenile court of a county to which this section applies may commit a child who is found to have engaged in delinquent conduct that constitutes a felony to a post-adjudication secure correctional facility:

(1) without a determinate sentence, if:

(A) the child is found to have engaged in conduct that violates a penal law of the grade of felony and the petition was not approved by the grand jury under Section 53.045;

(B) the child is found to have engaged in conduct that violates a penal law of the grade of felony and the petition was approved by the grand jury under Section 53.045 but the court or jury does not make the finding described by Section 54.04(m)(2); or

(C) the disposition is modified under Section 54.05(f); or

(2) with a determinate sentence, if:

(A) the child is found to have engaged in conduct that included a violation of a penal law listed in Section 53.045 or that is considered habitual felony conduct as described by Section 51.031, the petition was approved by the grand jury under Section 53.045, and, if applicable, the court or jury makes the finding described by Section 54.04(m)(2); or

(B) the disposition is modified under Section 54.05(f).

(d) Nothing in this section may be construed to prohibit:

(1) a juvenile court or jury from making a disposition under Section 54.04, including:

(A) placing a child on probation on such reasonable and lawful terms as the court may determine, including placement in a public or private post-adjudication secure correctional facility under Section 54.04(d)(1)(B)(iii); or

(B) placing a child adjudicated under Section 54.04(d)(3) or (m) on probation for a term of not more than 10 years, as provided in Section 54.04(q); or

(2) the attorney representing the state from filing a motion concerning a child who has been placed on probation under Section 54.04(q) or the juvenile court from holding a hearing under Section 54.051(a).

(e) The provisions of 37 T.A.C. Section 343.610 do not apply to this section.

(f) This section expires on December 31, 2018.

§54.052. Credit for Time Spent in Detention Facility for Child with Determinate Sentence.

(a) This section applies only to a child who is committed to:

(1) the Texas Juvenile Justice Department [~~Youth Commission~~] under a determinate sentence under Section 54.04(d)(3) or (m) or Section 54.05(f); or

(2) a post-adjudication secure correctional facility under a determinate sentence under Section 54.04011(c)(2).

(b) The judge of the court in which a child is adjudicated shall give the child credit on the child's sentence for the time spent by the child, in connection with the conduct for which the child was adjudicated, in a secure detention facility before the child's transfer to a Texas Juvenile Justice Department [~~Youth Commission~~] facility or a post-adjudication secure correctional facility, as applicable.

...

(d) The Texas Juvenile Justice Department or the juvenile board or local juvenile probation department operating or contracting for the operation of the post-adjudication secure correctional facility under Section 152.0016, Human Resources Code, as applicable, [~~Youth Commission~~] shall grant any credit under this section in computing the child's eligibility for parole and discharge.

§54.11. Release or Transfer Hearing.

(a) On receipt of a referral under Section 244.014(a), Human Resources Code, for the transfer to the Texas Department of Criminal Justice of a person committed to the Texas Juvenile Justice Department under Section 54.04(d)(3), 54.04(m), or 54.05(f), [~~or~~] on receipt of a request by the Texas Juvenile Justice Department under Section 245.051(d), Human Resources Code, for approval of the release under supervision of a person committed to the Texas Juvenile Justice Department under Section 54.04(d)(3), 54.04(m), or 54.05(f), or on receipt of a referral under Section 152.0016(g), Human Resources Code, the court shall set a time and place for a hearing on the release of the person.

...

(h) The hearing on a person who is referred for transfer under Section 152.0016(j) or 244.014(a), Human Resources Code, shall be held not later than the 60th day after the date the court receives the referral.

(i) On conclusion of the hearing on a person who is referred for transfer under Section 152.0016(j) or 244.014(a), Human Resources Code, the court may, as applicable, order:

(1) the return of the person to the Texas Juvenile Justice Department or post-adjudication secure correctional facility; or

(2) the transfer of the person to the custody of the Texas Department of Criminal Justice for the completion of the person's sentence.

(j) On conclusion of the hearing on a person who is referred for release under supervision under Section 152.0016(g) or 245.051(c), Human Resources Code, the court may, as applicable, order the return of the person to the Texas Juvenile Justice Department or post-adjudication secure correctional facility:

(1) with approval for the release of the person under supervision; or

(2) without approval for the release of the person under supervision.

(k) In making a determination under this section, the court may consider the experiences and character of the person before and after commitment to the Texas Juvenile Justice Department or post-adjudication secure correctional facility [~~youth commission~~], the nature of the penal offense that the person was found to have committed and the manner in which the offense was committed, the abilities of the person to contribute to society, the protection of the victim of the offense or any member of the victim's family, the recommendations of the Texas Juvenile Justice Department, county juvenile board, local juvenile probation department, [~~Youth Commission~~] and prosecuting attorney, the best interests of the person, and any other factor relevant to the issue to be decided.

§59.009. Sanction Level Six.

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

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

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

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

(4) if appropriate, impose additional sanctions.

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

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

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

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

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

§59.010. Sanction Level Seven.

(a) For a child at sanction level seven, the juvenile court may certify and transfer the child under Section 54.02 or sentence the child to commitment to the Texas Juvenile Justice Department [~~Youth Commission~~] under Section 54.04(d)(3), 54.04(m), or 54.05(f) or to a post-adjudication secure correctional facility under Section 54.04011(c)(2). The department, juvenile board, or local juvenile probation department, as applicable, [~~commission~~] may:

(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than 12 months or more than 10 years unless the department, board, or probation department [~~commission~~] extends the period and the reason for the extension is documented;

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

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

(4) impose any other appropriate sanction.

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

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

(2) require a parole officer to monitor the child closely for not less than 12 months; and

(3) impose any other appropriate condition of supervision.

Human Resources Code

§243.005. Information Provided by Committing Court.

In addition to the information provided under Section 243.004, a court that commits a child to the department shall provide the department with a copy of the following documents:

(1) the petition and the adjudication and disposition orders for the child, including the child's thumbprint;

(2) if the commitment is a result of revocation of probation, a copy of the conditions of probation and the revocation order;

(3) the social history report for the child;

(4) any psychological or psychiatric reports concerning the child;

(5) the contact information sheet for the child's parents or guardian;

(6) any law enforcement incident reports concerning the offense for which the child is committed;

(7) any sex offender registration information concerning the child;

(8) any juvenile probation department progress reports concerning the child;

(9) any assessment documents concerning the child;

(10) the computerized referral and case history for the child, including case disposition;

(11) the child's birth certificate;

(12) the child's social security number or social security card, if available;

(13) the name, address, and telephone number of the court administrator in the committing county;

(14) Title IV-E eligibility screening information for the child, if available;

(15) the address in the committing county for forwarding funds collected to which the committing county is entitled;

(16) any of the child's school or immunization records that the committing county possesses;

(17) any victim information concerning the case for which the child is committed; ~~and~~

(18) any of the child's pertinent medical records that the committing court possesses;

(19) the Texas Juvenile Justice Department standard assessment tool results for the child;

(20) the Department of Public Safety CR-43J form or tracking incident number concerning the child; and

(21) documentation that the committing court has required the child to provide a DNA sample to the Department of Public Safety.

§244.014. Referral of Determinate Sentence Offenders for Transfer. [amended heading]

(a) After a child sentenced to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 16 years of age but before the child becomes 19 years of age, the department may refer the child to the juvenile court that entered the order of commitment for approval of the child's transfer to the Texas Department of Criminal Justice for confinement if:

(1) the child has not completed the sentence; and

(2) the child's conduct, regardless of whether the child was released under supervision under Section 245.051, indicates that the welfare of the community requires the transfer.

(b) The department shall cooperate with the court on any proceeding on the transfer of the child.

(c) If a child is released under supervision, a juvenile court adjudication that the child engaged in delinquent conduct constituting a felony offense, a criminal court conviction of the child for a felony offense, or a determination under Section 244.005(4) revoking the child's release under supervision is required before referral of the child to the juvenile court under Subsection (a).

Government Code

§508.145. Eligibility for Release on Parole; Computation of Parole Eligibility Date.

(a) An inmate under sentence of death, serving a sentence of life imprisonment without parole, serving a sentence for an offense under Section 21.02, Penal Code, or serving a sentence for an offense under Section 22.021, Penal Code, that is punishable under Subsection (f) of that section is not eligible for release on parole.

(b) An inmate serving a life sentence under Section 12.31(a)(1), Penal Code, for a capital felony is not eligible for release on parole until the actual calendar time the inmate has served, without consideration of good conduct time, equals 40 calendar years.

(c) An inmate serving a sentence under Section 12.42(c)(2), Penal Code, is not eligible for release on parole until the actual calendar time the inmate has served, without consideration of good conduct time, equals 35 calendar years.

(d)(1) An inmate serving a sentence for an offense described by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), (I), (J), (K), (L), (M), or (N), Article 42.12, Code of Criminal Procedure, an offense for which the judgment contains an affirmative finding under Section 3g(a)(2) of that article, an offense under Section 20A.03, Penal Code, or an offense under Section 71.02 or 71.023, Penal Code, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the inmate eligible for release on parole in less than two calendar years.

(2) Notwithstanding Subdivision (1), an inmate serving a sentence for an offense described by Section 3g(a)(1)(E), Article 42.12, Code of Criminal Procedure, is not eligible for release on parole if the inmate is serving a sentence for an offense for which punishment was enhanced under Section 12.42(c)(4), Penal Code.

(d-1) Notwithstanding Subsection (d), for every 12 months that elapse between the date an arrest warrant is issued for the inmate following an indictment for the offense and the date the inmate is arrested for the offense, the earliest date on which an inmate is eligible for parole is delayed by three years from the date otherwise provided by

Subsection (d), if the inmate is serving a sentence for an offense under Section 19.02, 22.011, or 22.021, Penal Code.

(e) An inmate serving a sentence for which the punishment is increased under Section 481.134, Health and Safety Code, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals five years or the term to which the inmate was sentenced, whichever is less.

(f) Except as provided by Section 508.146, any other inmate is eligible for release on parole when the inmate's actual calendar time served plus good conduct time equals one-fourth of the sentence imposed or 15 years, whichever is less.

§508.149. Inmates Ineligible for Mandatory Supervision.

(a) An inmate may not be released to mandatory supervision if the inmate is serving a sentence for or has been previously convicted of:

(1) an offense for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure;

(2) a first degree felony or a second degree felony under Section 19.02, Penal Code;

(3) a capital felony under Section 19.03, Penal Code;

(4) a first degree felony or a second degree felony under Section 20.04, Penal Code;

(5) an offense under Section 21.11, Penal Code;

(6) a felony under Section 22.011, Penal Code;

(7) a first degree felony or a second degree felony under Section 22.02, Penal Code;

(8) a first degree felony under Section 22.021, Penal Code;

(9) a first degree felony under Section 22.04, Penal Code;

(10) a first degree felony under Section 28.02, Penal Code;

(11) a second degree felony under Section 29.02, Penal Code;

(12) a first degree felony under Section 29.03, Penal Code;

(13) a first degree felony under Section 30.02, Penal Code;

(14) a felony for which the punishment is increased under Section 481.134 or Section 481.140, Health and Safety Code;

(15) an offense under Section 43.25, Penal Code;

(16) an offense under Section 21.02, Penal Code;

(17) a first degree felony under Section 15.03, Penal Code;

(18) an offense under Section 43.05, Penal Code;

(19) an offense under Section 20A.02, Penal Code;

(20) an offense under Section 20A.03, Penal Code; or

(21) a first degree felony under Section 71.02 or 71.023, Penal Code.

(b) An inmate may not be released to mandatory supervision if a parole panel determines that:

(1) the inmate's accrued good conduct time is not an accurate reflection of the inmate's potential for rehabilitation; and

(2) the inmate's release would endanger the public.

(c) A parole panel that makes a determination under Subsection (b) shall specify in writing the reasons for the determination.

(d) A determination under Subsection (b) is not subject to administrative or judicial review, except that the parole panel making the determination shall reconsider the inmate for release to mandatory supervision at least twice during the two years after the date of the determination.

PART TWO: The Structure of the Juvenile Justice System

Chapter 3: Juvenile Boards

Human Resources Code

§152.0016. Trafficked Persons Program. [first of two] [new]

(a) A juvenile board may establish a trafficked persons program under this section for the assistance, treatment, and rehabilitation of children who:

(1) are alleged to have engaged in or adjudicated as having engaged in delinquent conduct or conduct indicating a need for supervision; and

(2) may be victims of conduct that constitutes an offense under Section 20A.02, Penal Code.

(b) A program established under this section must:

(1) if applicable, allow for the integration of services available to a child pursuant to proceedings under Title 3, Family Code, and Subtitle E, Title 5, Family Code;

(2) if applicable, allow for the referral to a facility that can address issues associated with human trafficking; and

(3) require a child participating in the program to periodically appear in court for monitoring and compliance purposes.

§152.0016. Post-Adjudication Secure Correctional Facilities. Release Under Supervision. [second of two] [new]

(a) This section applies only to a county that has a population of more than one million and less than 1.5 million.

(b) In this section, "post-adjudication secure correctional facility" means a facility operated by or under contract with a juvenile board or local juvenile probation department in accordance with Section 51.125, Family Code.

(c) A juvenile board shall establish a policy that specifies whether the juvenile board or a local juvenile probation department that serves a county to which this section applies may:

(1) operate or contract for the operation of a post-adjudication secure correctional facility to confine children committed to the facility under Section 54.04011, Family Code; and

(2) operate a program through which a child committed to a post-adjudication secure correctional facility under Section 54.04011, Family Code, may be released under supervision and place the child in the child's home or in any situation or family approved by the juvenile board or local juvenile probation department.

(d) Before placing a child in the child's home under Subsection (c)(2), the juvenile board or local juvenile probation department shall evaluate the home setting to determine the level of supervision and quality of care that is available in the home.

(e) A juvenile board or a local juvenile probation department shall accept a person properly committed to it by a juvenile court under Section 54.04011, Family Code, in the same manner in which the Texas Juvenile Justice Department accepts a person under Section 54.04(e), Family Code, even though the person may be 17 years of age or older at the time of the commitment.

(f) A juvenile board or a local juvenile probation department shall establish a minimum length of stay for each child committed without a determinate sentence under Section 54.04011(c)(1), Family Code, in the same manner that the Texas Juvenile Justice Department determines a minimum length of stay for a child committed to the department under Section 243.002.

(g) Except as provided by Subsection (h), if a child is committed to a post-adjudication secure correctional facility under Section 54.04011(c)(2), Family Code, the local juvenile probation department may not release the child under supervision without approval by the juvenile court that entered the order of commitment under Section 54.04011, Family Code, unless the child has been confined not less than:

(1) 10 years for capital murder;

(2) three years for an aggravated controlled substance felony or a felony of the first degree;

(3) two years for a felony of the second degree; and

(4) one year for a felony of the third degree.

(h) The juvenile board or local juvenile probation department may release a child who has been committed to a post-adjudication secure correctional facility with a determinate sentence under Section 54.04011(c)(2), Family Code, under supervision without approval of the juvenile court that entered the order of commitment if not more than nine months remain before the child's discharge as provided by Section 245.051(g).

(i) The juvenile board or local juvenile probation department may resume the care and custody of any child released under supervision at any time before the final discharge of the child in accordance with the rules governing the Texas Juvenile Justice Department regarding resumption of care.

(j) After a child committed to a post-adjudication secure correctional facility with a determinate sentence under Section 54.04011(c)(2), Family Code, becomes 16 years of age but before the child becomes 19 years of age, the juvenile board or local juvenile probation department operating or contracting for the operation of the facility may refer the child to the juvenile court that entered the order of commitment for approval of the child's transfer to the Texas Department of Criminal Justice for confinement if the child has not completed the sentence and:

(1) the child's conduct, regardless of whether the child was released under supervision through a program established by the board or department, indicates that the welfare of the community requires the transfer; or

(2) while the child was released under supervision:

(A) a juvenile court adjudicated the child as having engaged in delinquent conduct constituting a felony offense;

(B) a criminal court convicted the child of a felony offense; or

(C) the child's release under supervision was revoked.

(k) A juvenile board or local juvenile probation department operating or contracting for the operation of a post-adjudication secure correctional facility under this section shall develop a comprehensive plan for each child committed to the facility under Section 54.04011, Family Code, regardless of whether the child is committed with or without a determinate sentence, to reduce recidivism and ensure the successful reentry and reintegration of the child into the community following the child's release under supervision or final discharge from the facility, as applicable.

(l) This section expires on December 31, 2018.

§152.0751. Edwards County.

(d) The juvenile board of Edwards County and the juvenile boards of one or more counties that are adjacent to or in close proximity to Edwards County may agree to operate together. Juvenile boards operating together may appoint one fiscal officer to receive and disburse funds for the boards.

§152.0771. El Paso County.

(a) The juvenile board of El Paso County is composed of:

(1) the county judge or:

(A) a member of the commissioners court designated by the county judge; or

(B) an individual who is not a member of the commissioners court and who is designated by the county judge and approved by the commissioners court by majority vote;

(2) each family district court judge;

(3) each juvenile court judge;

(4) up to five judges on the "El Paso Council of Judges" to be elected by majority vote of that council;

(5) a municipal judge from El Paso County selected by the chairman of the juvenile board of El Paso County; and

(6) a justice of the peace in El Paso County selected by the chairman of the juvenile board of El Paso County.

§152.2361. Upshur County.

(a) The Upshur County Juvenile Board is composed of the county judge and[;] the district judge [judges] in Upshur County[; and the judges of any statutory court in the county designated as a juvenile court].

(b) The county judge of Upshur County is the chairman of the board and its chief administrative officer [juvenile board shall elect one of its members as chairman at its first regular meeting of each calendar year].

(c), (e), (f), (g), (h), (i), (j), (k), and (m), Human Resources Code, are repealed.

§152.2391. Val Verde County.

(a) The juvenile board of Val Verde County is composed of the county judge, ~~and~~ the district judges in Val Verde County, and the judge of the County Court at Law of Val Verde County.

Family Code

§51.12. Place and Conditions of Detention.

(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 complies with the requirements of Subsection (f);

(4) secure detention facility as provided by Subsection (j); ~~and~~

(5) county jail or other facility as provided by Subsection (l); or

(6) nonsecure correctional facility as provided by Subsection (j-1).

...

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

(1) the nonsecure correctional facility has been appropriately registered and certified;

(2) a certified secure detention facility is not available in the county in which the child is taken into custody;

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

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

Code of Criminal Procedure

Art. 26.04. Procedures for Appointing Counsel.

(j) An attorney appointed under this article shall:

(1) make every reasonable effort to contact the defendant not later than the end of the first working day after the date on which the attorney is appointed and to interview the defendant as soon as practicable after the attorney is appointed;

(2) represent the defendant until charges are dismissed, the defendant is acquitted, appeals are exhausted, or the attorney is permitted or ordered by the court to withdraw as counsel for the defendant after a finding of good cause is entered on the record; ~~and~~

(3) with respect to a defendant not represented by other counsel, before withdrawing as counsel for the defendant after a trial or the entry of a plea of guilty:

(A) advise the defendant of the defendant's right to file a motion for new trial and a notice of appeal;

(B) if the defendant wishes to pursue either or both remedies described by Paragraph (A), assist the defendant in requesting the prompt appointment of replacement counsel; and

(C) if replacement counsel is not appointed promptly and the defendant wishes to pursue an appeal, file a timely notice of appeal; and

(4) not later than October 15 of each year and on a form prescribed by the Texas Indigent Defense Commission, submit to the county information, for the preceding fiscal year, that describes the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in the county under this article and Title 3, Family Code.

Government Code

§79.036. Indigent Defense Information.

(a) ~~Not [In each county, not]~~ later than November 1 of each odd-numbered year and in the form and manner prescribed by the commission, each county [the following information] shall prepare [be prepared] and provide [provided] to the commission:

(1) a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel in accordance with the Code of Criminal Procedure, including the schedule of fees required under Article 26.05 of that code;

(2) any plan or proposal submitted to the commissioners court under Article 26.044, Code of Criminal Procedure;

(3) any plan of operation submitted to the commissioners court under Article 26.047, Code of Criminal Procedure;

(4) any contract for indigent defense services required under rules adopted by the commission relating to a contract defender program;

(5) [(2)] any revisions to rules, [or] forms, plans, proposals, or contracts previously submitted under this section; or

(6) [(3)] verification that rules, [and] forms, plans, proposals, or contracts previously submitted under this section still remain in effect.

(a-1) Not later than November 1 of each year and in the form and manner prescribed by the commission, each county shall prepare and provide to the commission information that describes for the preceding fiscal year the number of appointments under Article 26.04, Code of Criminal Procedure, and Title 3, Family Code, made to each attorney accepting appointments in the county, and information provided to the county by those attorneys under Article 26.04(j)(4), Code of Criminal Procedure.

§402.042. Questions of Public Interest and Official Duties.

(c) A request for an opinion must be in writing and sent by certified or registered mail, with return receipt requested, addressed to the office of the attorney general in Austin, or electronically to an electronic mail address designated by the attorney general for the purpose of receiving requests for opinions under this section. The attorney general shall:

(1) acknowledge receipt of the request not later than the 15th day after the date that it is received; and

(2) issue the opinion not later than the 180th day after the date that it is received, unless before that deadline the attorney general notifies the requesting person in writing that the opinion will be delayed or not rendered and states the reasons for the delay or refusal.

§ 551.001. Definitions.

(7) "Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed.

§551.021. Minutes or [tape] Recording of Open Meeting Required.

(a) A governmental body shall prepare and keep minutes or make a [tape] recording of each open meeting of the body.

§551.022. Minutes and [Tape] Recordings of Open Meeting: Public Record.

The minutes and [tape] recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.

§551.023. Recording of Meeting by Person in Attendance.

(a) A person in attendance may record all or any part of an open meeting of a governmental body by means of a [tape] recorder, video camera, or other means of aural or visual reproduction.

§551.0725. Commissioners Courts: Deliberation Regarding Contract Being Negotiated; Closed Meeting.

(b) Notwithstanding Section 551.103(a), Government Code, the commissioners court must make a [tape] recording of the proceedings of a closed meeting to deliberate the information.

§551.103. Certified Agenda or [Tape] Recording Required.

(a) A governmental body shall either keep a certified agenda or make a [tape] recording of the proceedings of each closed meeting, except for a private consultation permitted under Section 551.071.

(d) A [tape] recording made under Subsection (a) must include announcements by the presiding officer at the beginning and the end of the meeting indicating the date and time.

§ 551.104. Certified Agenda or Recording [Tape]; Preservation; Disclosure.

(a) A governmental body shall preserve the certified agenda or [tape] recording of a closed meeting for at least two years after the date of the meeting. If an action involving the meeting is brought within that period, the governmental body shall preserve the certified agenda or recording [tape] while the action is pending.

(b) In litigation in a district court involving an alleged violation of this chapter, the court:

(1) is entitled to make an in camera inspection of the certified agenda or recording [tape];

(2) may admit all or part of the certified agenda or recording [tape] as evidence, on entry of a final judgment; and

(3) may grant legal or equitable relief it considers appropriate, including an order that the governmental body make available to the public the certified agenda or recording [tape] of any part of a meeting that was required to be open under this chapter.

(c) The certified agenda or recording [tape] of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3).

§551.125. Other Governmental Body.

(e) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be recorded [~~tape-recorded~~]. The [~~tape~~] recording shall be made available to the public.

§551.145. Closed Meeting Without Certified Agenda or [Tape] Recording; Offense; Penalty.

(a) A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a [~~tape~~] recording of the closed meeting is not being made.

§551.146. Disclosure of Certified Agenda or [Tape] Recording of Closed Meeting; Offense; Penalty; Civil Liability.

(a) An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or [~~tape~~] recording of a meeting that was lawfully closed to the public under this chapter:

(1) commits an offense; and

(2) is liable to a person injured or damaged by the disclosure for:

(A) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;

(B) reasonable attorney fees and court costs; and

(C) at the discretion of the trier of fact, exemplary damages.

(c) It is a defense to prosecution under Subsection (a)(1) and an affirmative defense to a civil action under Subsection (a)(2) that:

(1) the defendant had good reason to believe the disclosure was lawful; or

(2) the disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or [~~tape~~] recording.

§552.117. Exception: Confidentiality of Certain Addresses, Telephone Numbers, Social Security Numbers, and Personal Family Information.

(a) Information is excepted from the requirements of Section 552.021 if it is information that relates to the home

address, home telephone number, emergency contact information, or social security number of the following person or that reveals whether the person has family members:

(1) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024;

(2) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable;

(3) a current or former employee of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department, regardless of whether the current or former employee complies with Section 552.1175;

(4) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or other law, a reserve law enforcement officer, a commissioned deputy game warden, or a corrections officer in a municipal, county, or state penal institution in this state who was killed in the line of duty, regardless of whether the deceased complied with Section 552.024 or 552.1175;

(5) a commissioned security officer as defined by Section 1702.002, Occupations Code, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable;

(6) an officer or employee of a community supervision and corrections department established under Chapter 76 who performs a duty described by Section 76.004(b), regardless of whether the officer or employee complies with Section 552.024 or 552.1175; [~~or~~]

(7) a current or former employee of the office of the attorney general who is or was assigned to a division of that office the duties of which involve law enforcement, regardless of whether the current or former employee complies with Section 552.024 or 552.1175;

(8) a current or former employee of the Texas Juvenile Justice Department or of the predecessors in function of the department, regardless of whether the current or former employee complies with Section 552.1175;

(9) a juvenile probation or supervision officer certified by the Texas Juvenile Justice Department, or the predecessors in function of the department, under Title 12, Human Resources Code; or

(10) employees of a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code.

§552.1175. Confidentiality of Certain Personal Identifying Information of Peace Officers, County Jailers, Security Officers, Employees of Certain Criminal Or Juvenile Justice Agencies or Offices, and Federal And State Judges

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure;

(2) county jailers as defined by Section 1701.001, Occupations Code;

(3) current or former employees of the Texas Department of Criminal Justice or of the predecessor in function of the department or any division of the department;

(4) commissioned security officers as defined by Section 1702.002, Occupations Code;

(5) employees of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters;

(6) officers and employees of a community supervision and corrections department established under Chapter 76 who perform a duty described by Section 76.004(b);

(7) criminal investigators of the United States as described by Article 2.122(a), Code of Criminal Procedure;

(8) police officers and inspectors of the United States Federal Protective Service; ~~and~~

(9) current and former employees of the office of the attorney general who are or were assigned to a division of that office the duties of which involve law enforcement;

*Text of subdivision as added by Acts 2013, 83rd Leg., R.S.,
HB 2733*

(10) juvenile probation and detention officers certified by the Texas Juvenile Justice Department, or the predecessors in function of the department, under Title 12, Human Resources Code;

*Text of subdivision as added by Acts 2013, 83rd Leg., R.S.,
HB 1632*

(10) federal judges and state judges as defined by Section 13.0021, Election Code

(11) employees of a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code; and

(12) current or former employees of the Texas Juvenile Justice Department or the predecessors in function of the department.

**Chapter 4: Juvenile Probation
Departments and Personnel [omitted]**

Chapter 5: Juvenile Facilities

Family Code

§51.02. Definitions.

(8-a) "Nonsecure correctional facility" means a facility described by Section 51.126, ~~[other than a secure correctional facility, that accepts only juveniles who are on probation and that is operated by or under contract with a governmental unity, as defined by Section 101.001, Civil Practice and Remedies Code].~~

§51.12. Place and Conditions of Detention.

(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 complies with the requirements of Subsection (f);

(4) secure detention facility as provided by Subsection (j); ~~[or]~~

(5) county jail or other facility as provided by Subsection (l); or

(6) nonsecure correctional facility as provided by Subsection (j-1).

...

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

(1) the nonsecure correctional facility has been appropriately registered and certified;

(2) a certified secure detention facility is not available in the county in which the child is taken into custody;

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

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

§ 54.04. Disposition Hearing.

(b) At the disposition hearing, the juvenile court, notwithstanding the Texas Rules of Evidence or Chapter 37, Code of Criminal Procedure, may consider written reports from probation officers, professional court employees, or professional consultants in addition to the testimony of witnesses. On or before the second day before the date of [Prior to] the disposition hearing, the court shall provide the attorney for the child and the prosecuting attorney with access to all written matter to be considered by the court in disposition. The court may order counsel not to reveal items to the child or the child's parent, guardian, or guardian ad litem if such disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

Text of subsection effective until December 1, 2013

(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 [~~Youth Commission~~]; 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 [~~Youth Commission~~];

(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 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 [~~Youth Commission~~] 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 [~~Youth Commission~~] 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; [~~or~~]

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

Text of subsection effective December 1, 2013

(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 [~~Youth Commission~~]; 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 [~~Youth Commission~~];

(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 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 or a post-adjudication secure correctional facility under Section 54.04011(c)(1) [~~Youth Commission~~] 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) [~~Youth Commission~~] 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; [ø]

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

...

Text of subsection effective December 1, 2013

(q) If a court or jury sentences a child to commitment in the Texas Juvenile Justice Department or a post-adjudication secure correctional facility [~~Youth Commission~~] under Subsection (d)(3) for a term of not more than 10 years, the court or jury may place the child on probation under Subsection (d)(1) as an alternative to making the disposition under Subsection (d)(3). The court shall prescribe the period of probation ordered under this subsection for a term of not more than 10 years. The court may, before the sentence of probation expires, extend the probationary period under Section 54.05, except that the sentence of probation and any extension may not exceed 10 years. The court may, before the child's 19th birthday, discharge the child from the sentence of probation. If a sentence of probation ordered under this subsection and any extension of probation ordered under Section 54.05 will continue after the child's 19th birthday, the court shall discharge the child from the sentence of probation on the child's 19th birthday unless the court transfers the child to an appropriate district court under Section 54.051.

...

Text of subsection effective December 1, 2013

(z) Nothing in this section may be construed to prohibit a juvenile court or jury in a county to which Section 54.04011 applies from committing a child to a post-adjudication secure correctional facility in accordance with that section after a disposition hearing held in accordance with this section.

Code of Criminal Procedure

Art. 4.19. Transfer of Person Certified to Stand Trial as an Adult [Child].

(a) Notwithstanding the order of a juvenile court to detain a person under the age of 17 who has been certified to stand trial as an adult [child] in a certified juvenile detention facility under Section 54.02(h), Family Code, the judge of the criminal court having jurisdiction over the person [child] may order the person [child] to be transferred to an adult [another] facility [and treated as an adult as provided by this code]. A child who is transferred to an

adult facility must be detained under conditions meeting the requirements of Section 51.12, Family Code.

(b) On the 17th birthday of a person described by Subsection (a) who is detained in a certified juvenile detention facility under Section 54.02(h), Family Code, the judge of the criminal court having jurisdiction over the person shall order the person to be transferred to an adult facility.

Human Resources Code

§203.016. Data Regarding Placement in Disciplinary Seclusion. [new]

(a) In this section:

(1) "Disciplinary seclusion" means the separation of a resident from other residents for disciplinary reasons and the placement of the resident alone in an area from which egress is prevented for more than 90 minutes.

(2) "Juvenile facility" means a facility that serves juveniles under juvenile court jurisdiction and that is operated as a pre-adjudication secure detention facility, a short-term detention facility, or a post-adjudication secure correctional facility.

(b) The department shall collect the following data during the annual registration of juvenile facilities and make the data publicly available:

(1) the number of placements in disciplinary seclusion lasting at least 90 minutes but less than 24 hours;

(2) the number of placements in disciplinary seclusion lasting 24 hours or more but less than 48 hours; and

(3) the number of placements in disciplinary seclusion lasting 48 hours or more.

§221.002. General Rules Governing Juvenile Boards, Probation Departments, Probation Officers, Programs, and Facilities.

(c-1) In adopting rules under Subsection (a)(3), the board shall require probation officers, juvenile supervision officers, and court-supervised community-based program personnel to receive trauma-informed care training. The training must provide knowledge, in line with best practices, of how to interact with juveniles who have experienced traumatic events.

§222.003. Minimum Standards for Certain Employees of Nonsecure Correctional Facilities.

(a) The board by rule shall adopt certification standards for persons who are employed in nonsecure correctional

facilities that accept ~~[only]~~ juveniles ~~[who are on probation]~~ and that are operated by or under contract with a governmental unit, as defined by Section 101.001, Civil Practice and Remedies Code.

Government Code

§23.101. Primary Priorities.

(a) The trial courts of this state shall regularly and frequently set hearings and trials of pending matters, giving preference to hearings and trials of the following:

(1) temporary injunctions;

(2) criminal actions, with the following actions given preference over other criminal actions:

(A) criminal actions against defendants who are detained in jail pending trial;

(B) criminal actions involving a charge that a person committed an act of family violence, as defined by Section 71.004, Family Code;

(C) an offense under:

(i) Section 21.02 or 21.11, Penal Code;

(ii) Chapter 22, Penal Code, if the victim of the alleged offense is younger than 17 years of age;

(iii) Section 25.02, Penal Code, if the victim of the alleged offense is younger than 17 years of age;

(iv) Section 25.06, Penal Code;

(v) Section 43.25, Penal Code; or

(vi) Section 20A.03, Penal Code;

(D) an offense described by Article 62.001(6)(C) or (D), Code of Criminal Procedure; and

(E) criminal actions against persons ~~[children]~~ who are detained as provided by Section 51.12, Family Code, after transfer for prosecution in criminal court under Section 54.02, Family Code;

(3) election contests and suits under the Election Code;

(4) orders for the protection of the family under Subtitle B, Title 4, Family Code;

(5) appeals of final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims and claims under the Federal Employers' Liability Act and the Jones Act;

(6) appeals of final orders of the commissioner of the General Land Office under Section 51.3021, Natural Resources Code;

(7) actions in which the claimant has been diagnosed with malignant mesothelioma, other malignant asbestos-related cancer, malignant silica-related cancer, or acute silicosis; and

(8) appeals brought under Section 42.01 or 42.015, Tax Code, of orders of appraisal review boards of appraisal districts established for counties with a population of less than 175,000.

Chapter 6: Reporting and Investigating Child Abuse, Neglect or Exploitation

Family Code

§261.001. Definitions.

In this chapter:

(9) "Severe emotional disturbance" means a mental, behavioral, or emotional disorder of sufficient duration to result in functional impairment that substantially interferes with or limits a person's role or ability to function in family, school, or community activities.

§261.004. Statistics and Neglect of Children.

(b) The department [DFPS] shall report the following information:

(14) the number of children who suffer from a severe emotional disturbance and for whom the department is appointed managing conservator because a person voluntarily relinquished custody of the child solely to obtain mental health services for the child.

§261.101. Persons Required to Report; Time to Report.

(b-1) In addition to the duty to make a report under Subsection (a) or (b), a person or professional shall make a report in the manner required by Subsection (a) or (b), as applicable, if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of:

(1) another child; or

(2) an elderly or disabled person as defined by Section 48.002, Human Resources Code.

(c) The requirement to report under this section applies without exception to an individual whose personal

communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, an employee or member of a board that licenses or certifies a professional, and an employee of a clinic or health care facility that provides reproductive services.

§261.109. Failure to Report; Penalty.

(a) A person commits an offense if the person is required to make a report under Section 261.101(a) ~~[has cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect]~~ and knowingly fails to make a report as provided in this chapter.

(a-1) A person who is a professional as defined by Section 261.101(b) commits an offense if the person is required to make a report under Section 261.101(b) and knowingly fails to make a report as provided in this chapter.

(b) An offense under Subsection (a) ~~[this section]~~ is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the child was a person with an intellectual disability ~~[mental retardation]~~ who resided in a state supported living center, the ICF-MR component of the Rio Grande State Center, or a facility licensed under Chapter 252, Health and Safety Code, and the actor knew that the child had suffered serious bodily injury as a result of the abuse or neglect.

(c) An offense under Subsection (a-1) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the actor intended to conceal the abuse or neglect.

Chapter 7: Texas Juvenile Justice Department

Human Resources Code Title 12. Juvenile Justice Services and Facilities

§203.0081. Advisory Council on Juvenile Services.

(a) The advisory council on juvenile services consists of:

(1) the executive director of the department or the executive director's designee;

(2) the director of probation services of the department or the director's designee;

(3) the director of state programs and facilities of the department or the director's designee;

(4) the executive commissioner of the Health and Human Services Commission or the commissioner's designee;

(5) [(4)] one representative of the county commissioners courts appointed by the board;

(6) [(5)] two juvenile court judges appointed by the board; and

(7) [(6)] seven chief juvenile probation officers appointed by the board as provided by Subsection (b).

§203.016. Data Regarding Placement in Disciplinary Seclusion. [new]

(a) In this section:

(1) "Disciplinary seclusion" means the separation of a resident from other residents for disciplinary reasons and the placement of the resident alone in an area from which egress is prevented for more than 90 minutes.

(2) "Juvenile facility" means a facility that serves juveniles under juvenile court jurisdiction and that is operated as a pre-adjudication secure detention facility, a short-term detention facility, or a post-adjudication secure correctional facility.

(b) The department shall collect the following data during the annual registration of juvenile facilities and make the data publicly available:

(1) the number of placements in disciplinary seclusion lasting at least 90 minutes but less than 24 hours;

(2) the number of placements in disciplinary seclusion lasting 24 hours or more but less than 48 hours; and

(3) the number of placements in disciplinary seclusion lasting 48 hours or more.

§221.002. General Rules Governing Juvenile boards, Probation Departments, Probation Officers, Programs, and Facilities.

(c-1) In adopting rules under Subsection (a)(3), the board shall require probation officers, juvenile supervision officers, and court-supervised community-based program personnel to receive trauma-informed care training. The training must provide knowledge, in line with best practices, of how to interact with juveniles who have experienced traumatic events.

§221.0035. Best Practices to Identify and Assess Victims of Sex Trafficking.

(a) In this section, "sex trafficking" means an offense under Section 20A.02(a)(7), Penal Code.

(b) The department shall evaluate the practices and screening procedures used by juvenile probation departments for the early identification of juveniles who are victims of sex trafficking for the purpose of developing a recommended set of best practices that may be used by a juvenile probation department to improve the juvenile probation department's ability to identify a juvenile who is a victim of sex trafficking.

(c) Best practices may include:

(1) examining a juvenile's referral history, including whether the juvenile has a history of running away from home or has been adjudicated for previous offenses;

(2) making inquiries into a juvenile's history of sexual abuse;

(3) assessing a juvenile's need for services, including counseling through a rape crisis center or other counseling; and

(4) asking the juvenile a series of questions designed to determine whether the juvenile is at high risk of being a victim of sex trafficking.

§221.0061. Trauma-Informed Care Training. [new]

The department shall provide trauma-informed care training during the preservice training the department provides for juvenile probation officers, juvenile supervision officers, juvenile correctional officers, and juvenile parole officers. The training must provide knowledge, in line with best practices, of how to interact with juveniles who have experienced traumatic events.

§222.003. Minimum Standards for Certain Employees of Nonsecure Correctional Facilities.

(a) The board by rule shall adopt certification standards for persons who are employed in nonsecure correctional facilities that accept [only] juveniles [who are on probation] and that are operated by or under contract with a governmental unit, as defined by Section 101.001, Civil Practice and Remedies Code.

§242.002. Evaluation of Treatment Programs; Availability.

(b) On or before December 31 of each even-numbered year, the department shall make a report on the effectiveness of the programs to the Legislative Budget Board.

(d) If the department is unable to offer or make available programs described by Subsection (a) in the manner provided by Subsection (c), the department shall, not later than December 31 [~~January 10~~] of each even-numbered [~~odd-numbered~~] year, provide the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities with a report explaining:

(1) which programs are not offered or are unavailable; and

(2) the reason the programs are not offered or are unavailable.

§243.005. Information Provided by Committing Court.

In addition to the information provided under Section 243.004, a court that commits a child to the department shall provide the department with a copy of the following documents:

(1) the petition and the adjudication and disposition orders for the child, including the child's thumbprint;

(2) if the commitment is a result of revocation of probation, a copy of the conditions of probation and the revocation order;

(3) the social history report for the child;

(4) any psychological or psychiatric reports concerning the child;

(5) the contact information sheet for the child's parents or guardian;

(6) any law enforcement incident reports concerning the offense for which the child is committed;

(7) any sex offender registration information concerning the child;

(8) any juvenile probation department progress reports concerning the child;

(9) any assessment documents concerning the child;

(10) the computerized referral and case history for the child, including case disposition;

(11) the child's birth certificate;

(12) the child's social security number or social security card, if available;

(13) the name, address, and telephone number of the court administrator in the committing county;

(14) Title IV-E eligibility screening information for the child, if available;

(15) the address in the committing county for forwarding funds collected to which the committing county is entitled;

(16) any of the child's school or immunization records that the committing county possesses;

(17) any victim information concerning the case for which the child is committed; ~~and~~

(18) any of the child's pertinent medical records that the committing court possesses;

(19) the Texas Juvenile Justice Department standard assessment tool results for the child;

(20) the Department of Public Safety CR-43J form or tracking incident number concerning the child; and

(21) documentation that the committing court has required the child to provide a DNA sample to the Department of Public Safety.

Government Code

§411.137 Access to Criminal History Record Information: Texas Juvenile Probation Commission [repealed]

§411.1141. Access to Criminal History Record Information: Texas Juvenile Justice Department [Youth Commission].

(a) The Texas Juvenile Justice Department is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a person described by Section 242.010(b), Human Resources Code;

(2) an applicant for a certification from the Texas Juvenile Justice Department;

(3) a holder of a certification from the Texas Juvenile Justice Department;

(4) a child committed to the custody of the Texas Juvenile Justice Department by a juvenile court;

(5) a person requesting visitation access to a facility of the Texas Juvenile Justice Department; or

(6) any person, as necessary to conduct an evaluation of the home under Section 245.051(a), Human Resources Code.

(b) Criminal history record information obtained by the Texas Juvenile Justice Department [~~Youth Commission~~] under Subsection (a) may not be released to any person except:

(1) on court order;

(2) with the consent of the entity or person who is the subject of the criminal history record information;

(3) for purposes of an administrative hearing held, or an investigation conducted, by the Texas Juvenile Justice Department [~~Youth Commission~~] concerning the person who is the subject of the criminal history record information; ~~or~~

(4) a juvenile board by which a certification applicant or holder is employed; or

(5) as provided by Subsection (c) or (f).

(c) The Texas Juvenile Justice Department [~~Youth Commission~~] is not prohibited from releasing criminal history record information obtained under Subsection (a) to:

(1) the person who is the subject of the criminal history record information; or

(2) a business entity or person described by Subsection (a)(1) [~~(a)(4) or (a)(5)~~] who uses or intends to use the services of the volunteer or intern or employs or is considering employing the person who is the subject of the criminal history record information.

(d) The Texas Juvenile Justice Department [~~Youth Commission~~] may charge an entity or a person who requests criminal history record information under Subsection (c)(2) [~~(a)(4) or (a)(5)~~] a fee in an amount necessary to cover the costs of obtaining the information on the person's or entity's behalf.

(e) After a person is certified by the Texas Juvenile Justice Department, the Texas Juvenile Justice Department shall destroy the criminal history record information that relates to a person described by Subsection (a)(2).

(f) The Texas Juvenile Justice Department is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Juvenile Justice Department.

Chapter 8: Office of the Independent Ombudsman for the Texas Juvenile Justice Department

§261.051. Appointment of Independent Ombudsman.

(b) A person appointed as independent ombudsman is eligible for reappointment [~~but may not serve more than three terms in that capacity~~].

Chapter 9: Texas Department of Family and Protective Services [omitted]

PART THREE:

Prosecution and Adjudication of Juveniles in Justice and Municipal Courts

Chapter 10: Provisions Applicable to All Cases

Penal Code

§8.07. Age Affecting Criminal Responsibility.

(d) Notwithstanding Subsection (a), a person may not be prosecuted for or convicted of an offense described by Subsection (a)(4) or (5) that the person committed when younger than 10 years of age.

(e) A person who is at least 10 years of age but younger than 15 years of age is presumed incapable of committing an offense described by Subsection (a)(4) or (5), other than an offense under a juvenile curfew ordinance or order. This presumption may be refuted if the prosecution proves to the court by a preponderance of the evidence that the actor had sufficient capacity to understand that the conduct engaged in was wrong at the time the conduct was engaged in. The prosecution is not required to prove that the actor at the time of engaging in the conduct knew that the act was a criminal offense or knew the legal consequences of the offense.

§8.08. Child with Mental Illness, Disability, or Lack of Capacity. [new]

(a) On motion by the state, the defendant, or a person standing in parental relation to the defendant, or on the court's own motion, a court with jurisdiction of an offense described by Section 8.07(a)(4) or (5) shall determine whether probable cause exists to believe that a child, including a child with a mental illness or developmental disability:

(1) lacks the capacity to understand the proceedings in criminal court or to assist in the child's own defense and is unfit to proceed; or

(2) lacks substantial capacity either to appreciate the wrongfulness of the child's own conduct or to conform the child's conduct to the requirement of the law.

(b) If the court determines that probable cause exists for a finding under Subsection (a), after providing notice to the state, the court may dismiss the complaint.

(c) A dismissal of a complaint under Subsection (b) may be appealed as provided by Article 44.01, Code of Criminal Procedure.

(d) In this section, "child" has the meaning assigned by Article 45.058(h), Code of Criminal Procedure.

Family Code

§51.03. Delinquent Conduct; Conduct Indicating a Need for Supervision.

(b) Conduct indicating a need for supervision is:

(1) subject to Subsection (f), conduct, other than a traffic offense, that violates:

(A) the penal laws of this state of the grade of misdemeanor that are punishable by fine only; or

(B) the penal ordinances of any political subdivision of this state;

(2) the absence of a child on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school;

(3) the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return;

(4) conduct prohibited by city ordinance or by state law involving the inhalation of the fumes or vapors of paint and other protective coatings or glue and other adhesives and the volatile chemicals itemized in Section 485.001, Health and Safety Code;

(5) an act that violates a school district's previously communicated written standards of student conduct for which the child has been expelled under Section 37.007(c), Education Code;

(6) conduct that violates a reasonable and lawful order of a court entered under Section 264.305; [∅]

(7) notwithstanding Subsection (a)(1), conduct described by Section 43.02(a)(1) or (2), Penal Code; or

(8) notwithstanding Subsection (a)(1), [(7)] conduct that violates Section 43.261, Penal Code.

§51.08. Transfer from Criminal Court.

(f) A court shall waive original jurisdiction for a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only, other than a traffic offense, and refer the child to juvenile court if the court or another court has previously dismissed a complaint against the child under Section 8.08, Penal Code.

§58.007. Physical Records or Files.

(b) Except as provided by Section 54.051(d-1) and by Article 15.27, Code of Criminal Procedure, the records and files of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under this title may be inspected or copied ~~[are open to inspection]~~ only by:

(1) the judge, probation officers, and professional staff or consultants of the juvenile court;

(2) a juvenile justice agency as that term is defined by Section 58.101;

(3) an attorney for a party to the proceeding;

(4) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or

(5) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

§58.00711. Records Relating to Children Convicted of or Receiving Deferred Disposition for Fine-Only Misdemeanors. [first of two]

*Text of section as amended by Acts 2013, 83rd Leg., R.S.
SB 394 (Effective September 1, 2013)
HB 528 (Effective January 1, 2014)*

(a) This section applies only to a misdemeanor offense punishable by fine only, other than a traffic offense.

(b) Except as provided by Article 45.0217(b), Code of Criminal Procedure, all records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition for an ~~[a fine-only misdemeanor offense]~~ described by Subsection (a) ~~[other than a traffic offense]~~ are confidential and may not be disclosed to the public.

*Text of section as amended by Acts 2013, 83rd Leg., R.S.
SB 394 (Effective September 1, 2013)
HB 528 (Effective January 1, 2014)*

§58.00711. Records Relating to Children Charged with or Convicted of Fine-Only Misdemeanors. [second of two]

Except as provided by Article 45.0217(b), Code of Criminal Procedure, all records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is charged with, is convicted of, is found not guilty of, had a charge dismissed for, or is granted deferred disposition ~~[and has satisfied the judgment]~~ for a fine-only misdemeanor offense other than a traffic offense are confidential and may not be disclosed to the public.

§58.106. Confidentiality.

(a) Except as otherwise provided by this section, information contained in the juvenile justice information system is confidential information for the use of the department and may not be disseminated by the department except:

(1) with the permission of the juvenile offender, to military personnel of this state or the United States;

(2) to a person or entity to which the department may grant access to adult criminal history records as provided by Section 411.083, Government Code;

(3) to a juvenile justice agency;

(4) to the Texas Youth Commission and the Texas Juvenile Probation Commission for analytical purposes;

(5) to the office of independent ombudsman of the Texas Youth Commission; and

(6) to a county, justice, or municipal court exercising jurisdiction over a juvenile, including a court exercising jurisdiction over a juvenile under Section 54.021.

Code of Criminal Procedure**Art. 42.15. Fines and Costs.**

b) Subject to Subsections ~~[Subsection]~~ (c) and (d), when imposing a fine and costs, a court may direct a defendant:

(1) to pay the entire fine and costs when sentence is pronounced;

(2) to pay the entire fine and costs at some later date; or

(3) to pay a specified portion of the fine and costs at designated intervals.

...

(d) A judge may allow a defendant who is a child, as defined by Article 45.058(h), to elect at the time of conviction, as defined by Section 133.101, Local Government Code, to discharge the fine and costs by:

(1) performing community service or receiving tutoring under Article 45.0492, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011; or

(2) paying the fine and costs in a manner described by Subsection (b).

(e) The election under Subsection (d) must be made in writing, signed by the defendant, and, if present, signed by the defendant's parent, guardian, or managing conservator. The court shall maintain the written election as a record of the court and provide a copy to the defendant.

(f) The requirement under Article 45.0492(a), as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, that an offense occur in a building or on the grounds of the primary or secondary school at which the defendant was enrolled at the time of the offense does not apply to the performance of community service or the receipt of tutoring to discharge a fine or costs under Subsection (d)(1).

Art. 43.091. Waiver of Payment of Fines and Costs for Indigent Defendants and Children.

A court may waive payment of a fine or cost imposed on a defendant who defaults in payment if the court determines that:

(1) the defendant is indigent or was, at the time the offense was committed, a child as defined by Article 45.058(h); and

(2) each alternative method of discharging the fine or cost under Article 43.09 or 42.15 would impose an undue hardship on the defendant.

*Text of section as amended by Acts 2013, 83rd Leg., R.S.
SB 393 and SB 394 (Effective September 1, 2013)*

Art. 44.2811. Records Relating to Children Convicted of or Receiving Deferred Disposition for Fine-only Misdemeanors. [first of two]

(a) This article applies only to a misdemeanor offense punishable by fine only, other than a traffic offense.

(b) All records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition for an [a fine-only misdemeanor] offense described by Subsection (a) [other

than a traffic offense] are confidential and may not be disclosed to the public except as provided under Article 45.0217(b). [All records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child whose conviction for a fine only misdemeanor other than a traffic offense is affirmed are confidential upon satisfaction of the judgment and may not be disclosed to the public except as provided under Article 45.0217(b).]

*Text of section as amended by Acts 2013, 83rd Leg., R.S.
HB 528 (Effective January 1, 2014)*

Art. 44.2811. Records Relating to Certain Fine-only Misdemeanors Committed by a Child. [second of two]

All records and files and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a criminal case for a fine-only misdemeanor, other than a traffic offense, that is committed by a child and that is appealed are confidential and may not be disclosed to the public except as provided under Article 45.0217(b).

Article 45.0216. Expunction of Certain Conviction Records.

(f) The court shall order the conviction, together with all complaints, verdicts, sentences, and prosecutorial and law enforcement records, and any other documents relating to the offense, expunged from the person's record if the court finds that:

(1) for a person applying for the expunction of a conviction for an offense described by Section 8.07(a)(4) or (5), Penal Code, the person was not convicted of any other offense described by Section 8.07(a)(4) or (5), Penal Code, while the person was a child; and

(2) for a person applying for the expunction of a conviction for an offense described by Section 43.261, Penal Code, the person was not found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(8) [51.03(b)(7)], Family Code, while the person was a child.

Art. 45.0217. Confidential Records Related to Charges Against or the Conviction of or Deferral of Disposition for a Child.

*Text of subsection as amended by Acts 2013, 83rd Leg., R.S.
HB 528 (Effective January 1, 2014)*

(a) Except as provided by Article 15.27 and Subsection (b), all records and files, including those held by law enforcement, and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is charged with, is

convicted of, is found not guilty of, had a charge dismissed for, or is granted deferred disposition ~~and has satisfied the judgment~~ for a fine-only misdemeanor offense other than a traffic offense are confidential and may not be disclosed to the public.

Text of subsections as amended by Acts 2013, 83rd Leg., R.S. SB 393 and SB 394 (Effective September 1, 2013)

(a) This article applies only to a misdemeanor offense punishable by fine only, other than a traffic offense.

(a-1) Except as provided by Article 15.27 and Subsection (b), all records and files, including those held by law enforcement, and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition for an ~~a fine-only misdemeanor~~ offense described by Subsection (a) ~~other than a traffic offense~~ are confidential and may not be disclosed to the public.

(b) Information subject to Subsection (a-1) ~~[(a)]~~ may be open to inspection only by:

(1) judges or court staff;

(2) a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code;

(3) the Department of Public Safety;

(4) an attorney for a party to the proceeding;

(5) the child defendant; or

(6) the defendant's parent, guardian, or managing conservator.

Article 45.041. Judgment.

(b) Subject to Subsections ~~Subsection~~ (b-2) and (b-3), the justice or judge may direct the defendant:

(1) to pay:

(A) the entire fine and costs when sentence is pronounced;

(B) the entire fine and costs at some later date; or

(C) a specified portion of the fine and costs at designated intervals;

(2) if applicable, to make restitution to any victim of the offense; and

(3) to satisfy any other sanction authorized by law.

(b-3) A judge may allow a defendant who is a child, as defined by Article 45.058(h), to elect at the time of conviction, as defined by Section 133.101, Local Government Code, to discharge the fine and costs by:

(1) performing community service or receiving tutoring under Article 45.0492, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011; or

(2) paying the fine and costs in a manner described by Subsection (b).

(b-4) The election under Subsection (b-3) must be made in writing, signed by the defendant, and, if present, signed by the defendant's parent, guardian, or managing conservator. The court shall maintain the written election as a record of the court and provide a copy to the defendant.

(b-5) The requirement under Article 45.0492(a), as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, that an offense occur in a building or on the grounds of the primary or secondary school at which the defendant was enrolled at the time of the offense does not apply to the performance of community service or the receipt of tutoring to discharge a fine or costs under Subsection (b-3)(1).

Art. 45.0491. Waiver of Payment of Fines and Costs for Indigent Defendants and Children.

A municipal court, regardless of whether the court is a court of record, or a justice court may waive payment of a fine or costs imposed on a defendant who defaults in payment if the court determines that:

(1) the defendant is indigent or was, at the time the offense was committed, a child as defined by Article 45.058(h); and

(2) discharging the fine and costs under Article 45.049 or as otherwise authorized by this chapter would impose an undue hardship on the defendant.

Art. 45.0511. Driving Safety Court or Motorcycle Operator Course Dismissal Procedures.

(p) The court shall advise a defendant charged with a misdemeanor under Section 472.022, Transportation Code, Subtitle C, Title 7, Transportation Code, or Section 729.001(a)(3), Transportation Code, committed while operating a motor vehicle of the defendant's right under this article to successfully complete a driving safety course or, if the offense was committed while operating a motorcycle, a motorcycle operator training course. The right to complete a course does not apply to a defendant charged with:

(1) a violation of Section 545.066, 550.022, or 550.023, Transportation Code;

(2) a serious traffic violation; or

(3) an offense to which Section 542.404 [~~or 729.004(b)~~], Transportation Code, applies.

Art. 45.056. Juvenile Case Managers.

Text of subsections as amended by Acts 2013, 83rd Leg., R.S. SB 1419

(a) On approval of the commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority, a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity may:

(1) employ a case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians; [~~or~~]

(2) employ one or more juvenile case managers who:

(A) shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases; and

(B) may provide:

(i) prevention services to a child considered at risk of entering the juvenile justice system; and

(ii) intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses; or

(3) agree in accordance with Chapter 791, Government Code, to jointly employ a case manager to provide services described by Subdivisions (1) and (2).

Text of subsection as amended by Acts 2013, 83rd Leg., R.S. SB 393

(a) On approval of the commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority, a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity may:

(1) employ a case manager to provide services in cases involving juvenile offenders who are before a court

consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians; or

(2) agree in accordance with Chapter 791, Government Code, to jointly employ a case manager.

(b) A local entity may apply or more than one local entity may jointly apply to the criminal justice division of the governor's office for reimbursement of all or part of the costs of employing one or more juvenile case managers from funds appropriated to the governor's office or otherwise available for that purpose. To be eligible for reimbursement, the entity applying must present to the governor's office a comprehensive plan to reduce juvenile crimes in the entity's jurisdiction that addresses the role of the case manager in that effort.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S. SB 1419

(c) An entity that jointly employs a case manager under Subsection (a)(3) employs a juvenile case manager for purposes of Chapter 102 of this code and Chapter 102, Government Code. [A county or justice court on approval of the commissioners court or a municipality or municipal court on approval of the city council may employ one or more juvenile case managers to assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases].

Text of subsection as amended by Acts 2013, 83rd Leg., R.S. SB 393

(c) A county or justice court on approval of the commissioners court or a municipality or municipal court on approval of the city council may employ one or more juvenile case managers who:

(1) shall [to] assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases; and

(2) may provide:

(A) prevention services to a child considered at risk of entering the juvenile justice system; and

(B) intervention services to juveniles engaged in misconduct prior to cases being filed, excluding traffic offenses.

(d) Pursuant to Article 102.0174, the court or governing body may pay the salary and benefits of a juvenile case manager and the costs of training, travel, office supplies,

and other necessary expenses relating to the position of the juvenile case manager from the juvenile case manager fund.

Text of subsection repealed by Acts 2011 82nd Leg., R.S. SB 1489 (Effective September 1, 2011)

(e) A juvenile case manager employed under Subsection (c) shall give priority to cases brought under Sections 25.093 and 25.094, Education Code.

(f) The governing body of the employing governmental entity under Subsection (a) shall adopt reasonable rules for juvenile case managers that provide:

(1) a code of ethics, and for the enforcement of the code of ethics;

(2) appropriate educational preservice and in-service training standards for juvenile case managers; and

(3) training in:

(A) the role of the juvenile case manager;

(B) case planning and management;

(C) applicable procedural and substantive law;

(D) courtroom proceedings and presentation;

(E) services to at-risk youth under Subchapter D, Chapter 264, Family Code;

(F) local programs and services for juveniles and methods by which juveniles may access those programs and services; and

(G) detecting and preventing abuse, exploitation, and neglect of juveniles.

(g) The employing court or governmental entity under this article shall implement the rules adopted under Subsection (f).

(h) The commissioners court or governing body of the municipality that administers a juvenile case manager fund under Article 102.0174 shall require periodic review of juvenile case managers to ensure the implementation of the rules adopted under Subsection (f).

(i) The juvenile case manager shall timely report to the judge who signed the order or judgment and, on request, to the judge assigned to the case or the presiding judge any information or recommendations relevant to assisting the judge in making decisions that are in the best interest of the child.

(j) The judge who is assigned to the case shall consult with the juvenile case manager who is supervising the case regarding:

(1) the child's home environment;

(2) the child's developmental, psychological, and educational status;

(3) the child's previous interaction with the justice system; and

(4) any sanctions available to the court that would be in the best interest of the child.

(k) Subsections (i) and (j) do not apply to:

(1) a part-time judge; or

(2) a county judge of a county court that has one or more appointed full-time magistrates under Section 54.1172, Government Code.

Article 45.058. Children Taken Into Custody.

(i) If a law enforcement officer issues a citation or files a complaint in the manner provided by Article 45.018 for conduct by a child 12 years of age or older that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district, the officer shall submit to the court the offense report, a statement by a witness to the alleged conduct, and a statement by a victim of the alleged conduct, if any. An attorney representing the state may not proceed in a trial of an offense unless the law enforcement officer complied with the requirements of this subsection.

(j) Notwithstanding Subsection (g) or (g-1), a law enforcement officer may not issue a citation or file a complaint in the manner provided by Article 45.018 for conduct by a child younger than 12 years of age that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district.

Chapter 11: Provisions Applicable to Traffic Cases

Penal Code

§8.07. Age Affecting Criminal Responsibility.

(d) Notwithstanding Subsection (a), a person may not be prosecuted for or convicted of an offense described by Subsection (a)(4) or (5) that the person committed when younger than 10 years of age.

(e) A person who is at least 10 years of age but younger than 15 years of age is presumed incapable of committing an offense described by Subsection (a)(4) or (5), other than an offense under a juvenile curfew ordinance or order. This presumption may be refuted if the prosecution proves to the court by a preponderance of the evidence that the actor had sufficient capacity to understand that the conduct engaged in was wrong at the time the conduct was engaged in. The prosecution is not required to prove that the actor at the time of engaging in the conduct knew that the act was a criminal offense or knew the legal consequences of the offense.

§8.08. Child with Mental Illness, Disability, or Lack of Capacity. [new]

(a) On motion by the state, the defendant, or a person standing in parental relation to the defendant, or on the court's own motion, a court with jurisdiction of an offense described by Section 8.07(a)(4) or (5) shall determine whether probable cause exists to believe that a child, including a child with a mental illness or developmental disability:

(1) lacks the capacity to understand the proceedings in criminal court or to assist in the child's own defense and is unfit to proceed; or

(2) lacks substantial capacity either to appreciate the wrongfulness of the child's own conduct or to conform the child's conduct to the requirement of the law.

(b) If the court determines that probable cause exists for a finding under Subsection (a), after providing notice to the state, the court may dismiss the complaint.

(c) A dismissal of a complaint under Subsection (b) may be appealed as provided by Article 44.01, Code of Criminal Procedure.

(d) In this section, "child" has the meaning assigned by Article 45.058(h), Code of Criminal Procedure.

Family Code

[Omitted -- Changes unrelated to Traffic Offenses]

Transportation Code

§502.410. Falsification or Forgery.

(b) Subsection (a) does not apply to a statement or application filed or given under Section 502.060, 502.092, 502.093, 502.094, 502.095, [502.184, 502.352, 502.353, 502.354, 502.355,] 504.201, [504.411, or] 504.508, or 504.515.

§545.424. Operation of a Vehicle by Person Under 18 Years of Age.

(a-1) A person under 18 years of age may not operate a motor vehicle ~~[during the 12 month period following issuance of~~

...

(c) This section does not apply to:

(1) ~~[the holder of a hardship license;~~

~~[(2)]~~ a person operating a motor vehicle while accompanied in the manner required by Section 521.222(d)(2) for the holder of an instruction permit; or

(2) ~~[(3)]~~ a person licensed by the Federal Communications Commission to operate a wireless communication device or a radio frequency device.

§550.021. Accident Involving Personal Injury or Death.

(a) The operator of a vehicle involved in an accident that results or is reasonably likely to result ~~[resulting]~~ in injury to or death of a person shall:

(1) immediately stop the vehicle at the scene of the accident or as close to the scene as possible;

(2) immediately return to the scene of the accident if the vehicle is not stopped at the scene of the accident; ~~and~~

(3) immediately determine whether a person is involved in the accident, and if a person is involved in the accident, whether that person requires aid; and

(4) remain at the scene of the accident until the operator complies with the requirements of Section 550.023.

...

(c) A person commits an offense if the person does not stop or does not comply with the requirements of this section. An offense under this section:

(1) involving an accident resulting in:

(A) death of a person is a felony of the second degree; or

(B) serious bodily injury, as defined by Section 1.07, Penal Code, to a person is a felony of the third degree; and

(2) involving an accident resulting in injury to which Subdivision (1) does not apply is punishable by:

(A) imprisonment in the Texas Department of Criminal Justice for not more than five years or confinement in the county jail for not more than one year;

(B) a fine not to exceed \$5,000; or

(C) both the fine and the imprisonment or confinement.

Chapter 12: Provisions Applicable to Alcohol Cases

§106.115. Attendance at Alcohol Awareness Course; License Suspension.

(a) On the placement of a minor on deferred disposition for an offense under Section 49.02, Penal Code, or under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court shall require the defendant to attend an alcohol awareness program approved by the Department of State Health Services under this section or a drug and alcohol driving awareness program approved by the Texas Education Agency [Texas Commission on Alcohol and Drug Abuse]. On conviction of a minor of an offense under one or more of those sections, the court, in addition to assessing a fine as provided by those sections, shall require a defendant who has not been previously convicted of an offense under one of those sections to attend an [the] alcohol awareness program or a drug and alcohol driving awareness program described by this subsection. If the defendant has been previously convicted once or more of an offense under one or more of those sections, the court may require the defendant to attend an [the] alcohol awareness program or a drug and alcohol driving awareness program described by this subsection. If the defendant is younger than 18 years of age, the court may require the parent or guardian of the defendant to attend the program with the defendant. The Department of State Health Services [Texas Commission on Alcohol and Drug Abuse]:

(1) is responsible for the administration of the certification of approved alcohol awareness programs;

(2) may charge a nonrefundable application fee for:

(A) initial certification of the approval; or

(B) renewal of the certification;

(3) shall adopt rules regarding alcohol awareness programs approved under this section; and

(4) shall monitor, coordinate, and provide training to a person who provides an alcohol awareness program.

...

(b-1) If the defendant resides in a county with a population of 75,000 or less and access to an alcohol awareness program is not readily available in the county, the court may allow the defendant to take an online alcohol awareness program if the Department of State Health Services approves online courses or require the defendant to perform not less than eight hours of community service related to alcohol abuse prevention or treatment and approved by the Department of State Health Services under Subsection (b-3) instead of attending the alcohol awareness program. Community service ordered under this subsection is in addition to community service ordered under Section 106.071(d).

(b-2) For purposes of Subsection (b-1), if the defendant is enrolled in an institution of higher education located in a county in which access to an alcohol awareness program is readily available, the court may consider the defendant to be a resident of that county. If the defendant is not enrolled in such an institution of higher education or if the court does not consider the defendant to be a resident of the county in which the institution is located, the defendant's residence is the residence listed on the defendant's driver's license or personal identification certificate issued by the Department of Public Safety. If the defendant does not have a driver's license or personal identification certificate issued by the Department of Public Safety, the defendant's residence is the residence on the defendant's voter registration certificate. If the defendant is not registered to vote, the defendant's residence is the residence on file with the public school district on which the defendant's enrollment is based. If the defendant is not enrolled in public school, the defendant's residence is determined as provided by commission rule.

(b-3) The Department of State Health Services shall create a list of community services related to alcohol abuse prevention or treatment in each county in the state to which a judge may sentence a defendant under Subsection (b-1).

Chapter 13: Provisions Applicable to Failure to Attend School Cases

Family Code

Section 54.021. County, Justice, or Municipal Court: Truancy.

*Subsection as reenacted by Acts 2011 82nd Leg., RS
HB 734 and SB 1489*

(a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to the constitutional county court, if the county has a population of 1.75 million or more, or to an appropriate justice or municipal court, with the permission of the county, justice, or municipal court, for disposition in the manner provided by Subsection (b) if the

child is 12 years of age or older and is alleged to have engaged in conduct described in Section 51.03(b)(2). A waiver of jurisdiction under this subsection may be for an individual case or for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2). The waiver of a juvenile court's exclusive original jurisdiction for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) is effective for a period of one year.

Chapter 14: Provisions Applicable to Tobacco Cases [omitted]

PART FOUR: Education Issues in the Juvenile Justice System

Chapter 15: Provisions Applicable to School Discipline; Law and Order

Education Code

Chapter 37. Discipline; Law and Order

Subchapter A. Alternative Settings for Behavior Management

§37.001. Student Code of Conduct.

*Text of subsection as amended by Acts 2013, 83rd Leg., R.S.,
SB 1541*

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

(1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, ~~or~~ disciplinary alternative education program, or school bus;

(2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;

(3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;

(4) specify that consideration will be given, as a factor in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:

(A) self-defense;

(B) intent or lack of intent at the time the student engaged in the conduct;

(C) a student's disciplinary history; or

(D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

(5) provide guidelines for setting the length of a term of:

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007;

(6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion;

(7) prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions; and

(8) provide, as appropriate for students at each grade level, methods, including options, for:

(A) managing students in the classroom and on school grounds;

(B) disciplining students; and

(C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

*Text of subsection as amended by Acts 2013, 83rd Leg., R.S.,
SB 1114*

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

(1) specify the circumstances, in accordance with this subchapter, under which a student may be removed

from a classroom, campus, disciplinary alternative education program, or vehicle owned or operated by the district;

(2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program;

(3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;

(4) specify that consideration will be given, as a factor in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:

(A) self-defense;

(B) intent or lack of intent at the time the student engaged in the conduct;

(C) a student's disciplinary history; or

(D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

(5) provide guidelines for setting the length of a term of:

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007;

(6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion;

(7) prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions; and

(8) provide, as appropriate for students at each grade level, methods, including options, for:

(A) managing students in the classroom, on school grounds, ~~and~~ on school grounds, and on a vehicle owned or operated by the district;

(B) disciplining students; and

(C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

§37.0022. Removal by School Bus Driver. [new]

(a) The driver of a school bus transporting students to or from school or a school-sponsored or school-related activity may send a student to the principal's office to maintain effective discipline on the school bus. The principal shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001.

(b) Section 37.004 applies to any placement under Subsection (a) or of a student with a disability who receives special education services.

§37.0181. Professional Development Regarding Disciplinary Procedures. [new]

(a) Each principal or other appropriate administrator who oversees student discipline shall, at least once every three school years, attend professional development training regarding this subchapter, including training relating to the distinction between a discipline management technique used at the principal's discretion under Section 37.002(a) and the discretionary authority of a teacher to remove a disruptive student under Section 37.002(b).

(b) Professional development training under this section may be provided in coordination with regional education service centers through the use of distance learning methods, such as telecommunications networks, and using available agency resources.

Subchapter C. Law and Order

§37.081. School District Peace Officers and Security Personnel.

(b) In a peace officer's jurisdiction, a peace officer commissioned under this section:

(1) has the powers, privileges, and immunities of peace officers;

(2) may enforce all laws, including municipal ordinances, county ordinances, ~~and~~ state laws;

(3) may, in accordance with Chapter 52, Family Code, or Article 45.058, Code of Criminal Procedure, take a child ~~juvenile~~ into custody; and

(4) may dispose of cases in accordance with Section 52.03 or 52.031, Family Code.

...

(d) A school district peace officer shall perform law ~~administrative and~~ enforcement duties for the school district as determined by the board of trustees of the school district. Those duties must include protecting:

- (1) the safety and welfare of any person in the jurisdiction of the peace officer; and
- (2) the property of the school district.

...

(f) The chief of police of the school district police department shall be accountable to the superintendent and shall report to the superintendent ~~or the superintendent's designee~~. School district police officers shall be supervised by the chief of police of the school district or the chief of police's designee and shall be licensed by the Texas Commission on Law Enforcement ~~[Officer Standards and Education]~~.

...

(h) A peace officer assigned to duty and commissioned under this section shall take and file the oath required of peace officers and shall execute and file a bond in the sum of \$1,000, payable to the board of trustees, with two or more sureties, conditioned that the peace officer will fairly, impartially, and faithfully perform all the duties that may be required of the peace officer by law. The bond may be sued on in the name of any person injured until the whole amount of the bond is recovered. Any peace officer commissioned under this section must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement ~~[Officer Standards and Education]~~.

...

§ 37.0811. School Marshals. [new]

(a) The board of trustees of a school district or the governing body of an open-enrollment charter school may appoint not more than one school marshal per 400 students in average daily attendance per campus.

(b) The board of trustees of a school district or the governing body of an open-enrollment charter school may select for appointment as a school marshal under this section an applicant who is an employee of the school district or open-enrollment charter school and certified as eligible for appointment under Section 1701.260, Occupations Code. The board of trustees or governing body may, but shall not be required to, reimburse the amount

paid by the applicant to participate in the training program under that section.

(c) A school marshal appointed by the board of trustees of a school district or the governing body of an open-enrollment charter school may carry or possess a handgun on the physical premises of a school, but only:

(1) in the manner provided by written regulations adopted by the board of trustees or the governing body; and

(2) at a specific school as specified by the board of trustees or governing body, as applicable.

(d) Any written regulations adopted for purposes of Subsection (c) must provide that a school marshal may carry a concealed handgun as described by Subsection (c), except that if the primary duty of the school marshal involves regular, direct contact with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a school in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty. The written regulations must also require that a handgun carried by or within access of a school marshal may be loaded only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others.

(e) A school marshal may access a handgun under this section only under circumstances that would justify the use of deadly force under Section 9.32 or 9.33, Penal Code.

(f) A school district or charter school employee's status as a school marshal becomes inactive on:

(1) expiration of the employee's school marshal license under Section 1701.260, Occupations Code;

(2) suspension or revocation of the employee's license to carry a concealed handgun issued under Subchapter H, Chapter 411, Government Code;

(3) termination of the employee's employment with the district or charter school; or

(4) notice from the board of trustees of the district or the governing body of the charter school that the employee's services as school marshal are no longer required.

(g) The identity of a school marshal appointed under this section is confidential, except as provided by Section 1701.260(j), Occupations Code, and is not subject to a request under Chapter 552, Government Code.

§37.085. Arrests Prohibited for Certain Class C Misdemeanors. [new]

Notwithstanding any other provision of law, a warrant may not be issued for the arrest of a person for a Class C misdemeanor under this code committed when the person was younger than 17 years of age.

Subchapter D. Protection of Buildings and Grounds

For expiration of this section, see subsection (c)

Sec. 37.1081. School Safety Certification Program. [new]

(a) The Texas School Safety Center, in consultation with the School Safety Task Force established under Section 37.1082, shall develop a school safety certification program.

(b) The Texas School Safety Center shall award a school safety certificate to a school district that:

(1) has adopted and implemented a multihazard emergency operations plan as required under Section 37.108 and that includes in that plan:

(A) measures for security of facilities and grounds;

(B) measures for communication with parents and the media in the event of an emergency; and

(C) an outline of safety training for school employees;

(2) demonstrates to the center with current written self-audit processes that the district conducts at least one drill per year for each of the following types of drills:

(A) a school lockdown drill;

(B) an evacuation drill;

(C) a weather-related emergency drill;

(D) a reverse evacuation drill; and

(E) a shelter-in-place drill;

(3) is in compliance with Sections 37.108(b) and (c); and

(4) meets any other eligibility criteria as recommended by the School Safety Task Force.

(c) The certification program is abolished and this section expires September 1, 2017.

For expiration of this section, see subsection (g)

§37.1082. School Safety Task force. [new]

(a) The School Safety Task Force is established to:

(1) study, on an ongoing basis, best practices for school multihazard emergency operations planning; and

(2) based on those studies, make recommendations to the legislature, the Texas School Safety Center, and the governor's office of homeland security.

(b) The task force is composed of:

(1) the chief of the Texas Division of Emergency Management, or the chief's designee;

(2) the training director of the Advanced Law Enforcement Rapid Response Training Center at Texas State University--San Marcos, or the training director's designee;

(3) the chairperson of the Texas School Safety Center, or the chairperson's designee; and

(4) the agency director of the Texas A&M Engineering Extension Service, or the agency director's designee.

(c) The chief of the Texas Division of Emergency Management, or the chief's designee, shall serve as the presiding officer of the task force.

(d) A member of the task force is not entitled to compensation for service on the task force but is entitled to reimbursement for actual and necessary expenses incurred in performing task force duties.

(e) In performing the task force's duties under this section for schools, the task force shall consult with and consider recommendations from school district and school personnel, including school safety personnel and educators, and from first responders, emergency managers, local officials, representatives of appropriate nonprofit organizations, and other interested parties with knowledge and experience concerning school emergency operations planning.

(f) Not later than September 1 of each even-numbered year, the task force shall prepare and submit to the legislature a report concerning the results of the task force's most recent study, including any recommendations for statutory changes the task force considers necessary or appropriate to improve school multihazard emergency operations.

(g) The task force is abolished and this section expires September 1, 2017.

§37.124. Disruption of Classes.

(a) A person other than a primary or secondary grade student enrolled in the school commits an offense if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities.

(b) An offense under this section is a Class C misdemeanor.

(c) In this section:

(1) "Disrupting the conduct of classes or other school activities" includes:

(A) emitting noise of an intensity that prevents or hinders classroom instruction;

(B) enticing or attempting to entice a student away from a class or other school activity that the student is required to attend;

(C) preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend; and

(D) entering a classroom without the consent of either the principal or the teacher and, through either acts of misconduct or the use of loud or profane language, disrupting class activities.

(2) "Public property" includes a street, highway, alley, public park, or sidewalk.

(3) "School property" includes a public school campus or school grounds on which a public school is located and any grounds or buildings used by a school for an assembly or other school-sponsored activity.

(d) It is an exception to the application of Subsection (a) that, at the time the person engaged in conduct prohibited under that subsection, the person was younger than 12 years of age [a student in the sixth grade or a lower grade level].

§37.126. Disruption of Transportation.

(a) Except as provided by Section 37.125, a person other than a primary or secondary grade student commits an offense if the person intentionally disrupts, prevents, or interferes with the lawful transportation of children:

(1) to or from school on a vehicle owned or operated by a county or independent school district; or

(2) to or from an activity sponsored by a school on a vehicle owned or operated by a county or independent school district.

...

(c) It is an exception to the application of Subsection (a)(1) that, at the time the person engaged in conduct prohibited under that subdivision, the person was younger than 12 years of age [a student in the sixth grade or a lower grade level].

Subchapter E-1. Criminal Procedure [new]**§37.141. Definitions.**

In this subchapter:

(1) "Child" has the meaning assigned by Article 45.058(h), Code of Criminal Procedure, except that the person must also be a student.

(2) "School offense" means an offense committed by a child enrolled in a public school that is a Class C misdemeanor other than a traffic offense and that is committed on property under the control and jurisdiction of a school district.

§37.142. Conflict of Law.

To the extent of any conflict, this subchapter controls over any other law applied to a school offense alleged to have been committed by a child.

§37.143. Citation Prohibited; Custody of Child.

(a) A peace officer may not issue a citation to a child who is alleged to have committed a school offense.

(b) This subchapter does not prohibit a child from being taken into custody under Section 52.01, Family Code.

§37.144. Graduated Sanctions for Certain School Offenses.

(a) A school district that commissions peace officers under Section 37.081 may develop a system of graduated sanctions that the school district may require to be imposed on a child before a complaint is filed under Section 37.145 against the child for a school offense that is an offense under Section 37.124 or 37.126 or under Section 42.01(a)(1), (2), (3), (4), or (5), Penal Code. A system adopted under this section must include multiple graduated sanctions. The system may require:

(1) a warning letter to be issued to the child and the child's parent or guardian that specifically states the child's

alleged school offense and explains the consequences if the child engages in additional misconduct;

(2) a behavior contract with the child that must be signed by the child, the child's parent or guardian, and an employee of the school and that includes a specific description of the behavior that is required or prohibited for the child and the penalties for additional alleged school offenses, including additional disciplinary action or the filing of a complaint in a criminal court;

(3) the performance of school-based community service by the child; and

(4) the referral of the child to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the child's behavioral problems.

(b) A referral made under Subsection (a)(4) may include participation by the child's parent or guardian if necessary.

§37.145. Complaint.

If a child fails to comply with or complete graduated sanctions under Section 37.144, or if the school district has not elected to adopt a system of graduated sanctions under that section, the school may file a complaint against the child with a criminal court in accordance with Section 37.146.

§37.146. Requisites of Complaint.

(a) A complaint alleging the commission of a school offense must, in addition to the requirements imposed by Article 45.019, Code of Criminal Procedure:

(1) be sworn to by a person who has personal knowledge of the underlying facts giving rise to probable cause to believe that an offense has been committed; and

(2) be accompanied by a statement from a school employee stating:

(A) whether the child is eligible for or receives special services under Subchapter A, Chapter 29; and

(B) the graduated sanctions, if required under Section 37.144, that were imposed on the child before the complaint was filed.

(b) After a complaint has been filed under this subchapter, a summons may be issued under Articles 23.04 and 45.057(e), Code of Criminal Procedure.

§37.147. Prosecuting Attorneys.

An attorney representing the state in a court with jurisdiction may adopt rules pertaining to the filing of a complaint under this subchapter that the state considers necessary in order to:

(1) determine whether there is probable cause to believe that the child committed the alleged offense;

(2) review the circumstances and allegations in the complaint for legal sufficiency; and

(3) see that justice is done.

§37.2051. Security Criteria for Instructional Facilities. [Repealed]

§37.306. Review of Placement in Alternative Education Program.

a) At the end of the first semester of a student's placement in an alternative education program under Section 37.304 or 37.305, the school district board of trustees shall convene a committee to review the student's placement in the alternative education program. The committee must be composed of:

(1) a classroom teacher from the campus to which the student would be assigned were the student not placed in an alternative education program;

(2) the student's parole or probation officer or, in the case of a student who does not have a parole or probation officer, a representative of the local juvenile probation department;

(3) an instructor from the alternative education program to which the student is assigned;

(4) a school district designee selected by the board of trustees; and

(5) a school counselor employed by the school district.

Chapter 16: School Attendance and Safe Schools

Education Code

§25.087. Excused Absences.

(a) A person required to attend school, including a person required to attend school under Section 25.085(e), may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or

superintendent of the school in which the person is enrolled.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., HB 455

(b) A school district shall excuse a student from attending school for:

(1) the following purposes, including travel for those purposes:

(A) observing religious holy days;

(B) attending a required court appearance;

(C) appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship;

(D) taking part in a United States naturalization oath ceremony; or

(E) serving as an election clerk; or

(2) a temporary absence resulting from an appointment with health care professionals for the student or the student's child if the ~~that~~ student commences classes or returns to school on the same day of the appointment.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., SB 1404

(b) A school district shall excuse a student from attending school for:

(1) the following purposes, including travel for those purposes:

(A) observing religious holy days;

(B) attending a required court appearance;

(C) appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship;

(D) taking part in a United States naturalization oath ceremony; ~~or~~

(E) serving as an election clerk; or

(F) if the student is in the conservatorship of the Department of Family and Protective Services, participating in an activity ordered by a court under Chapter 262 or 263,

Family Code, provided that it is not practicable to schedule the participation outside of school hours; or

(2) a temporary absence resulting from health care professionals if that student commences classes or returns to school on the same day of the appointment.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., HB 2619

(b) A school district shall excuse a student from attending school for:

(1) the following purposes, including travel for those purposes:

(A) observing religious holy days;

(B) attending a required court appearance;

(C) appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship;

(D) taking part in a United States naturalization oath ceremony; ~~or~~

(E) serving as an election clerk; or

(F) for a child in the conservatorship of the Department of Family and Protective Services, attending a mental health or therapy appointment or family visitation as ordered by a court under Chapter 262 or 263, Family Code; or

(2) a temporary absence resulting from an appointment with a health care professional ~~professionals~~ for the student or the student's child if the ~~that~~ if that student commences classes or returns to school on the same day of the appointment.

(b-1) A school district may adopt a policy excusing a student from attending school for service as a student early voting clerk in an election.

(b-2) A school district may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:

(1) the district may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and

(2) the district adopts:

(A) a policy to determine when an absence will be excused for this purpose; and

(B) a procedure to verify the student's visit at the institution of higher education.

(b-3) A temporary absence for purposes of Subsection (b)(2) includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health care practitioner, as described by Section 1355.015(b), Insurance Code, to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy.

(b-4) A school district shall excuse a student whose parent, stepparent, or legal guardian is an active duty member of the uniformed services as defined by Section 162.002 and has been called to duty for, is on leave from, or immediately returned from continuous deployment of at least four months outside the locality where the parent, stepparent, or guardian regularly resides, to visit with the student's parent, stepparent, or guardian. A school district may not excuse a student under this subsection more than five days in a school year. An excused absence under this subsection must be taken:

(1) not earlier than the 60th day before the date of deployment; or

(2) not later than the 30th day after the date of return from deployment.

(c) A school district may excuse a student in grades 6 through 12 for the purpose of sounding "Taps" at a military honors funeral held in this state for a deceased veteran.

(d) A student whose absence is excused under Subsection (b), ~~(b-1)~~, ~~(b-2)~~, ~~(b-4)~~, or (c) may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the school district. A student whose absence is excused under Subsection (b), ~~(b-1)~~, ~~(b-2)~~, ~~(b-4)~~, or (c) shall be allowed a reasonable time to make up school work missed on those days. If the student satisfactorily completes the school work, the day of absence shall be counted as a day of compulsory attendance.

(e) A school district may excuse a student for the purposes provided by Subsections (b)(1)(E) and (b-1) for a maximum of two days in a school year.

§25.0915. Truancy Prevention Measures; Referral and Filing Requirement.

(a) A school district shall adopt truancy prevention measures designed to:

(1) address student conduct related to truancy in the school setting;

(2) minimize the need for referrals to juvenile court for conduct described by Section 51.03(b)(2), Family Code; and

(3) minimize the filing of complaints in county, justice, and municipal courts alleging a violation of Section 25.094.

(b) Each referral to juvenile court for conduct described by Section 51.03(b)(2), Family Code, or complaint filed in county, justice, or municipal court alleging a violation by a student of Section 25.094 must:

(1) be accompanied by a statement from the student's school certifying that:

(A) the school applied the truancy prevention measures adopted under Subsection (a) to the student; and

(B) the truancy prevention measures failed to meaningfully address the student's school attendance; and

(2) specify whether the student is eligible for or receives special education services under Subchapter A, Chapter 29.

(c) A court shall dismiss a complaint or referral made by a school district under this section that is not made in compliance with Subsection (b).

For expiration of this section, see subsection (i)

§25.0916. Uniform Truancy Policies in Certain Counties.

(a) This section applies only to a county:

(1) with a population greater than 1.5 million; and

(2) that includes at least:

(A) 15 school districts with the majority of district territory in the county; and

(B) one school district with a student enrollment of 50,000 or more and an annual dropout rate spanning grades 9-12 of at least five percent, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education.

(b) A committee shall be established to recommend a uniform truancy policy for each school district located in the county.

(c) Not later than September 1, 2013, the county judge and the mayor of the municipality in the county with the greatest population shall each appoint one member to serve on the committee as a representative of each of the following:

- (1) a juvenile district court;
- (2) a municipal court;
- (3) the office of a justice of the peace;
- (4) the superintendent or designee of an independent school district;
- (5) an open-enrollment charter school;
- (6) the office of the district attorney; and
- (7) the general public.

(d) Not later than September 1, 2013, the county judge shall appoint to serve on the committee one member from the house of representatives and one member from the senate who are members of the respective standing legislative committees with primary jurisdiction over public education.

(e) The county judge and mayor of the municipality in the county with the greatest population shall:

- (1) both serve on the committee or appoint representatives to serve on their behalf; and
- (2) jointly appoint a member of the committee to serve as the presiding officer.

(f) Not later than September 1, 2014, the committee shall recommend:

- (1) a uniform process for filing truancy cases with the judicial system;
- (2) uniform administrative procedures;
- (3) uniform deadlines for processing truancy cases;
- (4) effective prevention, intervention, and diversion methods to reduce truancy and referrals to a county, justice, or municipal court;

(5) a system for tracking truancy information and sharing truancy information among school districts and open-enrollment charter schools in the county; and

(6) any changes to statutes or state agency rules the committee determines are necessary to address truancy.

(g) Compliance with the committee recommendations is voluntary.

(h) The committee's presiding officer shall issue a report not later than December 1, 2015, on the implementation of the recommendations and compliance with state truancy laws by a school district located in the county.

(i) This section expires January 1, 2016.

§25.092. Minimum Attendance for Class Credit or Final Grade.

(a) Except as provided by this section, a student in any grade level from kindergarten through grade 12 may not be given credit or a final grade for a class unless the student is in attendance for at least 90 percent of the days the class is offered.

(a-1) A student who is in attendance for at least 75 percent but less than 90 percent of the days a class is offered may be given credit or a final grade for the class if the student completes a plan approved by the school's principal that provides for the student to meet the instructional requirements of the class. A student under the jurisdiction of a court in a criminal or juvenile justice proceeding may not receive credit or a final grade under this subsection without the consent of the judge presiding over the student's case.

(a-2) Subsection (a) does not apply to a student who receives credit by examination for a class as provided by Section 28.023.

(b) The board of trustees of each school district shall appoint one or more attendance committees to hear petitions for class credit or a final grade by students who are in attendance fewer than the number of days required under Subsection (a) and have not earned class credit or a final grade under Subsection (a-1). Classroom teachers shall comprise a majority of the membership of the committee. A committee may give class credit or a final grade to a student because of extenuating circumstances. Each board of trustees shall establish guidelines to determine what constitutes extenuating circumstances and shall adopt policies establishing alternative ways for students to make up work or regain credit or a final grade lost because of absences. The alternative ways must include at least one option that does not require a student to pay a fee authorized under Section 11.158(a)(15). A certified public

school employee may not be assigned additional instructional duties as a result of this section outside of the regular workday unless the employee is compensated for the duties at a reasonable rate of pay.

(c) A member of an attendance committee is not personally liable for any act or omission arising out of duties as a member of an attendance committee.

(d) If a student is denied credit or a final grade for a class by an attendance committee, the student may appeal the decision to the board of trustees. The decision of the board may be appealed by trial de novo to the district court of the county in which the school district's central administrative office is located.

(e) This section does not affect the provision of Section 25.087(b) regarding a student's excused absence from school to observe religious holy days.

(f) The availability of the option developed under Subsection (b) must be substantially the same as the availability of the educational program developed under Section 11.158(a)(15).

Family Code

§51.03. Delinquent Conduct; Conduct Indicating a Need for Supervision.

(b) Conduct indicating a need for supervision is:

(1) subject to Subsection (f), conduct, other than a traffic offense, that violates:

(A) the penal laws of this state of the grade of misdemeanor that are punishable by fine only; or

(B) the penal ordinances of any political subdivision of this state;

(2) the absence of a child on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school;

(3) the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return;

(4) conduct prohibited by city ordinance or by state law involving the inhalation of the fumes or vapors of paint and other protective coatings or glue and other adhesives and the volatile chemicals itemized in Section 485.001, Health and Safety Code;

(5) an act that violates a school district's previously communicated written standards of student conduct for

which the child has been expelled under Section 37.007(c), Education Code;

(6) conduct that violates a reasonable and lawful order of a court entered under Section 264.305; ~~or~~

(7) notwithstanding Subsection (a)(1), conduct described by Section 43.02(a)(1) or (2), Penal Code; or

(8) notwithstanding Subsection (a)(1), ~~(7)~~ conduct that violates Section 43.261, Penal Code.

§51.04. Jurisdiction.

(b) In each county, the county's juvenile board shall designate one or more district, criminal district, domestic relations, juvenile, or county courts or county courts at law as the juvenile court, subject to Subsections (c), ~~and (d)~~, and (i) ~~of this section~~.

...

(e) A designation made under Subsection (b), ~~or (c)~~, or (i) ~~of this section~~ may be changed from time to time by the authorized boards or judges for the convenience of the people and the welfare of children. However, there must be at all times a juvenile court designated for each county. It is the intent of the legislature that in selecting a court to be the juvenile court of each county, the selection shall be made as far as practicable so that the court designated as the juvenile court will be one which is presided over by a judge who has a sympathetic understanding of the problems of child welfare and that changes in the designation of juvenile courts be made only when the best interest of the public requires it.

...

(i) If the court designated as the juvenile court under Subsection (b) does not have jurisdiction over proceedings under Subtitle E, Title 5, the county's juvenile board may designate at least one other court that does have jurisdiction over proceedings under Subtitle E, Title 5, as a juvenile court or alternative juvenile court.

Section 54.021. County, Justice, or Municipal Court: Truancy.

*Subsection reenacted by Act 2011, 82nd Leg. R.S.
HB 734 and SB 1489*

(a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to the constitutional county court, if the county has a population of 1.75 million or more, or to an appropriate justice or municipal court, with the permission of the county, justice, or municipal court, for disposition in the manner provided by Subsection (b) if the child is 12 years of age or older and is alleged to have

engaged in conduct described in Section 51.03(b)(2). A waiver of jurisdiction under this subsection may be for an individual case or for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2). The waiver of a juvenile court's exclusive original jurisdiction for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) is effective for a period of one year.

Penal Code [omitted]

Code of Criminal Procedure

Art. 15.27. Notification to Schools Required.

(a) A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h), shall attempt to ascertain whether the person is so enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or before the next school day, whichever is earlier. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or before the next school day, whichever is earlier. If the individual is a student, the superintendent or the superintendent's designee shall immediately notify all instructional and support personnel who have responsibility for supervision of the student. All personnel shall keep the information received in this subsection confidential. The State Board for Educator Certification may revoke or suspend the certification of personnel who intentionally violate this subsection. Within seven days after the date the oral notice is given, the head of the law enforcement agency or the person designated by the head of the agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. The written notification must include the facts contained in the oral notification, the name of the person who was orally notified, and the date and time of the oral notification. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable the superintendent or the superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense

by the Penal Code. The information contained in the notice shall be considered by the superintendent or the superintendent's designee in making such a determination.

(a-1) The superintendent or a person designated by the superintendent in the school district shall send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice under Subsection (a).

(b) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication and whether the student is required to register as a sex offender under Chapter 62. Oral notification must be given within 24 hours of the time of the order or before the next school day, whichever is earlier. The superintendent shall, within 24 hours of receiving notification from the office of the prosecuting attorney, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded and a statement of whether the student is required to register as a sex offender under Chapter 62.

(c) A parole, probation, or community supervision office, including a community supervision and corrections department, a juvenile probation department, the paroles division of the Texas Department of Criminal Justice, and the Texas Youth Commission, having jurisdiction over a student described by Subsection (a), (b), or (e) who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, referral to a juvenile court, conviction, or adjudication occurred shall within 24 hours of learning of the student's transfer or reenrollment, or before the next school day, whichever is earlier, notify the superintendent or a person designated by the superintendent of the school district to which the student transfers or is returned or, in the case of a private school, the principal or a school employee designated by the principal of the school to which the student transfers or is returned of the arrest or referral in a manner similar to that provided for by Subsection (a) or (e)(1), or of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (e)(2). The superintendent of the school district to which the student

transfers or is returned or, in the case of a private school, the principal of the school to which the student transfers or is returned shall, within 24 hours of receiving notification under this subsection or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

(d) [Repealed].

(e)(1) A law enforcement agency that arrests, or refers to a juvenile court under Chapter 52, Family Code, an individual who the law enforcement agency knows or believes is enrolled as a student in a private primary or secondary school shall make the oral and written notifications described by Subsection (a) to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(2) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a private primary or secondary school, the office of prosecuting attorney shall make the oral and written notifications described by Subsection (b) of this article to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(3) The principal of a private school in which the student is enrolled or a school employee designated by the principal shall send to a school employee having direct supervisory responsibility over the student the information contained in the confidential notice, for the same purposes as described by Subsection (a-1) of this article.

(f) A person who receives information under this article may not disclose the information except as specifically authorized by this article. A person who intentionally violates this article commits an offense. An offense under this subsection is a Class C misdemeanor.

(g) The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a disciplinary alternative education program under Section 37.006, Education Code, if:

(1) prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or

(2) the court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

(h) This article applies to any felony offense and the following misdemeanors:

(1) an offense under Section 20.02, 21.08, 22.01, 22.05, 22.07, or 71.02, Penal Code;

(2) the unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana, as defined by Chapter 481, Health and Safety Code; or

(3) the unlawful possession of any of the weapons or devices listed in Sections 46.01(1)-(14) or (16), Penal Code, or a weapon listed as a prohibited weapon under Section 46.05, Penal Code.

(i) A person may substitute electronic notification for oral notification where oral notification is required by this article. If electronic notification is substituted for oral notification, any written notification required by this article is not required.

(j) The notification provisions of this section concerning a person who is required to register as a sex offender under Chapter 62 do not lessen the requirement of a person to provide any additional notification prescribed by that chapter.

(k) Oral or written notice required under this article must include all pertinent details of the offense or conduct, including details of any:

(1) assaultive behavior or other violence;

(2) weapons used in the commission of the offense or conduct; or

(3) weapons possessed during the commission of the offense or conduct.

(l) If a school district board of trustees learns of a failure by the superintendent of the district or a district principal to provide a notice required under Subsection (a), (a-1), or (b), the board of trustees shall report the failure to the State Board for Educator Certification. If the governing body of a private primary or secondary school learns of a failure by the principal of the school to provide a notice required under Subsection (e), and the principal holds a certificate issued under Subchapter B, Chapter 21, Education Code, the governing body shall report the failure to the State Board for Educator Certification.

(m) If the superintendent of a school district in which the student is enrolled learns of a failure of the head of a law enforcement agency or a person designated by the head of the agency to provide a notification under Subsection (a), the superintendent or principal shall report the failure to notify to the Texas Commission on Law Enforcement [~~Officer Standards and Education~~].

(n) If a juvenile court judge or official designated by the juvenile board learns of a failure by the office of the

prosecuting attorney to provide a notification required under Subsection (b) or (g), the official shall report the failure to notify to the elected prosecuting attorney responsible for the operation of the office.

(o) If the supervisor of a parole, probation, or community supervision department officer learns of a failure by the officer to provide a notification under Subsection (c), the supervisor shall report the failure to notify to the director of the entity that employs the officer.

Government Code [omitted]

PART FIVE: Juvenile Information Databases

Chapter 17: Sex Offenders and Related Codes

Code of Criminal Procedure

Chapter 62. Sex Offender Registration Program

Subchapter A. General Provisions

Art. 62.0045. Centralized Registration Authority.

(a) The commissioners court of ~~in~~ a county ~~[with a population of 100,000 or more]~~ may designate the office of the sheriff of the county or may, through interlocal agreement, designate the office of a chief of police of a municipality in that county to serve as a mandatory countywide registration location for persons subject to this chapter.

(b) Notwithstanding any other provision of this chapter, a person ~~[who is]~~ subject to this chapter is required to perform the registration and verification requirements of Articles [shall register under Article] 62.051 and [or verify registration under Article] 62.058 and the change of address requirements of Article 62.055 only with respect to the centralized registration authority for the county, regardless of whether the person resides in any municipality located in that county. If the person resides in a municipality, and the local law enforcement authority in the municipality does not serve as the person's centralized registration authority, the centralized registration authority, not later than the third day after the date the person registers or verifies registration or changes address with that authority, shall provide to the local law enforcement authority in that municipality notice of the person's registration, [or] verification of registration, or change of address, as applicable, with the centralized registration authority.

(c) This section does not affect a person's duty to register with secondary sex offender registries under this chapter, such as those described by Articles 62.059 and 62.153.

Art. 62.005. Central Database; Public Information.

(a) The department shall maintain a computerized central database containing the information required for registration under this chapter. The department may

include in the computerized central database the numeric risk level assigned to a person under this chapter.

(b) The information contained in the database, including the numeric risk level assigned to a person under this chapter, is public information, with the exception of any information:

(1) regarding the person's social security number or driver's license number, or any home, work, or cellular telephone number of the person;

(2) that is described by Article 62.051(c)(7) or required by the department under Article 62.051(c)(8), including any information regarding an employer's name, address, or telephone number; or

(3) that would identify the victim of the offense for which the person is subject to registration.

Subchapter B. Registration and Verification Requirements; Related Notice

Art. 62.053. Prerelease Notification.

(a) Before a person who will be subject to registration under this chapter is due to be released from a penal institution, the Texas Department of Criminal Justice or the Texas Juvenile Justice Department ~~[Youth Commission]~~ shall determine the person's level of risk to the community using the sex offender screening tool developed or selected under Article 62.007 and assign to the person a numeric risk level of one, two, or three. Before releasing the person, an official of the penal institution shall:

(1) inform the person that:

(A) not later than the later of the seventh day after the date on which the person is released or after the date on which the person moves from a previous residence to a new residence in this state or not later than the first date the applicable local law enforcement authority by policy allows the person to register or verify registration, the person must register or verify registration with the local law enforcement authority in the municipality or county in which the person intends to reside;

(B) not later than the seventh day after the date on which the person is released or the date on which the person moves from a previous residence to a new residence

in this state, the person must, if the person has not moved to an intended residence, report to the applicable entity or entities as required by Article 62.051(h) or (j) or 62.055(e);

(C) not later than the seventh day before the date on which the person moves to a new residence in this state or another state, the person must report in person to the local law enforcement authority designated as the person's primary registration authority by the department and to the juvenile probation officer, community supervision and corrections department officer, or parole officer supervising the person;

(D) not later than the 10th day after the date on which the person arrives in another state in which the person intends to reside, the person must register with the law enforcement agency that is identified by the department as the agency designated by that state to receive registration information, if the other state has a registration requirement for sex offenders;

(E) not later than the 30th day after the date on which the person is released, the person must apply to the department in person for the issuance of an original or renewal driver's license or personal identification certificate and a failure to apply to the department as required by this paragraph results in the automatic revocation of any driver's license or personal identification certificate issued by the department to the person; ~~and~~

(F) the person must notify appropriate entities of any change in status as described by Article 62.057; and

(G) certain types of employment are prohibited under Article 62.063 for a person with a reportable conviction or adjudication for a sexually violent offense involving a victim younger than 14 years of age occurring on or after September 1, 2013;

(2) require the person to sign a written statement that the person was informed of the person's duties as described by Subdivision (1) or Subsection (g) or, if the person refuses to sign the statement, certify that the person was so informed;

(3) obtain the address or, if applicable, a detailed description of each geographical location where the person expects to reside on the person's release and other registration information, including a photograph and complete set of fingerprints; and

(4) complete the registration form for the person.

Art. 62.058. Law Enforcement Verification of Registration Information.

(f) A local law enforcement authority that provides to a person subject to the prohibitions described by Article

62.063 a registration form for verification as required by this chapter shall include with the form a statement summarizing the types of employment that are prohibited for that person.

Art. 62.063. Prohibited Employment. [new]

(a) In this article:

(1) "Amusement ride" has the meaning assigned by Section 2151.002, Occupations Code.

(2) "Bus" has the meaning assigned by Section 541.201, Transportation Code.

(b) A person subject to registration under this chapter because of a reportable conviction or adjudication for which an affirmative finding is entered under Article 42.015(b) or Section 5(e)(2), Article 42.12, as appropriate, may not, for compensation:

(1) operate or offer to operate a bus;

(2) provide or offer to provide a passenger taxicab or limousine transportation service;

(3) provide or offer to provide any type of service in the residence of another person unless the provision of service will be supervised; or

(4) operate or offer to operate any amusement ride.

Subchapter C. Expiration of Duty to Register; General Penalties for Noncompliance

Art. 62.102. Failure to Comply with Registration Requirements.

(d) If it is shown at the trial of a person for an offense under this article or an attempt to commit an offense under this article that the person fraudulently used identifying information in violation of Section 32.51, Penal Code, during the commission or attempted commission of the offense, the punishment for the offense or the attempt to commit the offense is increased to the punishment for the next highest degree of felony.

Subchapter H. Exemptions from Registration for Certain Juveniles

Art. 62.352. Order Generally.

(b) After a hearing under Article 62.351 or under a plea agreement described by Article 62.355(b), the juvenile court may enter an order:

(1) deferring decision on requiring registration under this chapter until the respondent has completed treatment for the respondent's sexual offense as a condition of probation or while committed to the Texas Juvenile Justice Department [~~Youth Commission~~]; or

(2) requiring the respondent to register as a sex offender but providing that the registration information is not public information and is restricted to use by law enforcement and criminal justice agencies, the Council on Sex Offender Treatment, and public or private institutions of higher education.

(c) If the court enters an order described by Subsection (b)(1), the court retains discretion and jurisdiction to require, or exempt the respondent from, registration under this chapter at any time during the treatment or on the successful or unsuccessful completion of treatment, except that during the period of deferral, registration may not be required. Following successful completion of treatment, the respondent is exempted from registration under this chapter unless a hearing under this subchapter is held on motion of the prosecuting attorney [~~state~~], regardless of whether the respondent is 18 years of age or older, and the court determines the interests of the public require registration. Not later than the 10th day after the date of the respondent's successful completion of treatment, the treatment provider shall notify the juvenile court and prosecuting attorney of the completion.

Penal Code [omitted]

Chapter 18: DNA [omitted]

Chapter 19: Gangs [omitted]

Chapter 20: Criminal History Record Information

Government Code

Chapter 411. Department of Public Safety of the State of Texas

Subchapter F. (Selected Statutes) Criminal Record Information

§411.081. Application of Subchapter.

(a) This subchapter does not apply to criminal history record information that is contained in:

(1) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(2) original records of entry, including police blotters maintained by a criminal justice agency that are compiled chronologically and required by law or long-standing practice to be available to the public;

(3) public judicial, administrative, or legislative proceedings;

(4) court records of public judicial proceedings, except as provided by Subsection (g-3);

(5) published judicial or administrative opinions; or

(6) announcements of executive clemency.

(b) This subchapter does not prohibit a criminal justice agency from disclosing to the public criminal history record information that is related to the offense for which a person is involved in the criminal justice system.

(c) This subchapter does not prohibit a criminal justice agency from confirming previous criminal history record information to any person on specific inquiry about whether a named person was arrested, detained, indicted, or formally charged on a specified date, if the information disclosed is based on data excluded by Subsection (b).

(d) Notwithstanding any other provision of this subchapter, if a person is placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, subsequently receives a discharge and dismissal under Section 5(c), Article 42.12, and satisfies the requirements of Subsection (e), the person may petition the court that placed the defendant on deferred adjudication for an order of nondisclosure under this subsection. Except as provided by Subsection (e), a person may petition the court for an order of nondisclosure [~~under this subsection~~] [~~on whether~~] regardless of whether the person has been previously placed on deferred adjudication community supervision for another offense. After notice to the state, an opportunity for [~~and~~] a hearing, and a determination that the person is entitled to file the petition and issuance of the order is in the best interest of justice, the court shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication. A criminal justice agency may disclose criminal history record information that is the subject of the order only to other criminal justice agencies, for criminal justice or regulatory licensing purposes, an agency or entity listed in Subsection (i), or the person who is the subject of the order. A person may petition the court that placed the person on deferred adjudication for an order of nondisclosure [~~on payment of a \$20 fee to the clerk of the court in addition to any other fee that generally applies to the filing of a civil petition. The payment may be made~~] only on or after:

(1) the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor other than a misdemeanor described by Subdivision (2);

(2) the second anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a misdemeanor under Chapter 20, 21, 22, 25, 42, or 46, Penal Code; or

(3) the fifth anniversary of the discharge and dismissal, if the offense for which the person was placed on deferred adjudication was a felony.

(e) A person is entitled to petition the court under Subsection (d) only if during the period of the deferred adjudication community supervision for which the order of nondisclosure is requested and during the applicable period described by Subsection (d)(1), (2), or (3), as appropriate, the person is not convicted of or placed on deferred adjudication community supervision under Section 5, Article 42.12, Code of Criminal Procedure, for any offense other than an offense under the Transportation Code punishable by fine only. A person is not entitled to petition the court under Subsection (d) if the person was placed on the deferred adjudication community supervision for or has been previously convicted or placed on any other deferred adjudication for:

(1) an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;

(2) an offense under Section 20.04, Penal Code, regardless of whether the offense is a reportable conviction or adjudication for purposes of Chapter 62, Code of Criminal Procedure;

(3) an offense under Section 19.02, 19.03, 22.04, 22.041, 25.07, ~~25.072~~, or 42.072, Penal Code; or

(4) any other offense involving family violence, as defined by Section 71.004, Family Code.

(f) For purposes of Subsection (d), a person is considered to have been placed on deferred adjudication community supervision if, regardless of the statutory authorization:

(1) the person entered a plea of guilty or nolo contendere;

(2) the judge deferred further proceedings without entering an adjudication of guilt and placed the person under the supervision of the court or an officer under the supervision of the court; and

(3) at the end of the period of supervision the judge dismissed the proceedings and discharged the person.

(f-1) A person who petitions the court for an order of nondisclosure under Subsection (d) may file the petition in person, electronically, or by mail. The petition must be accompanied by payment of a \$28 fee to the clerk of the court in addition to any other fee that generally applies to the filing of a civil petition. The Office of Court Administration of the Texas Judicial System shall prescribe a form for the filing of a petition electronically or by mail. The form must provide for the petition to be accompanied by the required fees and any other supporting material determined necessary by the office of court administration, including evidence that the person is entitled to file the petition. The office of court administration shall make available on its Internet website the electronic application and printable application form. Each county or district clerk's office that maintains an Internet website shall include on that website a link to the electronic application and printable application form available on the office of court administration's Internet website. On receipt of a petition under this subsection, the court shall provide notice to the state and an opportunity for a hearing on whether the person is entitled to file the petition and issuance of the order is in the best interest of justice. The court shall hold a hearing before determining whether to issue an order of nondisclosure, except that a hearing is not required if:

(1) the state does not request a hearing on the issue before the 45th day after the date on which the state receives notice under this subsection; and

(2) the court determines that:

(A) the defendant is entitled to file the petition; and

(B) the order is in the best interest of justice.

...

(g-3) A court may not disclose to the public any information contained in the court records that is the subject of an order of nondisclosure issued under this section. The court may disclose information contained in the court records that is the subject of an order of nondisclosure only to criminal justice agencies for criminal justice or regulatory licensing purposes, to an agency or entity listed in Subsection (i), or to the person who is the subject of the order. The clerk of the court issuing an order of nondisclosure under this section shall seal any court records containing information that is the subject of the order as soon as practicable after the date the clerk of the court sends all relevant criminal history record information contained in the order or a copy of the order to the Department of Public Safety under Subsection (g).

(h) The clerk of a court that collects a fee under Subsection (d) shall remit the fee to the comptroller not later than the last day of the month following the end of the

calendar quarter in which the fee is collected, and the comptroller shall deposit the fee in the general revenue fund. The Department of Public Safety shall submit a report to the legislature not later than December 1 of each even-numbered year that includes information on:

(1) the number of petitions for nondisclosure and orders of nondisclosure received by the department in each of the previous two years;

(2) the actions taken by the department with respect to the petitions and orders received;

(3) the costs incurred by the department in taking those actions; and

(4) the number of persons who are the subject of an order of nondisclosure and who became the subject of criminal charges for an offense committed after the order was issued.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., HB 729

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (d) to the following noncriminal justice agencies or entities only:

(1) the State Board for Educator Certification;

(2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;

(3) the Texas Medical Board;

(4) the Texas School for the Blind and Visually Impaired;

(5) the Board of Law Examiners;

(6) the State Bar of Texas;

(7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;

(8) the Texas School for the Deaf;

(9) the Department of Family and Protective Services;

(10) the Texas Youth Commission;

(11) the Department of Assistive and Rehabilitative Services;

(12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;

(13) the Texas Private Security Board;

(14) a municipal or volunteer fire department;

(15) the Texas Board of Nursing;

(16) a safe house providing shelter to children in harmful situations;

(17) a public or nonprofit hospital or hospital district, or a facility as defined by Section 250.001, Health and Safety Code;

(18) the Texas Juvenile Probation Commission;

(19) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner;

(20) the Texas State Board of Public Accountancy;

(21) the Texas Department of Licensing and Regulation;

(22) the Health and Human Services Commission;

(23) the Department of Aging and Disability Services;

(24) the Texas Education Agency;

(25) the Guardianship Certification Board;

(26) a county clerk's office in relation to a proceeding for the appointment of a guardian under Chapter XIII, Texas Probate Code;

(27) the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security services under Chapter 2059 to:

(A) the Department of Information Resources; or

(B) a contractor or subcontractor of the Department of Information Resources;

(28) the Court Reporters Certification Board;

(29) the Texas Department of Insurance; and

(30) the Teacher Retirement System of Texas.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., SB 869

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (d) to the following noncriminal justice agencies or entities only:

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas Medical Board;
- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Juvenile Justice Department [~~Youth Commission~~];
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district;
- (18) ~~the Texas Juvenile Probation Commission;~~

~~(19) the securities commissioner, the banking commissioner, the savings and mortgage~~

~~(19) [(20)] the Texas State Board of Public Accountancy;~~

~~(20)[(21)] the Texas Department of Licensing and Regulation;~~

~~(21) [(22)] the Health and Human Services Commission;~~

~~(22) [(23)] the Department of Aging and Disability Services;~~

~~(23) [(24)] the Texas Education Agency;~~

~~(24) [(25) the Guardianship Certification Board;]~~

~~(25) [(26)] a county clerk's office in relation to a proceeding for the appointment of a guardian under Chapter XIII, Texas Probate Code;~~

~~(26) [(27)] the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security services under Chapter 2059 to:~~

~~(A) the Department of Information Resources; or~~

~~(B) a contractor or subcontractor of the Department of Information Resources;~~

~~(27) [(28)] the Court Reporters Certification Board;~~

~~(28) [(29)] the Texas Department of Insurance; ~~and~~~~

~~(29) [(30)] the Teacher Retirement System of Texas; and~~

~~(30) the Texas State Board of Pharmacy.~~

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., SB 966 (Effective September 1, 2014)

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (d) to the following noncriminal justice agencies or entities only:

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas Medical Board;

- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Juvenile Justice Department [~~Youth Commission~~];
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district;
- (18) ~~the Texas Juvenile Probation Commission~~
- [(19)] the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, the consumer credit commissioner, or the credit union commissioner;
- (19) [(20)] the Texas State Board of Public Accountancy;
- (20) [(21)] the Texas Department of Licensing and Regulation;
- (21) [(22)] the Health and Human Services Commission;
- (22) [(23)] the Department of Aging and Disability Services;
- (23) [(24)] the Texas Education Agency;

(24) the Judicial Branch Certification Commission;

~~[(25) Guardianship Certification Board];~~

(25) [(26)] a county clerk's office in relation to a proceeding for the appointment of a guardian under Chapter XIII, Texas Probate Code;

(26) [(27)]

the Department of Information Resources but only regarding an employee, applicant for employment, contractor, subcontractor, intern, or volunteer who provides network security services under Chapter 2059 to:

(A) the Department of Information Resources; or

(B) a contractor or subcontractor of the Department of Information Resources;

(27) [(28)] [~~The Court Reporter's Certification Board~~];

[(29)] the Texas Department of Insurance; and

(28) [(30)] the Teacher Retirement System of Texas.

(j) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 731, Sec. 12, eff. June 17, 2011.

§411.082. Definitions.

In this subchapter:

...

(5) "Office of capital writs" means the office of capital writs established under Subchapter B, Chapter 78.

(6) "Public defender's office" has the meaning assigned by Article 26.044(a), Code of Criminal Procedure.

§411.088. Fees.

(a) Except as otherwise provided by Subsection (a-1), the [The] department may charge a person [that is not primarily a criminal justice agency] a fee for processing inquiries for criminal history record information. The department may charge:

(1) a fee of \$10 for each inquiry for criminal history record information on a person that is processed only on the basis of the person's name, unless the inquiry is submitted electronically or by magnetic media, in which event the fee is \$1;

(2) a fee of \$15 for each inquiry for criminal history record information on a person that is processed on the basis of a fingerprint comparison search; and

(3) except as provided by Subsection (b), actual costs for processing all other information inquiries.

(a-1) The department may not charge a fee under Subsection (a) for providing criminal history record information to:

- (1) a criminal justice agency;
- (2) the office of capital writs; or
- (3) a public defender's office.

(b) The department may not charge for processing an electronic inquiry for information described as public information under Article 62.005, Code of Criminal Procedure, made through the use of the Internet.

(c) The fee a municipality pays under Subsection (a)(1) for an inquiry submitted electronically or by magnetic media may be used to allow the department to make the information available through electronic means under Section 411.129.

§411.091. Access to Criminal History Record Information: Texas Alcoholic Beverage Commission.

(a) The Texas Alcoholic Beverage Commission is entitled to obtain from the department criminal history record information maintained by the department that the commission believes is necessary for the enforcement or administration of the Alcoholic Beverage Code.

(b) Criminal history record information obtained by the commission under Subsection (a) ~~[(a)(1)]~~ may be used only for the enforcement and administration of the Alcoholic Beverage Code.

(c) Repealed by Acts 2001, 77th Leg., ch. 1420, Sec. 14.753, eff. Sept. 1, 2001.

§411.092. Access to Criminal History Record Information: Banking Commissioner.

(a) The banking commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license, charter, or other authority granted or issued by the banking commissioner under:

- (A) Subtitle A, F, or G, Title 3, Finance Code~~[-or any successor to that law]~~; ~~[or]~~
- (B) Chapter 151 or 154, Finance Code; or

(C) Chapter 712, Health and Safety Code;

(2) a principal of an applicant under Subdivision (1);

(3) an employee of or applicant for employment or volunteer with the Texas Department of Banking; or

(4) a contractor or subcontractor of the Texas Department of Banking.

(b) Criminal history record information obtained by the commissioner under Subsection (a), except on court order or as provided by Subsection (c), may not be released or disclosed to any person.

(c) The commissioner is not prohibited from disclosing to the individual who is the subject of the information the dates and places of arrests, the offenses, and the dispositions in the criminal history record information.

§411.094. Access to Criminal History Record Information: Higher Education Entities; Security-Sensitive Position. [title change only]

§411.0945. Access to Criminal History Record Information: Public Institution of Higher Education; On-Campus Student Housing. [new]

(a) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(b) An institution of higher education is entitled to obtain from the department criminal history record information maintained by the department that relates to a student, or to an applicant for admission as a student, who applies to reside in on-campus housing at the institution.

(c) Criminal history record information obtained by an institution of higher education under Subsection (b) may be used by the chief of police of the institution or by the institution's housing office only for the purpose of evaluating current students or applicants for enrollment who apply to reside in on-campus housing at the institution. The institution shall notify a student who is the subject of the criminal history record information of any use of the information to deny the student the opportunity to reside in on-campus housing at the institution.

(d) Criminal history record information received by an institution of higher education under Subsection (b) may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(e) As soon as practicable after the beginning of the academic period for which the person's housing application was submitted, all criminal history record information

obtained about a person under Subsection (b), including any copy of the content of that information held by the institution, shall be destroyed by the chief of police of the institution of higher education or by the institution's housing office, as applicable.

§411.114. Access to Criminal History Record Information: Department of Family and Protective Services.

(3) The Department of Family and Protective Services is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(A) a volunteer or applicant volunteer with a local affiliate in this state of Big Brothers/Big Sisters of America;

(B) a volunteer or applicant volunteer with the "I Have a Dream/Houston" program;

(C) a volunteer or applicant volunteer with an organization that provides court-appointed special advocates for abused or neglected children;

(D) a person providing, at the request of the child's parent, in-home care for a child who is the subject of a report alleging the child has been abused or neglected;

(E) a volunteer or applicant volunteer with a Texas chapter of the Make-a-Wish Foundation of America;

(F) a person providing, at the request of the child's parent, in-home care for a child only if the person gives written consent to the release and disclosure of the information;

(G) a child who is related to the caretaker, as determined under Section 42.002, Human Resources Code, and who resides in or is present in a child-care facility or family home, other than a child described by Subdivision (2)(C), or any other person who has unsupervised access to a child in the care of a child-care facility or family home;

(H) an applicant for a position with the Department of Family and Protective Services, other than a position described by Subdivision (2)(D), regardless of the duties of the position;

(I) a volunteer or applicant volunteer with the Department of Family and Protective Services, other than a registered volunteer, regardless of the duties to be performed;

(J) a person providing or applying to provide in-home, adoptive, or foster care for children to the extent

necessary to comply with Subchapter B, Chapter 162, Family Code;

(K) a Department of Family and Protective Services employee, other than an employee described by Subdivision (2)(H), regardless of the duties of the employee's position;

(L) a relative of a child in the care of the Department of Family and Protective Services, to the extent necessary to comply with Section 162.007, Family Code;

(M) a person, other than an alleged perpetrator in a report described in Subdivision (2)(I), living in the residence in which the alleged victim of the report resides;

(N) a contractor or an employee of a contractor who delivers services to a ward of the Department of Family and Protective Services under a contract with the estate of the ward;

(O) a person who seeks unsupervised visits with a ward of the Department of Family and Protective Services, including a relative of the ward;

(P) an employee, volunteer, or applicant volunteer of a children's advocacy center under Subchapter E, Chapter 264, Family Code, including a member of the governing board of a center; [ø]

(Q) an employee of, an applicant for employment with, or a volunteer or an applicant volunteer with an entity or person that contracts with the Department of Family and Protective Services and has access to confidential information in the department's records, if the employee, applicant, volunteer, or applicant volunteer has or will have access to that confidential information;

(R) [(Q)]an employee of or volunteer at, or an applicant for employment with or to be a volunteer at, an entity that provides supervised independent living services to a young adult receiving extended foster care services from the Department of Family and Protective Services;

(S) [(R)]a person 14 years of age or older who will be regularly or frequently working or staying in a host home that is providing supervised independent living services to a young adult receiving extended foster care services from the Department of Family and Protective Services; or

(T) a person who volunteers to supervise visitation under Subchapter B, Chapter 263, Family Code.

§411.1141. Access to Criminal History Record Information: Texas Juvenile Justice Department [Youth Commission].

(a) The Texas Juvenile Justice Department is entitled to obtain from the department criminal history record information maintained by the department that relates to:

(1) a person described by Section 242.010(b), Human Resources Code;

(2) an applicant for a certification from the Texas Juvenile Justice Department;

(3) a holder of a certification from the Texas Juvenile Justice Department;

(4) a child committed to the custody of the Texas Juvenile Justice Department by a juvenile court;

(5) a person requesting visitation access to a facility of the Texas Juvenile Justice Department; or

(6) any person, as necessary to conduct an evaluation of the home under Section 245.051(a), Human Resources Code.

(b) Criminal history record information obtained by the Texas Juvenile Justice Department [Youth Commission] under Subsection (a) may not be released to any person except:

(1) on court order;

(2) with the consent of the entity or person who is the subject of the criminal history record information;

(3) for purposes of an administrative hearing held, or an investigation conducted, by the Texas Juvenile Justice Department [Youth Commission] concerning the person who is the subject of the criminal history record information; ~~or~~

(4) a juvenile board by which a certification applicant or holder is employed; or

(5) as provided by Subsection (c) or (f).

(c) The Texas Juvenile Justice Department [Youth Commission] is not prohibited from releasing criminal history record information obtained under Subsection (a) to:

(1) the person who is the subject of the criminal history record information; or

(2) a business entity or person described by Subsection (a)(1) ~~[(a)(4) or (a)(5)]~~ who uses or intends to use the services of the volunteer or intern or employs or is

considering employing the person who is the subject of the criminal history record information.

(d) The Texas Juvenile Justice Department [Youth Commission] may charge an entity or a person who requests criminal history record information under Subsection (c)(2) ~~[(a)(4) or (a)(5)]~~ a fee in an amount necessary to cover the costs of obtaining the information on the person's or entity's behalf.

(e) After a person is certified by the Texas Juvenile Justice Department, the Texas Juvenile Justice Department shall destroy the criminal history record information that relates to a person described by Subsection (a)(2).

(f) The Texas Juvenile Justice Department is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Juvenile Justice Department.

§411.137 Access to Criminal History Record Information: Texas Juvenile Probation Commission [Repealed]

§411.1387. Access to Criminal History Record Information: Facility, Regulatory Agency, or Private Agency.

(a) In this section, "facility," "regulatory agency," and "private agency" have the meanings assigned by Section 250.001, Health and Safety Code.

(b) A ~~facility~~ regulatory agency ~~or private agency~~ ~~on behalf of a facility~~ is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for employment at or an employee of a facility other than a facility licensed under Chapter 142, Health and Safety Code; or

(2) an applicant for employment at or an employee of a facility licensed under Chapter 142, Health and Safety Code, if the duties of employment involve direct contact with a consumer in the facility.

(b-1) A facility or a private agency on behalf of a facility is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for employment with, an employee of, or a volunteer with the facility;

(2) an applicant for employment with or an employee of a person or business that contracts with the facility; or

(3) a student enrolled in an educational program or course of study who is at the facility for educational purposes.

(c) A facility may:

(1) obtain directly from the department criminal history record information on a person [~~an applicant or employee~~] described by Subsection (b-1) [~~(b)~~]; or

(2) authorize a private agency to obtain that information from the department.

(d) A private agency obtaining criminal history record information on behalf of a facility under Subsection (c) shall forward the information received to the facility requesting the information.

(e) Criminal history record information obtained by a facility, regulatory agency, or private agency on behalf of a facility under Subsection (b) or (b-1) may not be released or disclosed to any person or agency except on court order or with the consent of the person who is the subject of the information.

§411.1410. Access to Criminal History Record Information: United States Armed Forces. [new]

(a) In this section, "agency of the United States armed forces" means the United States Army, the United States Navy, the United States Marine Corps, the United States Coast Guard, or the United States Air Force.

(b) Subject to Subsection (c), an agency of the United States armed forces, including a recruiter for the agency, is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for enlistment in the United States armed forces.

(c) An agency of the United States armed forces is entitled to criminal history record information under Subsection (b) only if the agency submits to the department a signed statement from the applicant that authorizes the agency to obtain the information.

(d) Criminal history record information obtained by an agency of the United States armed forces under Subsection (b) may not be released to any person or agency except on court order or with the consent of the person who is the subject of the criminal history record information.

(e) An agency of the United States armed forces shall destroy criminal history record information obtained under Subsection (b) after the purpose for which the information was obtained is accomplished.

PART SIX: Evidentiary and Miscellaneous Statutes

Chapter 21: Evidentiary and Miscellaneous Statutes

Code of Criminal Procedure

Art. 37.07. Verdict Must be General; Separate Hearing on Proper Punishment.

Sec. 4. (a) In the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense of which the jury has found the defendant guilty is an offense under Section 71.02, Penal Code, other than an offense punishable as a state jail felony under that section, an offense under Section 71.023, Penal Code, or an offense listed in Section 3g(a)(1), Article 42.12, [of this code], or if the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12,~~[of this code]~~ unless the defendant has been convicted of an offense under Section 21.02, Penal Code, an offense under Section 22.021, Penal Code, that is punishable under Subsection (f) of that section, or a capital felony, the court shall charge the jury in writing as follows:

"Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, the defendant [he] may earn time off the period of incarceration imposed through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or part of any good conduct time earned by the prisoner.

"It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.

"Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, the defendant will not become eligible for parole until the actual time served equals one-half of the sentence imposed or 30 years, whichever is less, without consideration of any good conduct time the defendant [he] may earn. If the defendant is sentenced to a term of less than four years, the defendant [he] must serve at least two years before the defendant [he] is eligible for parole. Eligibility for parole does not guarantee that parole will be granted.

"It cannot accurately be predicted how the parole law and good conduct time might be applied to this defendant if ~~[he is]~~ sentenced to a term of imprisonment, because the application of these laws will depend on decisions made by prison and parole authorities.

"You may consider the existence of the parole law and good conduct time. However, you are not to consider the extent to which good conduct time may be awarded to or forfeited by this particular defendant. You are not to consider the manner in which the parole law may be applied to this particular defendant."

Code of Criminal Procedure

Chapter 38: Evidence in Criminal Actions

Art. 38.01. Texas Forensic Service Commission.

Sec. 2. Definitions [DEFINITION]. In this article:

(1) "Accredited field of forensic science" means a specific forensic method or methodology validated or approved by the public safety director of the Department of Public Safety under Section 411.0205(b-1)(2), Government Code, as part of the accreditation process for crime laboratories established by rule under Section 411.0205(b) of that code.

(2) "Commission" means the Texas Forensic Science Commission.

(3) "Crime laboratory" has the meaning assigned by Article 38.35.

(4) "Forensic analysis" means a medical, chemical, toxicologic, ballistic, or other expert examination or test performed on physical evidence, including DNA evidence, for the purpose of determining the connection of the evidence to a criminal action, except that the term does not include the portion of an autopsy conducted by a medical examiner or other forensic pathologist who is a licensed physician~~["forensic analysis" has the meaning assigned by Article 38.35(a)].~~

Sec. 3. Composition (a) The commission is composed of ~~[the following]~~ nine members~~[:~~

~~[(1) four members]~~ appointed by the governor as follows:

(1) two members who ~~[(A) two of whom]~~ must have expertise in the field of forensic science;

(2) ~~[(B)]~~ one member who ~~[of whom]~~ must be a prosecuting attorney that the governor selects from a list of 10 names submitted by the Texas District and County Attorneys Association;

(3) ~~and~~

~~[(C)]~~ one member who ~~[of whom]~~ must be a defense attorney that the governor selects from a list of 10 names submitted by the Texas Criminal Defense Lawyers Association;

(4) one member who ~~[(2) three members appointed by the lieutenant governor:~~

~~[(A) one of whom]~~ must be a faculty member or staff member of The University of Texas who specializes in clinical laboratory medicine that the governor selects ~~[selected]~~ from a list of 10 names submitted ~~[to the lieutenant governor]~~ by the chancellor of The University of Texas System;

(5) one member who ~~[(B) one of whom]~~ must be a faculty member or staff member of Texas A&M University who specializes in clinical laboratory medicine that the governor selects ~~[selected]~~ from a list of 10 names submitted ~~[to the lieutenant governor]~~ by the chancellor of The Texas A&M University System;

(6) one member who ~~[(C) one of whom]~~ must be a faculty member or staff member of Texas Southern University that the governor selects ~~[who has expertise in pharmaceutical laboratory research selected]~~ from a list of 10 names submitted ~~[to the lieutenant governor]~~ by the chancellor of Texas Southern University;

(7) one member who ~~and~~

~~[(3) two members appointed by the attorney general:~~

~~[(A) one of whom]~~ must be a director or division head of the University of North Texas Health Science Center at Fort Worth Missing Persons DNA Database; and

(8) one member who ~~[(B) one of whom]~~ must be a faculty or staff member of the Sam Houston State University College of Criminal Justice and have expertise in the field of forensic science or statistical analyses that the governor selects ~~[selected]~~ from a list of 10 names submitted ~~[to the lieutenant governor]~~ by the chancellor of the Texas State University System.

(b) Each member of the commission serves a two-year term. The terms expire ~~[term of the members appointed under Subsections (a)(1) and (2) expires]~~ on September 1 of:

(1) each odd-numbered year, for a member appointed under Subsection (a)(1), (2), (3), or (4); and

(2) ~~[- The term of the members appointed under Subsection (a)(3) expires on September 1 of]~~ each even-numbered year, for a member appointed under Subsection (a)(5), (6), (7), or (8).

Sec. 4. Duties (a) The commission shall:

(1) develop and implement a reporting system through which a crime laboratory may ~~[accredited laboratories, facilities, or entities]~~ report professional negligence or professional misconduct;

(2) require a crime laboratory ~~[all laboratories, facilities, or entities]~~ that conducts ~~[conduct]~~ forensic analyses to report professional negligence or professional misconduct to the commission; and

(3) investigate, in a timely manner, any allegation of professional negligence or professional misconduct that would substantially affect the integrity of the results of a forensic analysis conducted by a crime laboratory ~~[an accredited laboratory, facility, or entity].~~

(a-1) The commission may initiate for educational purposes an investigation of a forensic analysis without receiving a complaint, submitted through the reporting system implemented under Subsection (a)(1), that contains an allegation of professional negligence or professional misconduct involving the forensic analysis conducted if the commission determines by a majority vote of a quorum of the members of the commission that an investigation of the forensic analysis would advance the integrity and reliability of forensic science in this state.

(b) If the commission conducts an [A] investigation under Subsection (a)(3) of a crime laboratory that is accredited by the Department of Public Safety under Section 411.0205, Government Code, pursuant to an allegation of professional negligence or professional misconduct involving an accredited field of forensic science, the investigation:

(1) must include the preparation of a written report that identifies and also describes the methods and procedures used to identify:

(A) the alleged negligence or misconduct;

(B) whether negligence or misconduct occurred; ~~and]~~

(C) any corrective action required of the laboratory, facility, or entity;

(D) observations of the commission regarding the integrity and reliability of the forensic analysis conducted;

(E) best practices identified by the commission during the course of the investigation; and

(F) other recommendations that are relevant, as determined by the commission; and

(2) may include one or more:

(A) retrospective reexaminations of other forensic analyses conducted by the laboratory, facility, or entity that may involve the same kind of negligence or misconduct; and

(B) follow-up evaluations of the laboratory, facility, or entity to review:

(i) the implementation of any corrective action required under Subdivision (1)(C); or

(ii) the conclusion of any retrospective reexamination under Paragraph (A).

(b-1) If the commission conducts an investigation under Subsection (a)(3) of a crime laboratory that is not accredited by the Department of Public Safety under Section 411.0205, Government Code, or the investigation is conducted pursuant to an allegation involving a forensic method or methodology that is not an accredited field of forensic science, the investigation may include the preparation of a written report that contains:

(1) observations of the commission regarding the integrity and reliability of the forensic analysis conducted;

(2) best practices identified by the commission during the course of the investigation; or

(3) other recommendations that are relevant, as determined by the commission.

(b-2) If the commission conducts an investigation of a forensic analysis under Subsection (a-1), the investigation must include the preparation of a written report that contains:

(1) observations of the commission regarding the integrity and reliability of the forensic analysis conducted;

(2) best practices identified by the commission during the course of the investigation; and

(3) other recommendations that are relevant, as determined by the commission.

(d) The commission may require that a crime laboratory[facility, or entity] investigated under this section

pay any costs incurred to ensure compliance with Subsection (b), (b-1), or (b-2) [~~(b)(1)~~].

(e) The commission shall make all investigation reports completed under Subsection (b), (b-1), or (b-2) [~~(b)(1)~~] available to the public. A report completed under Subsection (b), (b-1), or (b-2) [~~(b)(1)~~], in a subsequent civil or criminal proceeding, is not prima facie evidence of the information or findings contained in the report.

(f) The commission may not make a determination of whether professional negligence or professional misconduct occurred or issue a finding on that question in an investigation initiated under Subsection (a-1) or for which an investigation report may be prepared under Subsection (b-1).

(g) The commission may not issue a finding related to the guilt or innocence of a party in an underlying civil or criminal trial involving conduct investigated by the commission under this article.

...

Sec. 8. Annual Report. Not later than December 1 of each year, the commission shall prepare and publish a report that includes:

(1) a description of each complaint filed with the commission during the preceding 12-month period, the disposition of each complaint, and the status of any complaint still pending on December 31;

(2) a description of any specific forensic method or methodology the commission recommends to the public safety director of the Department of Public Safety for validation or approval under Section 411.0205(b-1)(2), Government Code, as part of the accreditation process for crime laboratories established by rule under Section 411.0205(b) of that code;

(3) recommendations for best practices concerning the definition of "forensic analysis" provided by statute or by rule of the Department of Public Safety;

(4) developments in forensic science made or used in other state or federal investigations and the activities of the commission, if any, with respect to those developments; and

(5) other information that is relevant to investigations involving forensic science, as determined by the presiding officer of the commission.

Sec. 9. Administrative Attachment to Sam Houston State University. (a) The commission is administratively attached to Sam Houston State University.

(b) The Board of Regents of the Texas State University System shall provide administrative support to the commission as necessary to carry out the purposes of this article.

(c) Only the commission may exercise the duties of the commission under this article. Except as provided by Subsection (b), neither the Board of Regents of the Texas State University System nor Sam Houston State University has any authority or responsibility with respect to the duties of the commission under this article.

Sec. 10. Open Records Limitation. Information that is filed as part of an allegation of professional misconduct or professional negligence or that is obtained during an investigation of an allegation of professional misconduct or professional negligence is not subject to release under Chapter 552, Government Code, until the conclusion of an investigation by the commission under Section 4.

Sec. 11. Report Inadmissible as Evidence. A written report prepared by the commission under this article is not admissible in a civil or criminal action.

Art. 38.22. When Statements May be Used.

Sec. 1. In this article, a written statement of an accused means:

(1) [a statement signed by the accused or] a statement made by the accused in his own handwriting; or

(2) a statement made in a language the accused can read or understand that:

(A) is signed by the accused; or

(B) bears the mark of the accused, if the accused is unable to write and [~~a statement bearing his mark,~~ when] the mark is [~~has been~~]witnessed by a person other than a peace officer.

Art. 38.30. Interpreter.

(a) When a motion for appointment of an interpreter is filed by any party or on motion of the court, in any criminal proceeding, it is determined that a person charged or a witness does not understand and speak the English language, an interpreter must be sworn to interpret for the person charged or the witness. Any person may be subpoenaed, attached or recognized in any criminal action or proceeding, to appear before the proper judge or court to act as interpreter therein, under the same rules and penalties as are provided for witnesses. In the event that the only available interpreter is not considered to possess adequate interpreting skills for the particular situation or the interpreter is not familiar with use of slang, the person charged or witness may be permitted by the court to

nominate another person to act as intermediary between the person charged or witness and the appointed interpreter during the proceedings.

Text of subsection effective until September 01, 2014

(a-1) A qualified telephone interpreter may be sworn to interpret for the person in the trial of a Class C misdemeanor or a proceeding before a magistrate if an interpreter is not available to appear in person before the court or if the only available interpreter is not considered to possess adequate interpreting skills for the particular situation or is unfamiliar with the use of slang. In this subsection, "qualified telephone interpreter" means a telephone service that employs:

(1) licensed court interpreters as defined by Section 57.001, Government Code; or

(2) federally certified court interpreters.

Text of subsection effective on September 01, 2014

(a-1) A qualified telephone interpreter may be sworn to interpret for the person in the trial of a Class C misdemeanor or a proceeding before a magistrate if an interpreter is not available to appear in person before the court or if the only available interpreter is not considered to possess adequate interpreting skills for the particular situation or is unfamiliar with the use of slang. In this subsection, "qualified telephone interpreter" means a telephone service that employs:

(1) licensed court interpreters as defined by Section ~~157.001~~~~[57.001]~~, Government Code; or

(2) federally certified court interpreters.

(b) Except as provided by Subsection (c) of this article, interpreters appointed under the terms of this article will receive from the general fund of the county for their services a sum not to exceed \$100 a day as follows: interpreters shall be paid not less than \$15 nor more than \$100 a day at the discretion of the judge presiding, and when travel of the interpreter is involved all the actual expenses of travel, lodging, and meals incurred by the interpreter pertaining to the case the interpreter is appointed to serve shall be paid at the same rate applicable to state employees.

(c) A county commissioners court may set a payment schedule and expend funds for the services of interpreters in excess of the daily amount of not less than \$15 or more than \$100 established by Subsection (b) of this article.

Art. 38.31. Interpreters for Deaf Persons.

(g) In this Code:

(1) "Deaf person" means a person who has a hearing impairment, regardless of whether the person also has a speech impairment, that inhibits the person's comprehension of the proceedings or communication with others.

(2) "Qualified interpreter" means an interpreter for the deaf who holds a current legal certificate issued by the National Registry of Interpreters for the Deaf and ~~or~~ current court interpreter certificate issued by the Board for Evaluation of Interpreters at the Department of Assistive and Rehabilitative Services.

Art. 38.37. Evidence of Extraneous Offenses or Acts.

Sec. 1. (a) Subsection (b) [This article] applies to a proceeding in the prosecution of a defendant for an offense, or an attempt or conspiracy to commit an offense, under the following provisions of the Penal Code:

(1) if committed against a child under 17 years of age:

- (A) Chapter 21 (Sexual Offenses);
- (B) Chapter 22 (Assaultive Offenses); or
- (C) Section 25.02 (Prohibited Sexual Conduct); or

(2) if committed against a person younger than 18 years of age:

- (A) Section 43.25 (Sexual Performance by a Child);
- (B) Section 20A.02(a)(7) or (8); or
- (C) Section 43.05(a)(2) (Compelling Prostitution).

(b) [Sec. 2.] Notwithstanding Rules 404 and 405, Texas Rules of Evidence, evidence of other crimes, wrongs, or acts committed by the defendant against the child who is the victim of the alleged offense shall be admitted for its bearing on relevant matters, including:

- (1) the state of mind of the defendant and the child; and
- (2) the previous and subsequent relationship between the defendant and the child.

Sec. 2. (a) Subsection (b) applies only to the trial of a defendant for:

(1) an offense under any of the following provisions of the Penal Code:

(A) Section 20A.02, if punishable as a felony of the first degree under Section 20A.02(b)(1) (Sex Trafficking of a Child);

(B) Section 21.02 (Continuous Sexual Abuse of Young Child or Children);

(C) Section 21.11 (Indecency With a Child);

(D) Section 22.011(a)(2) (Sexual Assault of a Child);

(E) Sections 22.021(a)(1)(B) and (2) (Aggravated Sexual Assault of a Child);

(F) Section 33.021 (Online Solicitation of a Minor);

(G) Section 43.25 (Sexual Performance by a Child); or

(H) Section 43.26 (Possession or Promotion of Child Pornography), Penal Code; or

(2) an attempt or conspiracy to commit an offense described by Subdivision (1).

(b) Notwithstanding Rules 404 and 405, Texas Rules of Evidence, and subject to Section 2-a, evidence that the defendant has committed a separate offense described by Subsection (a)(1) or (2) may be admitted in the trial of an alleged offense described by Subsection (a)(1) or (2) for any bearing the evidence has on relevant matters, including the character of the defendant and acts performed in conformity with the character of the defendant.

Sec. 2-a. Before evidence described by Section 2 may be introduced, the trial judge must:

(1) determine that the evidence likely to be admitted at trial will be adequate to support a finding by the jury that the defendant committed the separate offense beyond a reasonable doubt; and

(2) conduct a hearing out of the presence of the jury for that purpose.

Sec. 3. The [On timely request by the defendant, the] state shall give the defendant notice of the state's intent to introduce in the case in chief evidence described by Section 1 or 2 not later than the 30th day before the date of the defendant's trial [In the same manner as the state is required to give notice under Rule 404(b), Texas Rules of Evidence.]

Sec. 4. This article does not limit the admissibility of evidence of extraneous crimes, wrongs, or acts under any other applicable law.

Art. 38.41. Certificate of Analysis.

Sec. 1. A certificate of analysis that complies with this article is admissible in evidence on behalf of the state or the defendant to establish the results of a laboratory analysis of physical evidence conducted by or for a law enforcement agency without the necessity of the analyst personally appearing in court.

Sec. 2. This article does not limit the right of a party to summon a witness or to introduce admissible evidence relevant to the results of the analysis.

Sec. 3. A certificate of analysis under this article must contain the following information certified under oath:

(1) the names of the analyst and the laboratory employing the analyst;

(2) a statement that the laboratory employing the analyst is accredited by a nationally recognized board or association that accredits crime laboratories;

(3) a description of the analyst's educational background, training, and experience;

(4) a statement that the analyst's duties of employment included the analysis of physical evidence for one or more law enforcement agencies;

(5) a description of the tests or procedures conducted by the analyst;

(6) a statement that the tests or procedures used were reliable and approved by the laboratory employing the analyst; and

(7) the results of the analysis.

Sec. 4. Not later than the 20th day before the trial begins in a proceeding in which a certificate of analysis under this article is to be introduced, the certificate must be filed with the clerk of the court and a copy must be provided by fax, secure electronic mail, hand delivery, or certified mail, return receipt requested, to the opposing party. The certificate is not admissible under Section 1 if, not later than the 10th day before the trial begins, the opposing party files a written objection to the use of the certificate with the clerk of the court and provides a copy of the objection by fax, secure electronic mail, hand delivery, or certified mail, return receipt requested, to the offering party.

Art. 38.42. Chain of Custody Affidavit.

Sec. 1. A chain of custody affidavit that complies with this article is admissible in evidence on behalf of the state or the defendant to establish the chain of custody of physical evidence without the necessity of any person in the chain of custody personally appearing in court.

Sec. 2. This article does not limit the right of a party to summon a witness or to introduce admissible evidence relevant to the chain of custody.

Sec. 3. A chain of custody affidavit under this article must contain the following information stated under oath:

(1) the affiant's name and address;

(2) a description of the item of evidence and its container, if any, obtained by the affiant;

(3) the name of the affiant's employer on the date the affiant obtained custody of the physical evidence;

(4) the date and method of receipt and the name of the person from whom or location from which the item of physical evidence was received;

(5) the date and method of transfer and the name of the person to whom or location to which the item of physical evidence was transferred; and

(6) a statement that the item of evidence was transferred in essentially the same condition as received except for any minor change resulting from field or laboratory testing procedures.

Sec. 4. Not later than the 20th day before the trial begins in a proceeding in which a chain of custody affidavit under this article is to be introduced, the affidavit must be filed with the clerk of the court and a copy must be provided by fax, secure electronic mail, hand delivery, or certified mail, return receipt requested, to the opposing party. The affidavit is not admissible under Section 1 if, not later than the 10th day before the trial begins, the opposing party files a written objection to the use of the affidavit with the clerk of the court and provides a copy of the objection by fax, secure electronic mail, hand delivery, or certified mail, return receipt requested, to the offering party.

Art. 38.43. Evidence Containing Biological Material.

(i) Before a defendant is tried for a capital offense in which the state is seeking the death penalty, subject to Subsection (j), the state shall require either the Department of Public Safety through one of its laboratories or a laboratory accredited under Section 411.0205, Government Code, to perform DNA testing, in accordance with the laboratory's capabilities at the time the testing is performed, on any biological evidence that was collected as part of an investigation of the offense and is in the possession of the

state. The laboratory that performs the DNA testing shall pay for all DNA testing performed in accordance with this subsection.

(j) As soon as practicable after the defendant is charged with a capital offense, or on a motion by the state or the defendant in a capital case, unless the state has affirmatively waived the death penalty in writing, the court shall order the state and the defendant to meet and confer about which biological materials collected as part of an investigation of the offense qualify as biological evidence that is required to be tested under Subsection (i). If the state and the defendant agree on which biological materials constitute biological evidence, the biological evidence shall be tested in accordance with Subsection (i). If the state and the defendant do not agree on which biological materials qualify as biological evidence, the state or the defendant may request the court to hold a hearing to determine the issue. On receipt of a request for a hearing under this subsection, the court shall set a date for the hearing and provide written notice of the hearing date to the state and the defendant. At the hearing, there is a rebuttable presumption that the biological material that the defendant requests to be tested constitutes biological evidence that is required to be tested under Subsection (i). This subsection does not in any way prohibit the state from testing biological evidence in the state's possession.

(k) If an item of biological evidence is destroyed or lost as a result of DNA testing performed under Subsection (i), the laboratory that tested the evidence must provide to the defendant any bench notes prepared by the laboratory that are related to the testing of the evidence and the results of that testing.

(l) The defendant's exclusive remedy for testing that was not performed as required under Subsection (i) or (j) is to seek a writ of mandamus from the court of criminal appeals at any time on or before the date an application for a writ of habeas corpus is due to be filed in the defendant's case under Section 4(a), Article 11.071. An application for a writ of mandamus under this subsection does not toll any period of limitations applicable to a habeas petition under state or federal law. The defendant is entitled to only one application for a writ of mandamus under this subsection. At any time after the date an application for a writ of habeas corpus is filed in the defendant's case under Section 4(a), Article 11.071, the defendant may file one additional motion for forensic testing under Chapter 64.

(m) A defendant may have another laboratory accredited under Section 411.0205, Government Code, perform additional testing of any biological evidence required to be tested under Subsection (i). On an ex parte showing of good cause to the court, a defendant may have a laboratory accredited under Section 411.0205, Government Code, perform testing of any biological

material that is not required to be tested under Subsection (i). The defendant is responsible for the cost of any testing performed under this subsection.

Art. 38.47. Evidence in Aggregation Prosecution for Fraud or Theft Committed with Respect to Numerous Medicaid or Medicare Recipients.

In trials involving an allegation of a continuing scheme of fraud or theft that involves Medicaid or Medicare benefits and is alleged to have been committed with respect to a large class of Medicaid or Medicare recipients in an aggregate amount or value, the attorney representing the state is not required to prove by direct evidence that each Medicaid or Medicare recipient did not consent or effectively consent to a transaction in question. It is sufficient if the lack of consent or effective consent to a particular transaction or transactions is proven by either direct or circumstantial evidence. *[Redesignated by Acts 2013, SB 1093]*

Art. 38.48. Evidence in Prosecution for Tampering with Witness or Prospective Witness Involving Family Violence. [new]

(a) This article applies to the prosecution of an offense under Section 36.05, Penal Code, in which:

(1) the underlying official proceeding involved family violence, as defined by Section 71.004, Family Code; or

(2) the actor is alleged to have violated Section 36.05, Penal Code, by committing an act of family violence against a witness or prospective witness.

(b) In the prosecution of an offense described by Subsection (a), subject to the Texas Rules of Evidence or other applicable law, each party may offer testimony or other evidence of all relevant facts and circumstances that would assist the trier of fact in determining whether the actor's conduct coerced the witness or prospective witness, including the nature of the relationship between the actor and the witness or prospective witness.

Art. 38.49. Forfeiture by Wrongdoing. [new]

(a) A party to a criminal case who wrongfully procures the unavailability of a witness or prospective witness:

(1) may not benefit from the wrongdoing by depriving the trier of fact of relevant evidence and testimony; and

(2) forfeits the party's right to object to the admissibility of evidence or statements based on the

unavailability of the witness as provided by this article through forfeiture by wrongdoing.

(b) Evidence and statements related to a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of a witness or prospective witness are admissible and may be used by the offering party to make a showing of forfeiture by wrongdoing under this article, subject to Subsection (c).

(c) In determining the admissibility of the evidence or statements described by Subsection (b), the court shall determine, out of the presence of the jury, whether forfeiture by wrongdoing occurred by a preponderance of the evidence. If practicable, the court shall make the determination under this subsection before trial using the procedures under Article 28.01 of this code and Rule 104, Texas Rules of Evidence.

(d) The party offering the evidence or statements described by Subsection (b) is not required to show that:

(1) the actor's sole intent was to wrongfully cause the witness's or prospective witness's unavailability;

(2) the actions of the actor constituted a criminal offense; or

(3) any statements offered are reliable.

(e) A conviction for an offense under Section 36.05 or 36.06, Penal Code, creates a presumption of forfeiture by wrongdoing under this article.

(f) Rule 403, Texas Rules of Evidence, applies to this article. This article does not permit the presentation of character evidence that would otherwise be inadmissible under the Texas Rules of Evidence or other applicable law.

Family Code

§51.17. Procedure and Evidence.

(c) Except as otherwise provided by this title, the Texas Rules of Evidence applicable [apply] to criminal cases and Articles 33.03 and 37.07 and Chapter 38, Code of Criminal Procedure, apply in a judicial proceeding under this title.

PART SEVEN:
Federal Laws Affecting Juvenile Justice

Chapter 22: Juvenile Justice and Delinquency Prevention Act (Select Provisions) [omitted]

Chapter 23: Prison Rape Elimination Act of 2003 (PREA) [omitted]

Chapter 24: Civil Rights of Institutionalized Persons of 1980 (CRIPA) [omitted]

Chapter 25: Violent Crime Control and Law Enforcement Act of 1994 [omitted]

PART EIGHT:
Texas Juvenile Justice Department Administrative Code Provisions
List of Amended, Added or Repealed Provisions

Chapter 26: Administrative Rules Applicable to Community-Based Juvenile Justice Facilities, Programs and Services

Texas Administrative Code (TAC), Title 37, Public Safety and Corrections, Part 11

Chapter 342. Standards for Housing Non-Texas Juveniles in Texas Detention and Corrections Facilities

- §342.1 Authority to House Out-of-State Juveniles
- §342.2 Registration and Standards Compliance
- §342.3 Contracts with Other States for Housing Non-Texas Juveniles

Chapter 343. Standards for Secure Juvenile Pre-Adjudication Detention and Post-Adjudication Correctional Facilities

- §343.100 Definitions.
- §343.212 Duties of Facility Administrator
- §343.224 Alternate Power Source
- §343.240 Safety Codes
- §343.288 Disciplinary Seclusion
- §343.302 Menu Plans
- §343.332 Behavioral Health Care Services for Sexual Abuse Victims
- §343.340 Suicide Prevention Plan
- §343.346 Mental Health Referral of High Risk Suicidal Youth
- §343.342 Review and Dissemination of Suicide Prevention Plan
- §343.348 Supervision of High Risk Suicidal Youth
- §343.350 Supervision of Moderate Risk Suicidal Youth
- §343.400 Intake and Admission (Pre-Adjudication)
- §343.404 Mental Health Screening and Referral
- §343.446 Exceptions to General Levels of Supervision (Pre-Adjudication)
- §343.600 Required Pre-Admission Records
- §343.602 Intake and Admission (Post-Adjudication)
- §343.604 Health Screening and Assessment
- §343.638 Exceptions to General Levels of Supervision (Post-Adjudication)
- §343.810 Mechanical Restraint
- §343.812 Non-Ambulatory Mechanical Restraints

Chapter 344. Employment, Certification and Training for Juvenile Officers

- §344.800 Positions Requiring Certification.

Chapter 346. Funding Formulas [repealed]

Chapter 349 . General Administrative Standards

§349.410 Administrative Review and Appeal of Investigation Findings

Chapter 355. Standards for Non-Secure Correctional Facilities [added]

§355.100 through §355.818

Editor's Note & Electronic Links

The Texas Administrative Code (TAC), Title 37, Public Safety and Corrections, Part 11, as adopted by the Texas Juvenile Justice Board, contains the administrative rules (i.e., standards) governing community-based juvenile justice facilities, programs and services. The editors of the 2014 Statutory Supplement have provided an updated summary listing of the administrative standards that have been amended, added, renumbered or repealed since the December 2012 publication of Texas Juvenile Law, 8th Edition. As a convenience, the full text of the most current standards can be found on the TJJD website at www.tjjd.texas.gov/publications/default.aspx. The effective dates for the relevant provisions are printed on the rules or on the TAC website source notes. While TJJD makes every effort to assure the completeness and accuracy of the rules contained on its website, please refer to the Texas Administrative Code website for the official text of any published TJJD standard or rule at [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=3&ti=37&pt=11](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=3&ti=37&pt=11).



Texas Juvenile Justice Department

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