

By: Madden

H.B. No. 2807

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the operations and functions of the Texas Youth
3 Commission.

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

5 SECTION 1. Article 2.12, Code of Criminal Procedure, is
6 amended to read as follows:

7 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace
8 officers:

9 (1) sheriffs, their deputies, and those reserve
10 deputies who hold a permanent peace officer license issued under
11 Chapter 1701, Occupations Code;

12 (2) constables, deputy constables, and those reserve
13 deputy constables who hold a permanent peace officer license issued
14 under Chapter 1701, Occupations Code;

15 (3) marshals or police officers of an incorporated
16 city, town, or village, and those reserve municipal police officers
17 who hold a permanent peace officer license issued under Chapter
18 1701, Occupations Code;

19 (4) rangers and officers commissioned by the Public
20 Safety Commission and the Director of the Department of Public
21 Safety;

22 (5) investigators of the district attorneys', criminal
23 district attorneys', and county attorneys' offices;

24 (6) law enforcement agents of the Texas Alcoholic

1 Beverage Commission;

2 (7) each member of an arson investigating unit
3 commissioned by a city, a county, or the state;

4 (8) officers commissioned under Section 37.081,
5 Education Code, or Subchapter E, Chapter 51, Education Code;

6 (9) officers commissioned by the General Services
7 Commission;

8 (10) law enforcement officers commissioned by the
9 Parks and Wildlife Commission;

10 (11) airport police officers commissioned by a city
11 with a population of more than 1.18 million that operates an airport
12 that serves commercial air carriers;

13 (12) airport security personnel commissioned as peace
14 officers by the governing body of any political subdivision of this
15 state, other than a city described by Subdivision (11), that
16 operates an airport that serves commercial air carriers;

17 (13) municipal park and recreational patrolmen and
18 security officers;

19 (14) security officers and investigators commissioned
20 as peace officers by the comptroller;

21 (15) officers commissioned by a water control and
22 improvement district under Section 49.216, Water Code;

23 (16) officers commissioned by a board of trustees
24 under Chapter 54, Transportation Code;

25 (17) investigators commissioned by the Texas Medical
26 [~~State~~] Board [~~of Medical Examiners~~];

27 (18) officers commissioned by the board of managers of

1 the Dallas County Hospital District, the Tarrant County Hospital
2 District, or the Bexar County Hospital District under Section
3 281.057, Health and Safety Code;

4 (19) county park rangers commissioned under
5 Subchapter E, Chapter 351, Local Government Code;

6 (20) investigators employed by the Texas Racing
7 Commission;

8 (21) officers commissioned under Chapter 554,
9 Occupations Code;

10 (22) officers commissioned by the governing body of a
11 metropolitan rapid transit authority under Section 451.108,
12 Transportation Code, or by a regional transportation authority
13 under Section 452.110, Transportation Code;

14 (23) investigators commissioned by the attorney
15 general under Section 402.009, Government Code;

16 (24) security officers and investigators commissioned
17 as peace officers under Chapter 466, Government Code;

18 (25) an officer employed by the [~~Texas~~] Department of
19 State Health Services under Section 431.2471, Health and Safety
20 Code;

21 (26) officers appointed by an appellate court under
22 Subchapter F, Chapter 53, Government Code;

23 (27) officers commissioned by the state fire marshal
24 under Chapter 417, Government Code;

25 (28) an investigator commissioned by the commissioner
26 of insurance under Section 701.104 [~~Article 1.10D~~], Insurance Code;

27 (29) apprehension specialists and inspectors general

1 commissioned by the Texas Youth Commission as officers under
2 Sections 61.0451 and [Section] 61.0931, Human Resources Code;

3 (30) officers appointed by the executive director of
4 the Texas Department of Criminal Justice under Section 493.019,
5 Government Code;

6 (31) investigators commissioned by the Commission on
7 Law Enforcement Officer Standards and Education under Section
8 1701.160, Occupations Code;

9 (32) commission investigators commissioned by the
10 Texas [~~Commission on~~] Private Security Board under Section
11 1702.061(f), Occupations Code;

12 (33) the fire marshal and any officers, inspectors, or
13 investigators commissioned by an emergency services district under
14 Chapter 775, Health and Safety Code; and

15 (34) officers commissioned by the State Board of
16 Dental Examiners under Section 254.013, Occupations Code, subject
17 to the limitations imposed by that section.

18 SECTION 2. Article 104.003(a), Code of Criminal Procedure,
19 is amended to read as follows:

20 (a) In a prosecution of a criminal offense [~~felony~~]
21 committed on property owned or operated by or under contract with
22 [~~while the actor was a prisoner in the custody of~~] the Texas
23 Department of Criminal Justice or the Texas Youth Commission
24 [~~Corrections or a prosecution of an offense committed in the~~
25 ~~department by any person under Chapter 21, Acts of 55th~~
26 ~~Legislature, Regular Session, 1957 (Article 6184m, Vernon's Texas~~
27 ~~Civil Statutes), or Chapter 481, Health and Safety Code, or~~

1 ~~Sections 485.031 through 485.035, Health and Safety Code]~~, the
2 state shall reimburse the county for expenses incurred by the
3 county, in an amount that the court determines to be reasonable, for
4 payment of:

5 (1) salaries and expenses of foreign language
6 interpreters and interpreters for deaf persons whose services are
7 necessary to the prosecution;

8 (2) consultation fees of experts whose assistance is
9 directly related to the prosecution;

10 (3) travel expenses for witnesses;

11 (4) expenses for the food, lodging, and compensation
12 of jurors;

13 (5) compensation of witnesses;

14 (6) the cost of preparation of a statement of facts and
15 a transcript of the trial for purposes of appeal;

16 (7) if the death of a person is an element of the
17 offense, expenses of an inquest relating to the death;

18 (8) food, lodging, and travel expenses incurred by the
19 prosecutor's staff during travel essential to the prosecution of
20 the offense;

21 (9) court reporter's fees; and

22 (10) the cost of special security officers.

23 SECTION 3. Sections 54.04(d), (o), and (u), Family Code,
24 are amended to read as follows:

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

27 (1) the court or jury may, in addition to any order

1 required or authorized under Section 54.041 or 54.042, place the
2 child on probation on such reasonable and lawful terms as the court
3 may determine:

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

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

8 (i) a suitable foster home; or

9 (ii) a suitable public or private
10 institution or agency, except the Texas Youth Commission;

11 (2) if the court or jury found at the conclusion of the
12 adjudication hearing that the child engaged in delinquent conduct
13 that violates a penal law of this state or the United States of the
14 grade of felony [~~or, if the requirements of Subsection (s) or (t)~~
15 ~~are met, of the grade of misdemeanor,~~] and if the petition was not
16 approved by the grand jury under Section 53.045, the court may
17 commit the child to the Texas Youth Commission without a
18 determinate sentence;

19 (3) if the court or jury found at the conclusion of the
20 adjudication hearing that the child engaged in delinquent conduct
21 that included a violation of a penal law listed in Section 53.045(a)
22 and if the petition was approved by the grand jury under Section
23 53.045, the court or jury may sentence the child to commitment in
24 the Texas Youth Commission with a possible transfer to the
25 [~~institutional division or the pardons and paroles division of the]~~
26 Texas Department of Criminal Justice for a term of:

27 (A) not more than 40 years if the conduct

1 constitutes:

- 2 (i) a capital felony;
- 3 (ii) a felony of the first degree; or
- 4 (iii) an aggravated controlled substance
5 felony;

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

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

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

13 (5) if applicable, the court or jury may make a
14 disposition under Subsection (m).

15 (o) In a disposition under this title:

16 (1) a status offender may not, under any
17 circumstances, be committed to the Texas Youth Commission for
18 engaging in conduct that would not, under state or local law, be a
19 crime if committed by an adult;

20 (2) a status offender may not, under any circumstances
21 other than as provided under Subsection (n), be placed in a
22 post-adjudication secure correctional facility; ~~and~~

23 (3) a child adjudicated for contempt of a county,
24 justice, or municipal court order may not, under any circumstances,
25 be placed in a post-adjudication secure correctional facility or
26 committed to the Texas Youth Commission for that conduct; and

27 (4) a child adjudicated as having engaged in

1 delinquent conduct violating a penal law of this state or the United
2 States of the grade of misdemeanor may not, under any
3 circumstances, be committed to the Texas Youth Commission.

4 (u) For the purposes of disposition under Subsection
5 (d)(2), delinquent conduct that violates a penal law of this state
6 of the grade of felony [~~or misdemeanor~~] does not include conduct
7 that violates a lawful order of a county, municipal, justice, or
8 juvenile court under circumstances that would constitute contempt
9 of that court.

10 SECTION 4. Section 54.05(f), Family Code, is amended to
11 read as follows:

12 (f) Except as provided by Subsection (j), a disposition
13 based on a finding that the child engaged in delinquent conduct that
14 violates a penal law of this state or the United States of the grade
15 of felony [~~or, if the requirements of Subsection (k) are met, of the~~
16 ~~grade of misdemeanor,~~] may be modified so as to commit the child to
17 the Texas Youth Commission if the court after a hearing to modify
18 disposition finds by a preponderance of the evidence that the child
19 violated a reasonable and lawful order of the court. A disposition
20 based on a finding that the child engaged in habitual felony conduct
21 as described by Section 51.031 or in delinquent conduct that
22 included a violation of a penal law listed in Section 53.045(a) may
23 be modified to commit the child to the Texas Youth Commission with a
24 possible transfer to the [~~institutional division or the pardons and~~
25 ~~parole division of the~~] Texas Department of Criminal Justice for a
26 definite term prescribed by Section 54.04(d)(3) if the original
27 petition was approved by the grand jury under Section 53.045 and if

1 after a hearing to modify the disposition the court finds that the
2 child violated a reasonable and lawful order of the court.

3 SECTION 5. Section 499.053, Government Code, is amended by
4 adding Subsection (e) to read as follows:

5 (e) Subsections (b), (c), and (d) do not apply to a person
6 transferred from the Texas Youth Commission under Section
7 61.084(h)(3), Human Resources Code.

8 SECTION 6. Section 508.156(a), Government Code, is amended
9 to read as follows:

10 (a) Before the release of a person who is transferred under
11 Section 61.081(f) or 61.084(g) [~~61.084(f) or (g)~~], Human Resources
12 Code, to the division for release on parole, a parole panel shall
13 review the person's records and may interview the person or any
14 other person the panel considers necessary to determine the
15 conditions of parole. The panel may impose any reasonable
16 condition of parole on the person that the panel may impose on an
17 adult inmate under this chapter.

18 SECTION 7. Subchapter E, Chapter 508, Government Code, is
19 amended by adding Section 508.1561 to read as follows:

20 Sec. 508.1561. PAROLE WITHOUT DETERMINATE SENTENCE. (a)
21 Before the release of a person who is transferred under Section
22 61.084(h)(2), Human Resources Code, to the department for release
23 on parole, a parole panel shall review the person's records and may
24 interview the person or any other person the panel considers
25 necessary to determine the conditions of parole. The panel may
26 impose any reasonable condition of parole on the person that the
27 panel may impose on an adult inmate under this chapter.

1 (b) The panel shall furnish the person with a written
2 statement clearly describing the conditions and rules of parole.
3 The person must accept and sign the statement as a precondition to
4 release on parole.

5 (c) While on parole, the person remains in the legal custody
6 of the state and shall comply with the conditions of parole ordered
7 by a panel under this section.

8 (d) The period of parole for a person released on parole
9 under this section is a term of not more than two years.

10 (e) If a parole panel revokes the person's parole, the panel
11 may require the person to be confined in the department to serve the
12 remaining portion of the person's term. A person serving a term of
13 parole under this section on the basis of conduct violating a penal
14 law of the grade of state jail felony may only be confined in a state
15 jail under this subsection. The panel may not recommit the person to
16 the Texas Youth Commission.

17 (f) For purposes of this chapter, a person released from the
18 Texas Youth Commission on parole under this section is considered
19 to have been convicted of the offense for which the person has been
20 adjudicated.

21 SECTION 8. Sections 61.012(a) and (b), Human Resources
22 Code, are amended to read as follows:

23 (a) The governing board of the Texas Youth Commission
24 consists of five [~~seven~~] members appointed by the governor with the
25 consent of the senate. Appointments to the board shall be made
26 without regard to the race, color, disability, sex, religion, age,
27 or national origin of the appointees.

1 (b) Members of the board must be citizens who are recognized
2 within their communities for their interest in youth. At least one
3 member of the board must be a member of a child advocacy
4 organization and at least one member of the board must be a member
5 of a victim's advocacy organization.

6 SECTION 9. Subchapter C, Chapter 61, Human Resources Code,
7 is amended by adding Section 61.0331 to read as follows:

8 Sec. 61.0331. INTERNAL AUDIT; REPORT. (a) The commission
9 shall regularly conduct internal audits of the commission,
10 including audits of correctional facilities operated by the
11 commission.

12 (b) The commission shall on a quarterly basis report the
13 results of the audits to the committees of the senate and house of
14 representatives with primary jurisdiction over matters concerning
15 correctional facilities.

16 SECTION 10. Subchapter C, Chapter 61, Human Resources Code,
17 is amended by adding Section 61.0451 to read as follows:

18 Sec. 61.0451. OFFICE OF INSPECTOR GENERAL. (a) The
19 commission shall establish an office of inspector general for the
20 purpose of investigating:

21 (1) fraud committed by commission employees,
22 including parole officers employed by or under a contract with the
23 commission; and

24 (2) crimes committed at a facility operated by the
25 commission or at a residential facility operated by another entity
26 under a contract with the commission.

27 (b) The office of inspector general shall report the results

1 of any investigation conducted under this section to the board.

2 (c) The office of inspector general may employ and
3 commission inspectors general as peace officers for the purpose of
4 carrying out the duties described by this section. An inspector
5 general shall have all of the powers and duties given to peace
6 officers under Article 2.13, Code of Criminal Procedure.

7 (d) Peace officers employed and commissioned under
8 Subsection (c) must be certified by the Commission on Law
9 Enforcement Officer Standards and Education under Chapter 1701,
10 Occupations Code.

11 (e) The board shall appoint a commissioned peace officer as
12 chief inspector general. The chief inspector general:

13 (1) is subject to the requirements of this section;
14 and

15 (2) shall report information regarding the operations
16 of the office of inspector general to the board on request of the
17 board.

18 (f) The commission by rule shall establish policies and
19 procedures for the operations of the office of inspector general.

20 SECTION 11. Section 61.079(a), Human Resources Code, is
21 amended to read as follows:

22 (a) After a child sentenced to commitment under Section
23 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 16 years
24 of age but before the child becomes 19 [~~21~~] years of age, the
25 commission may refer the child to the juvenile court that entered
26 the order of commitment for approval of the child's transfer to the
27 [~~institutional division of the~~] Texas Department of Criminal

1 Justice for confinement if:

2 (1) the child has not completed the sentence; and

3 (2) the child's conduct, regardless of whether the
4 child was released under supervision under Section 61.081,
5 indicates that the welfare of the community requires the transfer.

6 SECTION 12. Section 61.084, Human Resources Code, is
7 amended by amending Subsections (e) and (g) and adding Subsections
8 (h) and (i) to read as follows:

9 (e) Except as provided by Subsection [~~(f) or~~] (g) or (h)(2)
10 or (3), the commission shall discharge from its custody a person not
11 already discharged on the person's 19th [~~21st~~] birthday.

12 (g) The commission shall transfer a person who has been
13 sentenced under a determinate sentence to commitment under Section
14 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, or who has been
15 returned to the commission under Section 54.11(i)(1), Family Code,
16 to the custody of the [~~pardons and paroles division of the~~] Texas
17 Department of Criminal Justice on the person's 19th [~~21st~~]
18 birthday, if the person has not already been discharged or
19 transferred, to serve the remainder of the person's sentence on
20 parole as provided by Section 508.156, Government Code.

21 (h) On the 19th birthday of a person who has been committed
22 without a determinate sentence to the custody of the commission
23 under Section 54.04(d)(2), Family Code, the commission shall:

24 (1) discharge the person from the commission's
25 custody;

26 (2) transfer the person to the custody of the Texas
27 Department of Criminal Justice to serve a term of not more than two

1 years on parole as provided by Section 508.1561, Government Code;
2 or

3 (3) transfer the person to the custody of the Texas
4 Department of Criminal Justice to serve a sentence of confinement
5 of not more than two years, with eligibility for release on parole
6 in the manner provided by Section 508.145(f), Government Code.

7 (i) A person transferred to the custody of the Texas
8 Department of Criminal Justice for confinement under Subsection
9 (h)(3) on the basis of conduct violating a penal law of the grade of
10 state jail felony may only be confined in a state jail.

11 SECTION 13. The heading to Section 61.0841, Human Resources
12 Code, is amended to read as follows:

13 Sec. 61.0841. DETERMINATE SENTENCE PAROLE AND PAROLE
14 WITHOUT DETERMINATE SENTENCE.

15 SECTION 14. Section 61.0841(a), Human Resources Code, is
16 amended to read as follows:

17 (a) Not later than the 90th day before the date the
18 commission transfers a person to the custody of [~~the pardons and~~
19 ~~paroles division of~~] the Texas Department of Criminal Justice for
20 release on parole under Section 61.081(f) or 61.084(g) or (h)(2)
21 [~~61.084(f) or (g)~~], the commission shall submit to the department
22 all pertinent information relating to the person, including:

- 23 (1) the juvenile court judgment;
- 24 (2) the circumstances of the person's offense;
- 25 (3) the person's previous social history and juvenile
26 court records;
- 27 (4) the person's physical and mental health record;

1 (5) a record of the person's conduct, employment
2 history, and attitude while committed to the commission;

3 (6) a record of the [~~sentence~~] time served by the
4 person at the commission and in a juvenile detention facility in
5 connection with the conduct for which the person was adjudicated;
6 and

7 (7) any written comments or information provided by
8 the commission, local officials, or victims of the offense.

9 SECTION 15. Subchapter G, Chapter 61, Human Resources Code,
10 is amended by adding Section 61.098 to read as follows:

11 Sec. 61.098. PROSECUTION OF CERTAIN CRIMES OCCURRING AT
12 COMMISSION FACILITY. In a county in which property owned or
13 operated by or under contract with the commission is located, the
14 district attorney, criminal district attorney, or county attorney
15 performing the duties of a district attorney, as appropriate, may
16 request that the special prosecution unit prosecute an offense
17 described under Article 104.003(a), Code of Criminal Procedure,
18 that is committed on that property.

19 SECTION 16. The following laws are repealed:

20 (1) Sections 54.04(s) and (t), Family Code;

21 (2) Section 54.05(k), Family Code; and

22 (3) Section 61.084(f), Human Resources Code.

23 SECTION 17. A person committed to the Texas Youth
24 Commission on the basis of conduct constituting the commission of
25 an offense of the grade of misdemeanor under Section 54.04(d)(2),
26 Family Code, as it existed before the effective date of this Act,
27 must be discharged from the custody of the Texas Youth Commission

1 not later than the person's 19th birthday.

2 SECTION 18. As soon as practicable after the effective date
3 of this Act, the Texas Youth Commission shall establish the office
4 of inspector general as required by Section 61.0451, Human
5 Resources Code, as added by this Act.

6 SECTION 19. This Act takes effect immediately if it
7 receives a vote of two-thirds of all the members elected to each
8 house, as provided by Section 39, Article III, Texas Constitution.
9 If this Act does not receive the vote necessary for immediate
10 effect, this Act takes effect September 1, 2007.