

BILL ANALYSIS

C.S.H.B. 3665
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Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recent legislation authorized the commitment of a juvenile in certain counties to a local post-adjudication secure correctional facility in lieu of commitment to the Texas Juvenile Justice Department. Interested parties note that during the course of one county's implementation of a local commitment program, necessary changes in the law were identified. C.S.H.B. 3665 seeks to make these changes.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3665 amends the Human Resources Code to prohibit, with certain exceptions, a juvenile board or local juvenile probation department from discharging from custody a person who is committed under a determinate sentence to a post-adjudication secure correctional facility operated by or under contract with such a board or department. The bill requires the juvenile board or local juvenile probation department to discharge without a court hearing a person committed to the department for a determinate sentence who has not been transferred to the Texas Department of Criminal Justice (TDCJ) under a court order on the date that the time spent by the person in detention in connection with the committing case plus the time spent in the custody of the juvenile board or local juvenile probation department under the order of commitment equals the period of the sentence. The bill requires the juvenile board or local juvenile probation department to transfer to TDCJ a person who is committed to such a facility and who is the subject of an order transferring the person to the custody of TDCJ for the completion of the person's sentence. The bill requires the juvenile board or local juvenile probation department to discharge from its custody a person not already discharged on the person's 19th birthday, except that the juvenile board or local juvenile probation department is required to transfer a person who has been sentenced under a determinate sentence to commitment to such a facility or who has been returned to the juvenile board or local juvenile probation department under juvenile justice code provisions relating to release or transfer hearings to the custody of TDCJ on the person's 19th birthday, if the person has not already been discharged or transferred, to serve the remainder of the person's sentence on determinate sentence parole.

C.S.H.B. 3665 requires a juvenile board or local juvenile probation department, not later than the 90th day before the date the board or department transfers a person to the custody of TDCJ for

release on parole supervision under statutory provisions relating to the release under supervision of a child committed under a determinate sentence to such a facility or under the bill's provisions, to submit to TDCJ all pertinent information relating to the person. The bill requires the juvenile board or local juvenile probation department to provide instruction for TDCJ parole officers relating to juvenile programs provided by the juvenile board or local juvenile probation department and requires the juvenile boards, the local juvenile probation departments, and TDCJ to enter into a memorandum of understanding relating to the administration of such instruction. The bill requires TDCJ to grant credit for certain sentence time served by a person in the custody of a juvenile board or local juvenile probation department and in a juvenile detention facility in computing the person's eligibility for parole and discharge from TDCJ.

C.S.H.B. 3665 requires a juvenile board or local juvenile probation department to accept a child with a mental illness or an intellectual disability who is committed to the custody of the board or department. The bill requires the juvenile board or local juvenile probation department, unless a child is committed to the custody of the juvenile board or local juvenile probation department under a determinate sentence, to discharge a child with a mental illness or an intellectual disability from its custody if the child has completed the minimum length of stay for the child's committing offense and if the juvenile board or local juvenile probation department determines that the child is unable to progress in the rehabilitation programs provided by the juvenile board or local juvenile probation department because of the child's mental illness or intellectual disability. The bill makes the discharge of a child who is not receiving court-ordered mental health services effective on the earlier of the date the court enters an order regarding an application for those services filed under the bill's provisions or the 30th day after the date the application is filed and makes the discharge of a child who is not receiving intellectual disability services effective on the 30th day after the date that the referral for those services is made under the bill's provisions. The bill makes the discharge of a child effective immediately if the child is receiving court-ordered mental health services or intellectual disability services. The bill requires the juvenile board or local juvenile probation department, if the child is receiving mental health services outside the child's home county, to notify the mental health authority located in that county of the discharge not later than the 30th day after the date that the child's discharge is effective. The bill makes a child with a mental illness or an intellectual disability who is discharged from the custody of a juvenile board or local juvenile probation department eligible to receive continuity of care services from the Texas Correctional Office on Offenders with Medical or Mental Impairments.

C.S.H.B. 3665 requires a juvenile board or local juvenile probation department to establish a system that identifies children with mental illnesses or intellectual disabilities who are in the custody of the juvenile board or local juvenile probation department. The bill requires a juvenile board or local juvenile probation department to arrange for a psychiatrist to examine a child who is identified as having a mental illness before the child is discharged from the custody of the juvenile board or local juvenile probation department under the bill's provisions and to refer a child requiring outpatient psychiatric treatment to the appropriate mental health authority. The bill requires a juvenile board or local juvenile probation department to file a sworn application for court-ordered mental health services for a child requiring inpatient psychiatric treatment if the child is not receiving court-ordered mental health services and if the psychiatrist who examined the child determines that the child has a mental illness and that the child meets at least one of the criteria required for court-ordered temporary mental health services. The bill requires a local juvenile probation department, before a child who is identified as having an intellectual disability is discharged from the custody of a juvenile board or local juvenile probation department under the bill's provisions, to refer the child for intellectual disability services if the child is not receiving intellectual disability services.

C.S.H.B. 3665 authorizes a juvenile board or local juvenile probation department to petition the juvenile court that entered the order of commitment for a child for the initiation of mental health commitment proceedings if the child is committed to the custody of the juvenile board or local juvenile probation department under a determinate sentence. The bill requires such a petition to

be treated as a motion under juvenile justice code provisions relating to the determination of mental illness and requires the juvenile court to proceed in accordance with juvenile justice code provisions governing a proceeding concerning a child with mental illness. The bill requires a juvenile board or local juvenile probation department to cooperate with the juvenile court in any such proceeding. The bill requires the juvenile court to credit to the term of the child's commitment to a juvenile board or local juvenile probation department any time the child is committed to an inpatient mental health facility. The bill prohibits the release of a child committed to an inpatient mental health facility as a result of such a petition from the facility on a pass or furlough. The bill requires an inpatient mental health facility to notify the juvenile court that entered an order of commitment committing a child to a juvenile board or local juvenile probation department if the term of the order committing the child to the facility is scheduled to expire before the end of the child's sentence and another order committing the child to an inpatient mental health facility is not scheduled to be entered. The bill authorizes the juvenile court to transfer the child to the custody of the juvenile board or local juvenile probation department, to transfer the child to TDCJ, or to release the child under supervision, as appropriate.

C.S.H.B. 3665 requires a juvenile board or local juvenile probation department that operates or contracts for the operation of a post-adjudication secure correctional facility, after a child without a determinate sentence has completed the minimum length of stay established by the board or department, to discharge the child from the custody of the board or department, to release the child under supervision, or to extend the child's length of stay in the custody of the board or department. The bill conditions such an extension of custody on the basis of clear and convincing evidence that the child is in need of additional rehabilitation from the juvenile board or local juvenile probation department and that the post-adjudication secure correctional facility will provide the most suitable environment for that rehabilitation. The bill authorizes a juvenile board or local juvenile probation department to request at any time approval from the juvenile court that ordered a child's commitment to the department's facility of the department's decision to release the child under supervision. The bill changes the provisions under which the juvenile board or local juvenile probation department may release a child with a determinate sentence without juvenile court approval. The bill limits the applicability of statutory provisions relating to the apprehension of a child after the child's escape from Texas Juvenile Justice Department (TJJD) custody or after the child violates a condition of release and to TJJD's release of a child under supervision to a child who has been committed to a post-adjudication secure correctional facility operated by or under contract with a juvenile board or local juvenile probation department and who has either escaped or violated the conditions of release under supervision. The bill grants a hearing examiner who conducts a revocation of a child's release from such a facility the same subpoena authority as provided to a hearing officer at TJJD.

C.S.H.B. 3665 adds temporary provisions, set to expire December 31, 2018, to require the independent ombudsman with TJJD to perform the ombudsman's required duties with respect to children committed to TJJD and children committed to a post-adjudication secure correctional facility operated by or under contract with a juvenile board or local juvenile probation department. Effective January 1, 2019, the bill limits the powers of the office of the independent ombudsman to secure facilities operated by TJJD and services provided by TJJD related to those facilities.

C.S.H.B. 3665 amends the Family Code to include as an exception to the prohibition against the commitment or transfer of a child to a penal institution or other facility used primarily for the execution of sentences of persons convicted of crime that the commitment or transfer occurs after transfer from a post-adjudication secure correctional facility operated by or under contract with a juvenile board or local juvenile probation department. The bill specifies that in order for an adjudication for conduct constituting a felony offense resulting in commitment to such a facility to be considered a final felony conviction for purposes of Penal Code provisions governing penalties for repeat and habitual felony offenders, the conduct must have occurred on or after December 1, 2013. The bill establishes that for purposes of the transfer of a child to

TDCJ under the bill's provisions, a juvenile court petition alleging a child engaged in conduct for which the child is eligible for a determinate sentence that is approved by a grand jury is an indictment presented by the grand jury.

C.S.H.B. 3665 makes juvenile justice code provisions governing release or transfer hearings applicable to a child with a determinate sentence who is committed to a post-adjudication secure correctional facility operated by or under contract with a juvenile board or local juvenile probation department and who is referred to the applicable juvenile court for approval of the child's transfer to TDCJ. The bill includes such a juvenile board or local juvenile probation department among the required recipients of notice for such a hearing if the child is committed to a post-adjudication secure correctional facility operated by a board or department, and includes the reports and other documents of employees of such a post-adjudication secure correctional facility among the items a court may consider at the hearing. The bill includes among the information a juvenile court judge in a county with a population of 600,000 or more is required to post in a report on the website of the county in which the court is located the total number of children committed by the judge to such a post-adjudication secure correctional facility.

C.S.H.B. 3665 amends the Government Code to make statutory provisions governing the transfer of a person to TDCJ from TJJD applicable to a person transferred to TDCJ from a post-adjudication secure correctional facility operated by or under contract with a juvenile board or local juvenile probation department and to make statutory provisions governing determinate sentence parole applicable to a person transferred to TDCJ for release on parole by such a facility or under the bill's provisions.

C.S.H.B. 3665 applies to a person committed to or serving a sentence in a post-adjudication secure correctional facility on or after the bill's effective date, regardless of whether the underlying conduct giving rise to the commitment and sentence occurred before, on, or after that date.

C.S.H.B. 3665 repeals Section 152.0016(b), Human Resources Code, as added by Chapter 1323 (S.B. 511), Acts of the 83rd Legislature, Regular Session, 2013.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3665 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Sections 51.13 (c) and (d), Family Code, are amended to read as follows:

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

(1) for temporary detention in a jail or lockup pending juvenile court hearing or disposition under conditions meeting the

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 51.13(c) and (d), Family Code, are amended to read as follows:

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

(1) for temporary detention in a jail or lockup pending juvenile court hearing or disposition under conditions meeting the

requirements of Section 51.12;
(2) after transfer for prosecution in criminal court under Section 54.02, unless the juvenile court orders the detention of the child in a certified juvenile detention facility under Section 54.02(h); ~~or~~
(3) after transfer from the Texas Juvenile Justice Department under Section 245.151(c), Human Resources Code; or
(4) after transfer from a post-adjudication secure correctional facility under Section 152.00161(c).
(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 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 for conduct that occurred on or after December 1, 2013, is a final felony conviction only for the purposes of Sections 12.42(a), (b), and (c)(1) or Section 12.425, Penal Code.

SECTION 2. Section 53.045(d), Family Code, is amended.

SECTION 3. Sections 54.11(a), (b), and (d), Family Code, are amended to read as follows:

(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), 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 Sections 152.0016(g) or (j), Human Resources Code, the court shall set a time and place for a hearing on the possible transfer or release of the person, as applicable.
(b) The court shall notify the following of the time and place of the hearing:

requirements of Section 51.12;
(2) after transfer for prosecution in criminal court under Section 54.02, unless the juvenile court orders the detention of the child in a certified juvenile detention facility under Section 54.02(h); ~~[or]~~
(3) after transfer from the Texas Juvenile Justice Department under Section 245.151(c), Human Resources Code; or
(4) after transfer from a post-adjudication secure correctional facility, as that term is defined by Section 54.04011.
(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 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 for conduct that occurred on or after December 1, 2013, is a final felony conviction only for the purposes of Sections 12.42(a), (b), and (c)(1) or Section 12.425, Penal Code.

SECTION 2. Substantially the same as the introduced version.

SECTION 3. Section 54.11, Family Code, is amended by amending Subsections (a), (b), and (d), and adding Subsection (o) to read as follows:

(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), 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) or (j), Human Resources Code, the court shall set a time and place for a hearing on the possible transfer or release of the person, as applicable.
(b) The court shall notify the following of the time and place of the hearing:

(1) the person to be transferred or released under supervision;

(2) the parents of the person;

(3) any legal custodian of the person, including, as applicable, the Texas Juvenile Justice Department or a juvenile probation department under Section 152.0016, Human Resources Code;

(4) the office of the prosecuting attorney that represented the state in the juvenile delinquency proceedings;

(5) the victim of the offense that was included in the delinquent conduct that was a ground for the disposition, or a member of the victim's family; and

(6) any other person who has filed a written request with the court to be notified of a release hearing with respect to the person to be transferred or released under supervision.

(d) 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, or employees of a facility operated under Section 152.0016, Human Resources Code, in addition to the testimony of witnesses. On or before the fifth day 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.

SECTION 4. Section 58.352(a), Family Code, is amended to read as follows:

(a) A juvenile court judge in a county to which this subchapter applies shall post a report on the Internet website of the county in which the court is located. The report must include:

(1) the total number of children committed by the judge to a correctional facility operated by the Texas ~~Youth Commission~~ Juvenile Justice Department; ~~and~~

(2) the total number of children committed by the judge to a facility operated under Section 152.0016, Human Resources Code,

(1) the person to be transferred or released under supervision;

(2) the parents of the person;

(3) any legal custodian of the person, including the Texas Juvenile Justice Department or a juvenile board or local juvenile probation department if the child is committed to a post-adjudication secure correctional facility;

(4) the office of the prosecuting attorney that represented the state in the juvenile delinquency proceedings;

(5) the victim of the offense that was included in the delinquent conduct that was a ground for the disposition, or a member of the victim's family; and

(6) any other person who has filed a written request with the court to be notified of a release hearing with respect to the person to be transferred or released under supervision.

(d) 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, or employees of a post-adjudication secure correctional facility 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.

(o) In this section, "post-adjudication secure correctional facility" has the meaning assigned by Section 54.04011.

SECTION 4. Section 58.352(a), Family Code, is amended to read as follows:

(a) A juvenile court judge in a county to which this subchapter applies shall post a report on the Internet website of the county in which the court is located. The report must include:

(1) the total number of children committed by the judge to:

(A) a correctional facility operated by the Texas Juvenile Justice Department [Youth Commission]; or

(B) a post-adjudication secure correctional facility as that term is defined by Section 54.04011; and

if applicable; and

(23) for each child committed to a facility described by Subdivision (1) or (2):

(A) a general description of the offense committed by the child or the conduct of the child that led to the child's commitment to the facility;

(B) the year the child was committed to the facility; and

(C) the age range, race, and gender of the child.

SECTION 5. Section 499.053, Government Code, is amended to read as follows:

Sec. 499.053. TRANSFERS FROM TEXAS JUVENILE JUSTICE DEPARTMENT OR A POST-ADJUDICATION SECURE CORRECTIONAL FACILITY.

(a) The department shall accept persons transferred to the department from the Texas Juvenile Justice Department under Section 245.151, Human Resources Code,

or a post-adjudication secure correctional facility under Section 152.00161, Human Resources Code.

(b) A person transferred to the department from the Texas Juvenile Justice Department or a post-adjudication secure correctional facility is entitled to credit on the person's sentence for the time served in the custody of the Texas Juvenile Justice Department or the juvenile probation department, as applicable.

(c) All laws relating to good conduct time and eligibility for release on parole or mandatory supervision apply to a person transferred to the department by the Texas Juvenile Justice Department or a post-adjudication secure correctional facility as if the time the person

was detained in a detention facility and the time the person served in the custody of the Texas Juvenile Justice Department or the juvenile probation department was time served in the custody of the department.

(2) for each child committed to a facility described by Subdivision (1):

(A) a general description of the offense committed by the child or the conduct of the child that led to the child's commitment to the facility;

(B) the year the child was committed to the facility; and

(C) the age range, race, and gender of the child.

SECTION 5. Section 499.053, Government Code, is amended to read as follows:

Sec. 499.053. TRANSFERS FROM TEXAS JUVENILE JUSTICE DEPARTMENT OR POST-ADJUDICATION SECURE CORRECTIONAL FACILITY.

(a) In this section, "post-adjudication secure correctional facility" has the meaning assigned by Section 152.00011, Human Resources Code.

(a-1) The department shall accept persons transferred to the department from:

(1) the Texas Juvenile Justice Department under Section 245.151, Human Resources Code; or

(2) a post-adjudication secure correctional facility under Section 152.00161, Human Resources Code.

(b) A person transferred to the department from the Texas Juvenile Justice Department or from a post-adjudication secure correctional facility is entitled to credit on the person's sentence for the time served in the custody of the Texas Juvenile Justice Department or the juvenile board or local juvenile probation department, as applicable.

(c) All laws relating to good conduct time and eligibility for release on parole or mandatory supervision apply to a person transferred to the department by the Texas Juvenile Justice Department or by a juvenile board or local juvenile probation department that operates the post-adjudication secure correctional facility as if the time the person was detained in a detention facility and the time the person served in the custody of the Texas Juvenile Justice Department or the juvenile board or local juvenile probation department was time served in the custody of the department.

(d) A person transferred from the Texas Juvenile Justice Department or a post-adjudication secure correctional facility for the offense of capital murder shall become eligible for parole as provided in Section 508.145(d) for an offense listed in Section 3g, Article 42.12, Code of Criminal Procedure, or an offense for which a deadly weapon finding has been made.

SECTION 6. Section 508.003(c), Government Code, is amended to read as follows:

(c) The provisions of this chapter not in conflict with Section 508.156 apply to parole of a person from the Texas ~~Youth Commission~~ Juvenile Justice Department or a post-adjudication secure correctional facility under that section.

SECTION 7. Sections 508.156 (a), (d), (e), and (f), Government Code, are amended to read as follows:

Sec. 508.156. DETERMINATE SENTENCE PAROLE.

(a) Before the release of a person who is transferred under Section 245.051(c), ~~or~~ 245.151(e), 152.0016(g), or 152.00161(e), Human Resources Code, to the department for release on parole, a parole panel shall review the person's records and may interview the person or any other person the panel considers necessary to determine the conditions of parole. The panel may impose any reasonable condition of parole on the person that the panel may impose on an adult inmate under this chapter.

(d) The period of parole for a person released on parole under this section is the term for which the person was sentenced less calendar time served at the Texas ~~Youth Commission~~ Juvenile Justice Department or in the custody of a juvenile probation department as a result of a commitment under Section 54.04011(c)(2), Family Code, and in a juvenile detention facility in connection with the conduct for which the person was adjudicated.

(e) If a parole panel revokes the person's

(d) A person transferred from the Texas Juvenile Justice Department or a post-adjudication secure correctional facility for the offense of capital murder shall become eligible for parole as provided in Section 508.145(d) for an offense listed in Section 3g, Article 42.12, Code of Criminal Procedure, or an offense for which a deadly weapon finding has been made.

SECTION 6. Section 508.003(c), Government Code, is amended to read as follows:

(c) The provisions of this chapter not in conflict with Section 508.156 apply to parole of a person from the Texas Juvenile Justice Department or from a post-adjudication secure correctional facility operated by or under contract with a juvenile board or local juvenile probation department [~~Youth Commission~~] under that section.

SECTION 7. Sections 508.156(a), (d), (e), and (f), Government Code, are amended to read as follows:

(a) Before the release of a person who is transferred under Section 152.0016(g), 152.00161(e), 245.051(c), or 245.151(e), Human Resources Code, to the department for release on parole, a parole panel shall review the person's records and may interview the person or any other person the panel considers necessary to determine the conditions of parole. The panel may impose any reasonable condition of parole on the person that the panel may impose on an adult inmate under this chapter.

(d) The period of parole for a person released on parole under this section is the term for which the person was sentenced less calendar time served at the Texas Juvenile Justice Department or in the custody of a juvenile board or local juvenile probation department following a commitment under Section 54.04011(c)(2), Family Code, [~~Youth Commission~~] and in a juvenile detention facility in connection with the conduct for which the person was adjudicated.

(e) If a parole panel revokes the person's

parole, the panel may require the person to serve the remaining portion of the person's sentence in the institutional division. The remaining portion of the person's sentence is computed without credit for the time from the date of the person's release to the date of revocation. The panel may not recommit the person to the Texas ~~Youth Commission~~ Juvenile Justice Department or to a local juvenile probation department.

(f) For purposes of this chapter, a person released from the Texas ~~Youth Commission~~ Juvenile Justice Department or from a local juvenile probation department on parole under this section is considered to have been convicted of the offense for which the person has been adjudicated.

No equivalent provision.

SECTION 8. Section 152.0016, Human Resources Code, is amended to add Subsections (f-1), (f-2), and (g-1) to read as follows:

(f-1) After a child has completed the established minimum length of stay, the juvenile board or local juvenile probation department shall:

(1) discharge the child from the custody of the juvenile board or local juvenile probation department;

(2) release the child under supervision as provided by Subsection (c)(2); or

(3) extend the child's length of stay in the custody of the juvenile board or local juvenile probation department.

(f-2) A child's length of stay may only be extended under Subsection (f-1)(3) on the basis of clear and convincing evidence that:

(1) the child is in need of additional

parole, the panel may require the person to serve the remaining portion of the person's sentence in the institutional division. The remaining portion of the person's sentence is computed without credit for the time from the date of the person's release to the date of revocation. The panel may not recommit the person to the Texas Juvenile Justice Department or to the custody of a juvenile board or local juvenile probation department [~~Youth Commission~~].

(f) For purposes of this chapter, a person released from the Texas Juvenile Justice Department or the custody of a juvenile board or local juvenile probation department [~~Youth Commission~~] on parole under this section is considered to have been convicted of the offense for which the person has been adjudicated.

SECTION 8. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Section 152.00011 to read as follows:

Sec. 152.00011. DEFINITION. In this chapter, "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.

SECTION 9. Section 152.0016, Human Resources Code, as added by Chapter 1323 (S.B. 511), Acts of the 83rd Legislature, Regular Session, 2013, is amended by adding Subsections (f-1), (f-2), and (g-1) and amending Subsections (h) and (i) to read as follows:

(f-1) After a child has completed the minimum length of stay established under Subsection (f), the juvenile board or local juvenile probation department shall:

(1) discharge the child from the custody of the juvenile board or local juvenile probation department;

(2) release the child under supervision as provided by Subsection (c)(2); or

(3) extend the child's length of stay in the custody of the juvenile board or local juvenile probation department.

(f-2) A child's length of stay may only be extended under Subsection (f-1)(3) on the basis of clear and convincing evidence that:

(1) the child is in need of additional

rehabilitation from the local juvenile probation department; and
(2) the post-adjudication secure correctional facility will provide the most suitable environment for that rehabilitation.

(g-1) The local juvenile probation department may request the approval of the court under Subsection (g) at any time.

SECTION 9. Sections 152.0016(h) and (i), Human Resources Code, are amended.

SECTION 10. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Section 152.00161 to read as follows:

Section 152.00161 TERMINATION OF CONTROL. (a) Except as provided by Subsections (b) and (c), if a person is committed to a post-adjudication secure correctional facility under a determinate sentence as provided by Section 54.04011(c)(2), Family Code, the juvenile board or juvenile probation department may not discharge the person from its custody.

(b) The juvenile board or juvenile probation department shall discharge without a court hearing a person committed to the department for a determinate sentence under Section 54.04011(c)(2), Family Code, who has not been transferred to the Texas Department of Criminal Justice under a court order on the date the time spent by the person in detention in connection with the committing offense plus the time spent in the custody of the juvenile probation department under the order of commitment equals the period of the sentence.

(c) The juvenile board or juvenile probation department shall transfer to the Texas Department of Criminal Justice a person who is the subject of an order under Section 152.0016(j) transferring the person to the custody of the Texas Department of Criminal Justice for the completion of the person's sentence.

(d) Except as provided by Subsection (e), the juvenile board or juvenile probation department shall discharge from its custody a person not already discharged on the person's 19th birthday.

(e) The juvenile board or juvenile probation

rehabilitation from the juvenile board or local juvenile probation department; and
(2) the post-adjudication secure correctional facility will provide the most suitable environment for that rehabilitation.

(g-1) The juvenile board or local juvenile probation department may request the approval of the court under Subsection (g) at any time.

(h) and (i) Substantially the same as introduced version.

SECTION 10. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Sections 152.00161, 152.00162, 152.00163, 152.00164, and 152.00165 to read as follows:

Sec. 152.00161. TERMINATION OF CONTROL. (a) Except as provided by Subsections (b) and (c), if a person is committed to a post-adjudication secure correctional facility under a determinate sentence under Section 54.04011(c)(2), Family Code, the juvenile board or local juvenile probation department may not discharge the person from custody.

(b) The juvenile board or local juvenile probation department shall discharge without a court hearing a person committed to the department for a determinate sentence under Section 54.04011(c)(2), Family Code, who has not been transferred to the Texas Department of Criminal Justice under a court order on the date that the time spent by the person in detention in connection with the committing case plus the time spent in the custody of the juvenile board or local juvenile probation department under the order of commitment equals the period of the sentence.

(c) The juvenile board or local juvenile probation department shall transfer to the Texas Department of Criminal Justice a person who is the subject of an order under Section 152.0016(j) transferring the person to the custody of the Texas Department of Criminal Justice for the completion of the person's sentence.

(d) Except as provided by Subsection (e), the juvenile board or local juvenile probation department shall discharge from its custody a person not already discharged on the person's 19th birthday.

(e) The juvenile board or local juvenile

department shall transfer a person who has been sentenced under a determinate sentence to commitment as provided by Section 54.04011(c)(2), Family Code, or who has been returned to the juvenile probation department under Section 54.11(i)(1), Family Code, to the custody of the Texas Department of Criminal Justice on the person's 19th birthday, if the person has not already been discharged or transferred, to serve the remainder of the person's sentence on parole as provided by Section 508.156, Government Code.

SECTION 11. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Section 152.00162 to read as follows:

152.00162 DETERMINATE SENTENCE PAROLE. (a) Not later than the 90th day before the date the juvenile probation department transfers a person to the custody of the Texas Department of Criminal Justice for release on parole supervision under Section 152.0016(g) or 152.00161(e), the juvenile probation department shall submit to the Texas Department of Criminal Justice all pertinent information relating to the person, including:

- (1) the juvenile court judgment;
- (2) the circumstances of the person's offense;
- (3) the person's previous social history and juvenile court records;
- (4) the person's physical and mental health record;
- (5) a record of the person's conduct, employment history, and attitude while committed to the juvenile probation department;
- (6) a record of the sentence time served by the person at the juvenile probation department as a result of a commitment under Section 54.04011(c)(2), Family Code, and in a juvenile detention facility in connection with the conduct for which the person was committed; and

(7) any written comments or information provided by the juvenile probation department, local officials, family members of the person, victims of the offense, or the general public.

(b) The juvenile probation department shall

probation department shall transfer a person who has been sentenced under a determinate sentence to commitment under Section 54.04011(c)(2), Family Code, or who has been returned to the juvenile board or local juvenile probation department under Section 54.11(i)(1), Family Code, to the custody of the Texas Department of Criminal Justice on the person's 19th birthday, if the person has not already been discharged or transferred, to serve the remainder of the person's sentence on parole as provided by Section 508.156, Government Code.

Sec. 152.00162. DETERMINATE SENTENCE PAROLE. (a) Not later than the 90th day before the date the juvenile board or local juvenile probation department transfers a person to the custody of the Texas Department of Criminal Justice for release on parole supervision under Section 152.0016(g) or 152.00161(e), the juvenile board or local juvenile probation department shall submit to the Texas Department of Criminal Justice all pertinent information relating to the person, including:

- (1) the juvenile court judgment;
- (2) the circumstances of the person's offense;
- (3) the person's previous social history and juvenile court records;
- (4) the person's physical and mental health record;
- (5) a record of the person's conduct, employment history, and attitude while committed to the department;
- (6) a record of the sentence time served by the person at the juvenile board or local juvenile probation department as a result of a commitment under Section 54.04011(c)(2), Family Code, and in a juvenile detention facility in connection with the conduct for which the person was adjudicated; and

(7) any written comments or information provided by the juvenile board or local juvenile probation department, local officials, family members of the person, victims of the offense, or the general public.

(b) The juvenile board or local juvenile

provide instruction for parole officers of the Texas Department of Criminal Justice relating to juvenile programs at the juvenile probation department.

The juvenile probation department and the Texas Department of Criminal Justice shall enter into a memorandum of understanding relating to the administration of this subsection.

(c) The Texas Department of Criminal Justice shall grant credit for sentence time served by a person at the juvenile probation department and in a juvenile detention facility, as recorded by the department under Subsection (a)(6), in computing the person's eligibility for parole and discharge from the Texas Department of Criminal Justice.

SECTION 12. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Section 152.00163 to read as follows:

152.00163 CHILD WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY. (a) The juvenile probation department shall accept a child with a mental illness or intellectual disability who is committed to its custody.

(b) Unless a child is committed to the juvenile probation department under a determinate sentence under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, the department shall discharge a child with a mental illness or intellectual disability from its custody if:

- (1) the child has completed the minimum length of stay for the child's committing offense; and
- (2) the juvenile probation department determines that the child is unable to progress in its rehabilitation programs because of the child's mental illness or intellectual disability.

(c) If a child who is discharged from the

probation department shall provide instruction for parole officers of the Texas Department of Criminal Justice relating to juvenile programs provided by the juvenile board or local juvenile probation department.

The juvenile boards and local juvenile probation departments and the Texas Department of Criminal Justice shall enter into a memorandum of understanding relating to the administration of this subsection.

(c) The Texas Department of Criminal Justice shall grant credit for sentence time served by a person in the custody of a juvenile board or local juvenile probation department and in a juvenile detention facility, as recorded by the board or department under Subsection (a)(6), in computing the person's eligibility for parole and discharge from the Texas Department of Criminal Justice.

Sec. 152.00163. CHILD WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITY. (a) A juvenile board or local juvenile probation department shall accept a child with a mental illness or an intellectual disability who is committed to the custody of the board or department.

(b) Unless a child is committed to the custody of a juvenile board or local juvenile probation department under a determinate sentence under Section 54.04011(c)(2), Family Code, the juvenile board or local juvenile probation department shall discharge a child with a mental illness or an intellectual disability from its custody if:

- (1) the child has completed the minimum length of stay for the child's committing offense; and
- (2) the juvenile board or local juvenile probation department determines that the child is unable to progress in the rehabilitation programs provided by the juvenile board or local juvenile probation department because of the child's mental illness or intellectual disability.

(c) If a child who is discharged from the

juvenile probation department under Subsection (b) as a result of mental illness is not receiving court-ordered mental health services, the child's discharge is effective on the earlier of:

(1) the date the court enters an order regarding an application for mental health services filed under Section 152.001631(b);

or

(2) the 30th day after the date the application is filed.

(d) If a child who is discharged from the juvenile probation department under Subsection (b) as a result of mental illness is receiving court-ordered mental health services, the child's discharge is effective immediately. If the child is receiving mental health services outside the child's home county, the juvenile probation department shall notify the mental health authority located in that county of the discharge not later than the 30th day after the date that the child's discharge is effective.

(e) If a child who is discharged from the juvenile probation department under Subsection (b) as a result of an intellectual disability is not receiving intellectual disability services, the child's discharge is effective on the earlier of:

(1) the date the court enters an order regarding an application for intellectual disability services filed under Section 152.001631(b); or

(2) the 30th day after the date that the application is filed.

(f) If a child who is discharged from the juvenile probation department under Subsection (b) as a result of intellectual disability is receiving intellectual disability services, the child's discharge from the department's custody is effective immediately.

(g) If a child with a mental illness or intellectual disability is discharged from the juvenile probation department under Subsection (b), the child is eligible to receive continuity of care services from the Texas Correctional Office on Offenders with Medical or Mental Impairments under Chapter 614, Health and Safety Code.

custody of a juvenile board or local juvenile probation department under Subsection (b) as a result of mental illness is not receiving court-ordered mental health services, the child's discharge is effective on the earlier of:

(1) the date the court enters an order regarding an application for mental health services filed under Section 152.00164(b);

or

(2) the 30th day after the date the application is filed.

(d) If a child who is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b) as a result of mental illness is receiving court-ordered mental health services, the child's discharge is effective immediately. If the child is receiving mental health services outside the child's home county, the juvenile board or local juvenile probation department shall notify the mental health authority located in that county of the discharge not later than the 30th day after the date that the child's discharge is effective.

(e) If a child who is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b) as a result of an intellectual disability is not receiving intellectual disability services, the child's discharge is effective on

the 30th day after the date that the referral is made under Section 152.00164(c).

(f) If a child who is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b) as a result of an intellectual disability is receiving intellectual disability services, the child's discharge is effective immediately.

(g) If a child with a mental illness or an intellectual disability is discharged from the custody of a juvenile board or local juvenile probation department under Subsection (b), the child is eligible to receive continuity of care services from the Texas Correctional Office on Offenders with Medical or Mental Impairments under Chapter 614, Health and Safety Code.

SECTION 13. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Section 152.001631 to read as follows:

Sec. 152.001631. EXAMINATION BEFORE DISCHARGE. (a) The juvenile probation department shall establish a system that identifies children with mental illnesses or intellectual disabilities who are in the department's custody.

(b) Before a child with a mental illness is discharged from the juvenile probation department's custody under Section 152.00163(b), the department shall have a psychiatrist examine the child.

The juvenile probation department shall refer a child requiring outpatient psychiatric treatment to the appropriate mental health authority. For a child requiring inpatient psychiatric treatment, the juvenile probation department shall file a sworn application for court-ordered mental health services, as provided in Subchapter C, Chapter 574, Health and Safety Code, if:

- (1) the child is not receiving court-ordered mental health services; and
- (2) the psychiatrist who examined the child determines that the child has a mental illness and the child meets at least one of the criteria listed in Section 574.034, Health and Safety Code.

(c) Before a child who is identified as having an intellectual disability under Chapter 593, Health and Safety Code, is discharged from the juvenile probation department's custody under Section 152.00163(b), the department shall refer the child for intellectual disability services if the child is not receiving mental health services.

SECTION 14. Subchapter A, Chapter 152, Human Resources Code, is amended by adding Section 152.001632 to read as follows:

Sec. 152.001632. TRANSFER OF CERTAIN CHILDREN SERVING DETERMINATE SENTENCES FOR MENTAL HEALTH SERVICES. (a) The

Sec. 152.00164. EXAMINATION BEFORE DISCHARGE. (a) A juvenile board or local juvenile probation department shall establish a system that identifies children with mental illnesses or intellectual disabilities who are in the custody of the juvenile board or local juvenile probation department.

(b) Before a child who is identified as having a mental illness is discharged from the custody of the juvenile board or local juvenile probation department under Section 152.00163(b), the juvenile board or local juvenile probation department shall arrange for a psychiatrist to examine the child.

The juvenile board or local juvenile probation department shall refer a child requiring outpatient psychiatric treatment to the appropriate mental health authority. For a child requiring inpatient psychiatric treatment, the juvenile board or local juvenile probation department shall file a sworn application for court-ordered mental health services, as provided in Subchapter C, Chapter 574, Health and Safety Code, if:

- (1) the child is not receiving court-ordered mental health services; and
- (2) the psychiatrist who examined the child determines that the child has a mental illness and the child meets at least one of the criteria listed in Section 574.034, Health and Safety Code.

(c) Before a child who is identified as having an intellectual disability under Chapter 593, Health and Safety Code, is discharged from the custody of a juvenile board or local juvenile probation department under Section 152.00163(b), the department shall refer the child for intellectual disability services if the child is not receiving intellectual disability services.

Sec. 152.00165. TRANSFER OF CERTAIN CHILDREN SERVING DETERMINATE SENTENCES FOR MENTAL HEALTH SERVICES. (a) A

juvenile probation department may petition the juvenile court that entered the order of commitment for a child for the initiation of mental health commitment proceedings if the child is committed to the department under a determinate sentence under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code.

(b) A petition made by the juvenile probation department shall be treated as a motion under Section 55.11, Family Code, and the juvenile court shall proceed in accordance with Subchapter B, Chapter 55, Family Code.

(c) The juvenile probation department shall cooperate with the juvenile court in any proceeding under this section.

(d) The juvenile court shall credit to the term of the child's commitment to the juvenile probation department any time the child is committed to an inpatient mental health facility.

(e) A child committed to an inpatient mental health facility as a result of a petition filed under this section may not be released from the facility on a pass or furlough.

(f) If the term of an order committing a child to an inpatient mental health facility is scheduled to expire before the end of the child's sentence and another order committing the child to an inpatient mental health facility is not scheduled to be entered, the inpatient mental health facility shall notify the juvenile court that entered the order of commitment committing the child to the juvenile probation department. The juvenile court may transfer the child to the custody of the juvenile probation department, transfer the child to the Texas Department of Criminal Justice, or release the child under supervision, as appropriate.

No equivalent provision.

juvenile board or local juvenile probation department may petition the juvenile court that entered the order of commitment for a child for the initiation of mental health commitment proceedings if the child is committed to the custody of the juvenile board or local juvenile probation department under a determinate sentence under Section 54.04011(c)(2), Family Code.

(b) A petition made by a juvenile board or local juvenile probation department shall be treated as a motion under Section 55.11, Family Code, and the juvenile court shall proceed in accordance with Subchapter B, Chapter 55, Family Code.

(c) A juvenile board or local juvenile probation department shall cooperate with the juvenile court in any proceeding under this section.

(d) The juvenile court shall credit to the term of the child's commitment to a juvenile board or local juvenile probation department any time the child is committed to an inpatient mental health facility.

(e) A child committed to an inpatient mental health facility as a result of a petition filed under this section may not be released from the facility on a pass or furlough.

(f) If the term of an order committing a child to an inpatient mental health facility is scheduled to expire before the end of the child's sentence and another order committing the child to an inpatient mental health facility is not scheduled to be entered, the inpatient mental health facility shall notify the juvenile court that entered the order of commitment committing the child to a juvenile board or local juvenile probation department. The juvenile court may transfer the child to the custody of the juvenile board or local juvenile probation department, transfer the child to the Texas Department of Criminal Justice, or release the child under supervision, as appropriate.

SECTION 11. (a) Section 261.101, Human Resources Code, is amended by adding Subsections (a-1) and (f) and amending Subsection (e) to read as follows:

(a-1) The independent ombudsman shall perform the duties required under Subsection (a) with respect to children committed to the department and children committed to a post-adjudication secure

correctional facility under Section 54.04011, Family Code.

(e) Notwithstanding any other provision of this chapter, the powers of the office are limited to:

(1) facilities operated and services provided by the department under Subtitle C; and

(2) post-adjudication correctional facilities under Section 152.0016.

(f) This subsection and Subsections (a-1) and (e) expire December 31, 2018.

(b) Effective January 1, 2019, Section 261.101, Human Resources Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding any other provision of this chapter, the powers of the office are limited to facilities operated and services provided by the department under Subtitle C.

No equivalent provision.

SECTION 12. Section 152.0016(b), Human Resources Code, as added by Chapter 1323 (S.B. 511), Acts of the 83rd Legislature, Regular Session, 2013, is repealed.

No equivalent provision.

SECTION 13. The change in law made by this Act applies to a person committed to or serving a sentence in a post-adjudication secure correctional facility on or after the effective date of this Act, regardless of whether the underlying conduct giving rise to the commitment and sentence occurred before, on, or after that date.

SECTION 15. This Act takes effect September 1, 2015.

SECTION 14. Same as introduced version.