

1-1 By: Watson S.B. No. 1149
 1-2 (In the Senate - Filed March 10, 2015; March 17, 2015, read
 1-3 first time and referred to Committee on Criminal Justice;
 1-4 April 20, 2015, reported favorably by the following vote: Yeas 6,
 1-5 Nays 0; April 20, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Whitmire	X			
1-8 Huffman	X			
1-9 Burton	X			
1-10 Creighton	X			
1-11 Hinojosa	X			
1-12 Menéndez	X			
1-13 Perry			X	

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the commitment of certain juveniles to local
 1-18 post-adjudication secure correctional facilities in certain
 1-19 counties and to the release under supervision of those juveniles.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Sections 51.13(c) and (d), Family Code, are
 1-22 amended to read as follows:

1-23 (c) A child may not be committed or transferred to a penal
 1-24 institution or other facility used primarily for the execution of
 1-25 sentences of persons convicted of crime, except:

1-26 (1) for temporary detention in a jail or lockup
 1-27 pending juvenile court hearing or disposition under conditions
 1-28 meeting the requirements of Section 51.12;

1-29 (2) after transfer for prosecution in criminal court
 1-30 under Section 54.02, unless the juvenile court orders the detention
 1-31 of the child in a certified juvenile detention facility under
 1-32 Section 54.02(h); ~~or~~

1-33 (3) after transfer from the Texas Juvenile Justice
 1-34 Department under Section 245.151(c), Human Resources Code; or

1-35 (4) after transfer from a post-adjudication secure
 1-36 correctional facility under Section 152.00161(c), Human Resources
 1-37 Code.

1-38 (d) An adjudication under Section 54.03 that a child engaged
 1-39 in conduct that occurred on or after January 1, 1996, and that
 1-40 constitutes a felony offense resulting in commitment to the Texas
 1-41 Juvenile Justice Department under Section 54.04(d)(2), (d)(3), or
 1-42 (m) or 54.05(f) or commitment to a post-adjudication secure
 1-43 correctional facility under Section 54.04011 for conduct that
 1-44 occurred on or after December 1, 2013, is a final felony conviction
 1-45 only for the purposes of Sections 12.42(a), (b), and (c)(1) or
 1-46 Section 12.425, Penal Code.

1-47 SECTION 2. Section 53.045(d), Family Code, is amended to
 1-48 read as follows:

1-49 (d) If the grand jury approves of the petition, the fact of
 1-50 approval shall be certified to the juvenile court, and the
 1-51 certification shall be entered in the record of the case. For the
 1-52 purpose of the transfer of a child to the Texas Department of
 1-53 Criminal Justice as provided by Section 245.151(c) or 152.00161(c),
 1-54 Human Resources Code, a juvenile court petition approved by a grand
 1-55 jury under this section is an indictment presented by the grand
 1-56 jury.

1-57 SECTION 3. Sections 54.11(a), (b), and (d), Family Code,
 1-58 are amended to read as follows:

1-59 (a) On receipt of a referral under Section 244.014(a), Human
 1-60 Resources Code, for the transfer to the Texas Department of
 1-61 Criminal Justice of a person committed to the Texas Juvenile

2-1 Justice Department under Section 54.04(d)(3), 54.04(m), or
 2-2 54.05(f), on receipt of a request by the Texas Juvenile Justice
 2-3 Department under Section 245.051(d), Human Resources Code, for
 2-4 approval of the release under supervision of a person committed to
 2-5 the Texas Juvenile Justice Department under Section 54.04(d)(3),
 2-6 54.04(m), or 54.05(f), or on receipt of a referral under Sections
 2-7 ~~[Section]~~ 152.0016(g) or (j), Human Resources Code, the court shall
 2-8 set a time and place for a hearing on the possible transfer or
 2-9 release of the person, as applicable.

2-10 (b) The court shall notify the following of the time and
 2-11 place of the hearing:

2-12 (1) the person to be transferred or released under
 2-13 supervision;

2-14 (2) the parents of the person;

2-15 (3) any legal custodian of the person, including, as
 2-16 applicable, the Texas Juvenile Justice Department or a juvenile
 2-17 probation department under Section 152.0016, Human Resources Code;

2-18 (4) the office of the prosecuting attorney that
 2-19 represented the state in the juvenile delinquency proceedings;

2-20 (5) the victim of the offense that was included in the
 2-21 delinquent conduct that was a ground for the disposition, or a
 2-22 member of the victim's family; and

2-23 (6) any other person who has filed a written request
 2-24 with the court to be notified of a release hearing with respect to
 2-25 the person to be transferred or released under supervision.

2-26 (d) At a hearing under this section, the court may consider
 2-27 written reports and supporting documents from probation officers,
 2-28 professional court employees, professional consultants, ~~[or]~~
 2-29 employees of the Texas Juvenile Justice Department, or employees of
 2-30 a facility operated under Section 152.0016, Human Resources Code,
 2-31 in addition to the testimony of witnesses. On or before the fifth
 2-32 day before the date of the hearing, the court shall provide the
 2-33 attorney for the person to be transferred or released under
 2-34 supervision with access to all written matter to be considered by
 2-35 the court. All written matter is admissible in evidence at the
 2-36 hearing.

2-37 SECTION 4. Section 58.352(a), Family Code, is amended to
 2-38 read as follows:

2-39 (a) A juvenile court judge in a county to which this
 2-40 subchapter applies shall post a report on the Internet website of
 2-41 the county in which the court is located. The report must include:

2-42 (1) the total number of children committed by the
 2-43 judge to a correctional facility operated by the Texas Juvenile
 2-44 Justice Department ~~[Youth Commission]~~; ~~[and]~~

2-45 (2) the total number of children committed by the
 2-46 judge to a facility operated under Section 152.0016, Human
 2-47 Resources Code, if applicable; and

2-48 (3) for each child committed to a facility described
 2-49 by Subdivision (1) or (2):

2-50 (A) a general description of the offense
 2-51 committed by the child or the conduct of the child that led to the
 2-52 child's commitment to the facility;

2-53 (B) the year the child was committed to the
 2-54 facility; and

2-55 (C) the age range, race, and gender of the child.

2-56 SECTION 5. Section 499.053, Government Code, is amended to
 2-57 read as follows:

2-58 Sec. 499.053. TRANSFERS FROM TEXAS JUVENILE JUSTICE
 2-59 DEPARTMENT OR A POST-ADJUDICATION SECURE CORRECTIONAL FACILITY.

2-60 (a) The department shall accept persons transferred to the
 2-61 department from the Texas Juvenile Justice Department under Section
 2-62 245.151, Human Resources Code, or a post-adjudication secure
 2-63 correctional facility under Section 152.00161, Human Resources
 2-64 Code.

2-65 (b) A person transferred to the department from the Texas
 2-66 Juvenile Justice Department or a post-adjudication secure
 2-67 correctional facility is entitled to credit on the person's
 2-68 sentence for the time served in the custody of the Texas Juvenile
 2-69 Justice Department or the juvenile probation department, as

3-1 applicable.

3-2 (c) All laws relating to good conduct time and eligibility
 3-3 for release on parole or mandatory supervision apply to a person
 3-4 transferred to the department by the Texas Juvenile Justice
 3-5 Department or a post-adjudication secure correctional facility as
 3-6 if the time the person was detained in a detention facility and the
 3-7 time the person served in the custody of the Texas Juvenile Justice
 3-8 Department or the juvenile probation department was time served in
 3-9 the custody of the department.

3-10 (d) A person transferred from the Texas Juvenile Justice
 3-11 Department or a post-adjudication secure correctional facility for
 3-12 the offense of capital murder shall become eligible for parole as
 3-13 provided in Section 508.145(d) for an offense listed in Section 3g,
 3-14 Article 42.12, Code of Criminal Procedure, or an offense for which a
 3-15 deadly weapon finding has been made.

3-16 SECTION 6. Section 508.003(c), Government Code, is amended
 3-17 to read as follows:

3-18 (c) The provisions of this chapter not in conflict with
 3-19 Section 508.156 apply to parole of a person from the Texas Juvenile
 3-20 Justice Department or a post-adjudication secure correctional
 3-21 facility [~~Youth Commission~~] under that section.

3-22 SECTION 7. Sections 508.156(a), (d), (e), and (f),
 3-23 Government Code, are amended to read as follows:

3-24 (a) Before the release of a person who is transferred under
 3-25 Section 245.051(c), [~~or~~] 245.151(e), 152.0016(g), or 152.00161(e),
 3-26 Human Resources Code, to the department for release on parole, a
 3-27 parole panel shall review the person's records and may interview
 3-28 the person or any other person the panel considers necessary to
 3-29 determine the conditions of parole. The panel may impose any
 3-30 reasonable condition of parole on the person that the panel may
 3-31 impose on an adult inmate under this chapter.

3-32 (d) The period of parole for a person released on parole
 3-33 under this section is the term for which the person was sentenced
 3-34 less calendar time served at the Texas Juvenile Justice Department
 3-35 or in the custody of a juvenile probation department as a result of
 3-36 a commitment under Section 54.04011(c)(2), Family Code, [~~Youth~~
 3-37 ~~Commission~~] and in a juvenile detention facility in connection with
 3-38 the conduct for which the person was adjudicated.

3-39 (e) If a parole panel revokes the person's parole, the panel
 3-40 may require the person to serve the remaining portion of the
 3-41 person's sentence in the institutional division. The remaining
 3-42 portion of the person's sentence is computed without credit for the
 3-43 time from the date of the person's release to the date of
 3-44 revocation. The panel may not recommit the person to the Texas
 3-45 Juvenile Justice Department or to a local juvenile probation
 3-46 department [~~Youth Commission~~].

3-47 (f) For purposes of this chapter, a person released from the
 3-48 Texas Juvenile Justice Department or from a local juvenile
 3-49 probation department [~~Youth Commission~~] on parole under this
 3-50 section is considered to have been convicted of the offense for
 3-51 which the person has been adjudicated.

3-52 SECTION 8. Section 152.0016, Human Resources Code, is
 3-53 amended to add Subsections (f-1), (f-2), and (g-1) to read as
 3-54 follows:

3-55 (f-1) After a child has completed the established minimum
 3-56 length of stay, the juvenile board or local juvenile probation
 3-57 department shall:

3-58 (1) discharge the child from the custody of the
 3-59 juvenile board or local juvenile probation department;

3-60 (2) release the child under supervision as provided by
 3-61 Subsection (c)(2); or

3-62 (3) extend the child's length of stay in the custody of
 3-63 the juvenile board or local juvenile probation department.

3-64 (f-2) A child's length of stay may only be extended under
 3-65 Subsection (f-1)(3) on the basis of clear and convincing evidence
 3-66 that:

3-67 (1) the child is in need of additional rehabilitation
 3-68 from the local juvenile probation department; and

3-69 (2) the post-adjudication secure correctional

4-1 facility will provide the most suitable environment for that
 4-2 rehabilitation.

4-3 (g-1) The local juvenile probation department may request
 4-4 the approval of the court under Subsection (g) at any time.

4-5 SECTION 9. Sections 152.0016(h) and (i), Human Resources
 4-6 Code, are amended to read as follows:

4-7 (h) The juvenile board or local juvenile probation
 4-8 department may release a child who has been committed to a
 4-9 post-adjudication secure correctional facility with a determinate
 4-10 sentence under Section 54.04011(c)(2), Family Code, under
 4-11 supervision without approval of the juvenile court that entered the
 4-12 order of commitment if not more than nine months remain before the
 4-13 child's discharge under Section 152.00161(b) [~~as provided by~~
 4-14 Section ~~245.051(g)~~].

4-15 (i) The juvenile board or local juvenile probation
 4-16 department may resume the care and custody of any child released
 4-17 under supervision at any time before the final discharge of the
 4-18 child in accordance with the rules governing the Texas Juvenile
 4-19 Justice Department regarding resumption of care. Sections 243.051
 4-20 and 245.051(f) are applicable to a child who has been committed to a
 4-21 post-adjudication secure correctional facility under Section
 4-22 54.04011(c), Family Code, and who has escaped or broken the
 4-23 conditions of release under supervision, as applicable. A hearing
 4-24 examiner who conducts a revocation under this subsection has the
 4-25 same subpoena authority as provided to a hearing officer at the
 4-26 Texas Juvenile Justice Department under Section 203.008.

4-27 SECTION 10. Subchapter A, Chapter 152, Human Resources
 4-28 Code, is amended by adding Section 152.00161 to read as follows:

4-29 Sec. 152.00161. TERMINATION OF CONTROL. (a) Except as
 4-30 provided by Subsections (b) and (c), if a person is committed to a
 4-31 post-adjudication secure correctional facility under a determinate
 4-32 sentence as provided by Section 54.04011(c)(2), Family Code, the
 4-33 juvenile board or juvenile probation department may not discharge
 4-34 the person from its custody.

4-35 (b) The juvenile board or juvenile probation department
 4-36 shall discharge without a court hearing a person committed to the
 4-37 department for a determinate sentence under Section
 4-38 54.04011(c)(2), Family Code, who has not been transferred to the
 4-39 Texas Department of Criminal Justice under a court order on the date
 4-40 the time spent by the person in detention in connection with the
 4-41 committing offense plus the time spent in the custody of the
 4-42 juvenile probation department under the order of commitment equals
 4-43 the period of the sentence.

4-44 (c) The juvenile board or juvenile probation department
 4-45 shall transfer to the Texas Department of Criminal Justice a person
 4-46 who is the subject of an order under Section 152.0016(j)
 4-47 transferring the person to the custody of the Texas Department of
 4-48 Criminal Justice for the completion of the person's sentence.

4-49 (d) Except as provided by Subsection (e), the juvenile board
 4-50 or juvenile probation department shall discharge from its custody a
 4-51 person not already discharged on the person's 19th birthday.

4-52 (e) The juvenile board or juvenile probation department
 4-53 shall transfer a person who has been sentenced under a determinate
 4-54 sentence to commitment as provided by Section 54.04011(c)(2),
 4-55 Family Code, or who has been returned to the juvenile probation
 4-56 department under Section 54.11(i)(1), Family Code, to the custody
 4-57 of the Texas Department of Criminal Justice on the person's 19th
 4-58 birthday, if the person has not already been discharged or
 4-59 transferred, to serve the remainder of the person's sentence on
 4-60 parole as provided by Section 508.156, Government Code.

4-61 SECTION 11. Subchapter A, Chapter 152, Human Resources
 4-62 Code, is amended by adding Section 152.00162 to read as follows:

4-63 Sec. 152.00162. DETERMINATE SENTENCE PAROLE. (a) Not
 4-64 later than the 90th day before the date the juvenile probation
 4-65 department transfers a person to the custody of the Texas
 4-66 Department of Criminal Justice for release on parole supervision
 4-67 under Section 152.0016(g) or 152.00161(e), the juvenile probation
 4-68 department shall submit to the Texas Department of Criminal Justice
 4-69 all pertinent information relating to the person, including:

5-1 (1) the juvenile court judgment;
5-2 (2) the circumstances of the person's offense;
5-3 (3) the person's previous social history and juvenile
5-4 court records;
5-5 (4) the person's physical and mental health record;
5-6 (5) a record of the person's conduct, employment
5-7 history, and attitude while committed to the juvenile probation
5-8 department;
5-9 (6) a record of the sentence time served by the person
5-10 at the juvenile probation department as a result of a commitment
5-11 under Section 54.04011(c)(2), Family Code, and in a juvenile
5-12 detention facility in connection with the conduct for which the
5-13 person was committed; and

5-14 (7) any written comments or information provided by
5-15 the juvenile probation department, local officials, family members
5-16 of the person, victims of the offense, or the general public.

5-17 (b) The juvenile probation department shall provide
5-18 instruction for parole officers of the Texas Department of Criminal
5-19 Justice relating to juvenile programs at the juvenile probation
5-20 department. The juvenile probation department and the Texas
5-21 Department of Criminal Justice shall enter into a memorandum of
5-22 understanding relating to the administration of this subsection.

5-23 (c) The Texas Department of Criminal Justice shall grant
5-24 credit for sentence time served by a person at the juvenile
5-25 probation department and in a juvenile detention facility, as
5-26 recorded by the department under Subsection (a)(6), in computing
5-27 the person's eligibility for parole and discharge from the Texas
5-28 Department of Criminal Justice.

5-29 SECTION 12. Subchapter A, Chapter 152, Human Resources
5-30 Code, is amended by adding Section 152.00163 to read as follows:

5-31 Sec. 152.00163. CHILD WITH MENTAL ILLNESS OR INTELLECTUAL
5-32 DISABILITY. (a) The juvenile probation department shall accept a
5-33 child with a mental illness or intellectual disability who is
5-34 committed to its custody.

5-35 (b) Unless a child is committed to the juvenile probation
5-36 department under a determinate sentence under Section 54.04(d)(3),
5-37 54.04(m), or 54.05(f), Family Code, the department shall discharge
5-38 a child with a mental illness or intellectual disability from its
5-39 custody if:

5-40 (1) the child has completed the minimum length of stay
5-41 for the child's committing offense; and

5-42 (2) the juvenile probation department determines that
5-43 the child is unable to progress in its rehabilitation programs
5-44 because of the child's mental illness or intellectual disability.

5-45 (c) If a child who is discharged from the juvenile probation
5-46 department under Subsection (b) as a result of mental illness is not
5-47 receiving court-ordered mental health services, the child's
5-48 discharge is effective on the earlier of:

5-49 (1) the date the court enters an order regarding an
5-50 application for mental health services filed under Section
5-51 152.001631(b); or

5-52 (2) the 30th day after the date the application is
5-53 filed.

5-54 (d) If a child who is discharged from the juvenile probation
5-55 department under Subsection (b) as a result of mental illness is
5-56 receiving court-ordered mental health services, the child's
5-57 discharge is effective immediately. If the child is receiving
5-58 mental health services outside the child's home county, the
5-59 juvenile probation department shall notify the mental health
5-60 authority located in that county of the discharge not later than the
5-61 30th day after the date that the child's discharge is effective.

5-62 (e) If a child who is discharged from the juvenile probation
5-63 department under Subsection (b) as a result of an intellectual
5-64 disability is not receiving intellectual disability services, the
5-65 child's discharge is effective on the earlier of:

5-66 (1) the date the court enters an order regarding an
5-67 application for intellectual disability services filed under
5-68 Section 152.001631(b); or

5-69 (2) the 30th day after the date that the application is

6-1 filed.

6-2 (f) If a child who is discharged from the juvenile probation
 6-3 department under Subsection (b) as a result of intellectual
 6-4 disability is receiving intellectual disability services, the
 6-5 child's discharge from the department's custody is effective
 6-6 immediately.

6-7 (g) If a child with a mental illness or intellectual
 6-8 disability is discharged from the juvenile probation department
 6-9 under Subsection (b), the child is eligible to receive continuity
 6-10 of care services from the Texas Correctional Office on Offenders
 6-11 with Medical or Mental Impairments under Chapter 614, Health and
 6-12 Safety Code.

6-13 SECTION 13. Subchapter A, Chapter 152, Human Resources
 6-14 Code, is amended by adding Section 152.001631 to read as follows:

6-15 Sec. 152.001631. EXAMINATION BEFORE DISCHARGE. (a) The
 6-16 juvenile probation department shall establish a system that
 6-17 identifies children with mental illnesses or intellectual
 6-18 disabilities who are in the department's custody.

6-19 (b) Before a child with a mental illness is discharged from
 6-20 the juvenile probation department's custody under Section
 6-21 152.00163(b), the department shall have a psychiatrist examine the
 6-22 child. The juvenile probation department shall refer a child
 6-23 requiring outpatient psychiatric treatment to the appropriate
 6-24 mental health authority. For a child requiring inpatient
 6-25 psychiatric treatment, the juvenile probation department shall
 6-26 file a sworn application for court-ordered mental health services,
 6-27 as provided in Subchapter C, Chapter 574, Health and Safety Code,
 6-28 if:

6-29 (1) the child is not receiving court-ordered mental
 6-30 health services; and

6-31 (2) the psychiatrist who examined the child determines
 6-32 that the child has a mental illness and the child meets at least one
 6-33 of the criteria listed in Section 574.034, Health and Safety Code.

6-34 (c) Before a child who is identified as having an
 6-35 intellectual disability under Chapter 593, Health and Safety Code,
 6-36 is discharged from the juvenile probation department's custody
 6-37 under Section 152.00163(b), the department shall refer the child
 6-38 for intellectual disability services if the child is not receiving
 6-39 mental health services.

6-40 SECTION 14. Subchapter A, Chapter 152, Human Resources
 6-41 Code, is amended by adding Section 152.001632 to read as follows:

6-42 Sec. 152.001632. TRANSFER OF CERTAIN CHILDREN SERVING
 6-43 DETERMINATE SENTENCES FOR MENTAL HEALTH SERVICES. (a) The
 6-44 juvenile probation department may petition the juvenile court that
 6-45 entered the order of commitment for a child for the initiation of
 6-46 mental health commitment proceedings if the child is committed to
 6-47 the department under a determinate sentence under Section
 6-48 54.04(d)(3), 54.04(m), or 54.05(f), Family Code.

6-49 (b) A petition made by the juvenile probation department
 6-50 shall be treated as a motion under Section 55.11, Family Code, and
 6-51 the juvenile court shall proceed in accordance with Subchapter B,
 6-52 Chapter 55, Family Code.

6-53 (c) The juvenile probation department shall cooperate with
 6-54 the juvenile court in any proceeding under this section.

6-55 (d) The juvenile court shall credit to the term of the
 6-56 child's commitment to the juvenile probation department any time
 6-57 the child is committed to an inpatient mental health facility.

6-58 (e) A child committed to an inpatient mental health facility
 6-59 as a result of a petition filed under this section may not be
 6-60 released from the facility on a pass or furlough.

6-61 (f) If the term of an order committing a child to an
 6-62 inpatient mental health facility is scheduled to expire before the
 6-63 end of the child's sentence and another order committing the child
 6-64 to an inpatient mental health facility is not scheduled to be
 6-65 entered, the inpatient mental health facility shall notify the
 6-66 juvenile court that entered the order of commitment committing the
 6-67 child to the juvenile probation department. The juvenile court may
 6-68 transfer the child to the custody of the juvenile probation
 6-69 department, transfer the child to the Texas Department of Criminal

7-1 Justice, or release the child under supervision, as appropriate.
7-2 SECTION 15. This Act takes effect September 1, 2015.

7-3

* * * * *