

BILL ANALYSIS

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C.S.S.B. 2190
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Data from the Texas Juvenile Justice Department (TJJD) indicates that, despite a significant decrease in population, violence against staff by juveniles has remained essentially the same. S.B. 2190 amends Texas law to provide law enforcement new tools with which to more effectively and efficiently prosecute juveniles who disrupt the rehabilitation of other juveniles and threaten the safety of all within a facility by committing new crimes while committed to TJJD.

S.B. 2190 affects a small number of juveniles (typically less than 10 percent of the population) who TJJD data suggests cause the majority of disruptive and violent behavior in secure facilities. S.B. 2190 offers two strategies to allow law enforcement and prosecutors to expedite the prosecution of new criminal cases so that these dangerous juveniles may be removed from the TJJD population before new crimes can be committed.

The first strategy amends the Human Resources Code to make a juvenile who commits a new felony unavailable for release consideration by TJJD's release and review panel if a petition alleging delinquent conduct or indictment is pending. Under current Texas law, a juvenile may be released from TJJD if that juvenile has completed his or her minimum length of stay and rehabilitative programs. Releasing a juvenile with pending charges presents several challenges to the justice system such as the time wasted in locating and detaining a juvenile and the obvious threat to public safety. Furthermore, being released from TJJD, the obligation falls to local resources to bear the brunt of the cost of prosecuting the juvenile despite the admonition of Article 104.003 of the Texas Code of Criminal Procedure which requires the state to pay for these costs. Once returned to custody, the prosecutor is left trying to convince a judge to recommit the juvenile to TJJD, an agency that already decided the juvenile should be released despite knowledge of new charges.

The second strategy would make a felony, other than a state jail felony, committed within TJJD automatically available for a determinate sentence disposition. Current law requires two separate prior felony adjudications before a juvenile can be considered for a determinate sentence if the offense is not an enumerated offense in the statute. Charges such as assault on a public servant or harassment of a public servant do not currently qualify as offenses for which a determinate sentence may be sought, yet these offenses are indicative of the juveniles who perpetuate the most violence to staff and others. Prosecutors must wait until a juvenile has reached a "habitual" status, meaning two or more offenses (i.e., two or more instances of violence against TJJD staff) to have occurred. By making these offenses qualify for a determinate sentence at the outset, the prosecutor can begin the process of evaluating a case for proper disposition without having to wait for the requisite number of habitual crimes to be committed. Furthermore, since no juvenile who is on a determinate sentence may be recommended for a transfer hearing to the Texas Department of Criminal Justice without a request from TJJD, having violent and disruptive juveniles on determinate sentence status will allow TJJD to push forward with a transfer recommendation without waiting for more staff members or others to be injured.

(Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 2190 amends current law relating to the prosecution and detention of a juvenile who engages in delinquent conduct or commits a felony offense while committed to the custody of the Texas Juvenile Justice Department.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 53.045(a), Family Code, as follows:

(a) Authorizes the prosecuting attorney, except as provided by Subsection (e) (relating to prohibiting a prosecuting attorney from referring a petition that alleges the child engaged in certain violations), to refer the petition to the grand jury of the county in which the court in which the petition is filed presides if the petition alleges that the child engaged in delinquent conduct that constitutes a felony of the first, second, or third degree committed while the child was committed to the Texas Juvenile Justice Department (TJJD). Makes nonsubstantive changes.

SECTION 2. Amends Section 245.101, Human Resources Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires TJJD, except as provided by Subsection (a-1), after a child who is committed to TJJD without a determinate sentence completes the minimum length of stay established by TJJD for the child under Section 243.002 (Establishment of Minimum Length of Stay), to, in the manner provided by Section 245.101 (Completion of Minimum Length of Stay; Panel) and Section 245.102 (Extension Order), take certain action.

(a-1) Prohibits TJJD from discharging a child from the custody of TJJD or releasing a child under supervision as provided by Subsection (a) if the child:

(1) is alleged by a pending petition to have engaged in delinquent conduct during the child's commitment to TJJD; or

(2) is under indictment for a felony committed during the child's commitment to TJJD.

SECTION 3. Amends Section 245.102(a), Human Resources Code, as follows:

(a) Authorizes a panel to extend the length of the child's stay as provided by Section 245.101(a)(3) (relating to extending the length of stay of a child who is committed to TJJD without a determinate sentence and has completed the applicable minimum length of stay) only in certain circumstances, including if the child is alleged by a pending petition to have engaged in delinquent conduct during the child's commitment to TJJD or is under indictment for a felony committed during the child's commitment to TJJD. Makes nonsubstantive changes.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2021.