

1-1 By: Whitmire S.B. No. 2190  
 1-2 (In the Senate - Filed April 7, 2021; April 12, 2021, read  
 1-3 first time and referred to Committee on Criminal Justice;  
 1-4 April 21, 2021, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 6, Nays 0; April 21, 2021,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Whitmire	X			
1-9 Huffman	X			
1-10 Bettencourt	X			
1-11 Birdwell	X			
1-12 Hinojosa	X			
1-13 Miles			X	
1-14 Nichols	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 2190 By: Whitmire

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the prosecution and detention of a juvenile who engages  
 1-20 in delinquent conduct or commits a felony offense while committed  
 1-21 to the custody of the Texas Juvenile Justice Department.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 53.045(a), Family Code, is amended to  
 1-24 read as follows:

1-25 (a) Except as provided by Subsection (e), the prosecuting  
 1-26 attorney may refer the petition to the grand jury of the county in  
 1-27 which the court in which the petition is filed presides if the  
 1-28 petition alleges that the child engaged in delinquent conduct that:

1-29 (1) constitutes habitual felony conduct as described  
 1-30 by Section 51.031;

1-31 (2) ~~for that~~ included the violation of any of the  
 1-32 following provisions:

1-33 (A) ~~[(1)]~~ Section 19.02, Penal Code (murder);

1-34 (B) ~~[(2)]~~ Section 19.03, Penal Code (capital  
 1-35 murder);

1-36 (C) ~~[(3)]~~ Section 19.04, Penal Code  
 1-37 (manslaughter);

1-38 (D) ~~[(4)]~~ Section 20.04, Penal Code (aggravated  
 1-39 kidnapping);

1-40 (E) ~~[(5)]~~ Section 22.011, Penal Code (sexual  
 1-41 assault) or Section 22.021, Penal Code (aggravated sexual assault);

1-42 (F) ~~[(6)]~~ Section 22.02, Penal Code (aggravated  
 1-43 assault);

1-44 (G) ~~[(7)]~~ Section 29.03, Penal Code (aggravated  
 1-45 robbery);

1-46 (H) ~~[(8)]~~ Section 22.04, Penal Code (injury to a  
 1-47 child, elderly individual, or disabled individual), if the offense  
 1-48 is punishable as a felony, other than a state jail felony;

1-49 (I) ~~[(9)]~~ Section 22.05(b), Penal Code (felony  
 1-50 deadly conduct involving discharging a firearm);

1-51 (J) ~~[(10)]~~ Subchapter D, Chapter 481, Health and  
 1-52 Safety Code, if the conduct constitutes a felony of the first degree  
 1-53 or an aggravated controlled substance felony (certain offenses  
 1-54 involving controlled substances);

1-55 (K) ~~[(11)]~~ Section 15.03, Penal Code (criminal  
 1-56 solicitation);

1-57 (L) ~~[(12)]~~ Section 21.11(a)(1), Penal Code  
 1-58 (indecent with a child);

1-59 (M) ~~[(13)]~~ Section 15.031, Penal Code (criminal  
 1-60 solicitation of a minor);

2-1 (N) [~~(14)~~] Section 15.01, Penal Code (criminal  
2-2 attempt), if the offense attempted was an offense under Section  
2-3 19.02, Penal Code (murder), or Section 19.03, Penal Code (capital  
2-4 murder), or an offense listed by Article 42A.054(a), Code of  
2-5 Criminal Procedure;

2-6 (O) [~~(15)~~] Section 28.02, Penal Code (arson), if  
2-7 bodily injury or death is suffered by any person by reason of the  
2-8 commission of the conduct;

2-9 (P) [~~(16)~~] Section 49.08, Penal Code  
2-10 (intoxication manslaughter); or

2-11 (Q) [~~(17)~~] Section 15.02, Penal Code (criminal  
2-12 conspiracy), if the offense made the subject of the criminal  
2-13 conspiracy includes a violation of any of the provisions referenced  
2-14 in Paragraphs (A) through (P); or

2-15 (3) constitutes a felony of the first, second, or  
2-16 third degree committed while the child was committed to the Texas  
2-17 Juvenile Justice Department [Subdivisions (1) through (16)].

2-18 SECTION 2. Section 245.101, Human Resources Code, is  
2-19 amended by amending Subsection (a) and adding Subsection (a-1) to  
2-20 read as follows:

2-21 (a) Except as provided by Subsection (a-1), after [After] a  
2-22 child who is committed to the department without a determinate  
2-23 sentence completes the minimum length of stay established by the  
2-24 department for the child under Section 243.002, the department  
2-25 shall, in the manner provided by this section and Section 245.102:

2-26 (1) discharge the child from the custody of the  
2-27 department;

2-28 (2) release the child under supervision under Section  
2-29 245.051; or

2-30 (3) extend the length of the child's stay in the  
2-31 custody of the department.

2-32 (a-1) The department may not discharge a child from the  
2-33 custody of the department or release a child under supervision as  
2-34 provided by Subsection (a) if the child:

2-35 (1) is alleged by a pending petition to have engaged in  
2-36 delinquent conduct during the child's commitment to the department;  
2-37 or

2-38 (2) is under indictment for a felony committed during  
2-39 the child's commitment to the department.

2-40 SECTION 3. Section 245.102(a), Human Resources Code, is  
2-41 amended to read as follows:

2-42 (a) A panel may extend the length of the child's stay as  
2-43 provided by Section 245.101(a)(3) only if:

2-44 (1) the panel determines by majority vote and on the  
2-45 basis of clear and convincing evidence that:

2-46 (A) [~~(1)~~] the child is in need of additional  
2-47 rehabilitation from the department; and

2-48 (B) [~~(2)~~] the department will provide the most  
2-49 suitable environment for that rehabilitation; or

2-50 (2) the child:

2-51 (A) is alleged by a pending petition to have  
2-52 engaged in delinquent conduct during the child's commitment to the  
2-53 department; or

2-54 (B) is under indictment for a felony committed  
2-55 during the child's commitment to the department.

2-56 SECTION 4. This Act applies only to conduct that occurs or  
2-57 an offense committed on or after the effective date of this Act.  
2-58 Conduct that occurs or an offense committed before the effective  
2-59 date of this Act is governed by the law in effect on the date the  
2-60 conduct occurred or the offense was committed, and the former law is  
2-61 continued in effect for that purpose. For the purposes of this  
2-62 section, conduct occurred or an offense was committed before the  
2-63 effective date of this Act if any element of the conduct or offense  
2-64 occurred before that date.

2-65 SECTION 5. This Act takes effect September 1, 2021.

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