

BILL ANALYSIS

C.S.H.B. 3689
McClendon
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Originally established in 1949 as the Texas Youth Development Council, the Texas Youth Commission (TYC) is the State's juvenile corrections agency, supervising youth committed to state confinement by county courts. The Texas Juvenile Probation Commission (TJPC), established in 1981, ensures access to juvenile probation services statewide by supporting and overseeing the 166 juvenile probation departments that serve all 254 counties in Texas. The Office of Independent Ombudsman (OIO), created as part of juvenile justice reforms in 2007, is responsible for investigating, evaluating, and securing the rights of children committed to TYC.

Both TYC and TJPC are subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the Legislature. The Office of Independent Ombudsman is subject to Sunset review this biennium but is not subject to abolishment.

The Sunset Commission found an ongoing need for the functions of these three agencies, but identified improvements needed to address the persistent lack of coordination between TYC and TJPC, ongoing problems within TYC, and other issues of state-level communication and oversight in the juvenile justice system. This legislation contains provisions to address these needs, including continuing TYC and TJPC as independent agencies with separate governing boards, and creating the Juvenile Justice Policy Coordinating Council to make recommendations to TJPC and TYC regarding ways to improve the provision of services, operations of juvenile programs, and agency coordination.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the new Juvenile Justice Policy Coordinating Council in SECTION 1.001; to TJPC in SECTION 4.017 and SECTION 4.018; to OIO and TYC in SECTION 3.002; to the Texas Juvenile Justice Board in SECTION 4.015; and to the Texas Juvenile Justice Board, Department of Public Safety, Department of State Health Services, Department of Aging and Disability Services, Department of Family and Protective Services, and Texas Education Agency in SECTION 5.011.

ANALYSIS

Creates the new Juvenile Justice Policy Coordinating Council.

C.S.H.B. 3689 establishes the new Juvenile Justice Policy Coordinating Council (Council) to evaluate the operations of TJPC and TYC and make recommendations to those agencies concerning the provision and coordination of services and operations. The substitute provides for the Council to be composed of 18 members including 11 voting and seven non-voting members. The 11 voting members include the Chairs of the TJPC and TYC Boards and nine members appointed by the Governor, with the advice and consent of the Senate, to staggered six-year terms. The substitute specifies that the Governor appoint a TJPC board member who is not the chair, a TYC board member who is not the chair, a juvenile court judge, a prosecutor in a juvenile court, a defense attorney in a juvenile court, a chief juvenile probation officer, a mental health treatment professional, an educator, and a person from an organization advocating on behalf of juvenile offenders or victims of delinquent or criminal conduct. Non-voting members include seven ex officio members made up of the agency heads of the Texas Education Agency, Health and Human Services Commission, Department of Family and Protective Services, Department of State Health Services, Department of Aging and Disability Services, Texas Workforce Commission, and Texas Department of Criminal Justice, or their designees. C.S.H.B. 3689 requires that the Governor designate the Council chair.

C.S.H.B. 3689 requires that the following entities each submit to the Governor, for consideration for membership on the Council, a list of three candidates from their respective fields: the County Judges and Commissioners Association of Texas; the Texas District and County Attorneys Association; the Texas Criminal Defense Lawyers Association; the Texas Probation Association - Juvenile Discipline and the Juvenile Justice Association of Texas; the Texas Council of Community Mental Health and Mental Retardation Centers and Mental Health America of Texas; and the Texas State Teachers Association.

C.S.H.B. 3689 requires that the Council use the staff, equipment, and facilities of TYC and TJPC as necessary to carry out its duties. The substitute also requires that an interagency agreement provide that cost of staff used by the Council be shared between TYC and TJPC in proportion to each agency's operating budget and included in each agency's budget. The substitute clarifies that TJPC's budget, for these purposes, does not include amounts distributed to local juvenile probation departments as state aid or grants.

C.S.H.B. 3689 prohibits a Council member from receiving compensation for service but allows reimbursement for actual and necessary expenses incurred in performing official Council member duties. C.S.H.B. 3689 requires the Council to hold regular quarterly meetings, adopt rules regulating its proceedings, and keep a public record of the Council's decisions.

Requires the development of a comprehensive five-year Juvenile Justice Improvement Plan.

C.S.H.B. 3689 requires the Council to develop the five-year Juvenile Justice Improvement Plan, not later than June 1, 2010, and every fifth year after that date. The substitute further requires the Council to submit the Plan for review and comment by the Governor, Lieutenant Governor, Speaker, Criminal Justice Legislative Oversight Committee, TJPC, and TYC, although the Council is not obligated to make changes to the Plan because of any comments received. The substitute requires that the Plan address: changes to state juvenile justice facilities; sharing of data across agencies; improvements to programs, services, and reentry planning; and development of performance measurements for the juvenile justice system, in consultation of the Legislative Budget Board and the budget, planning, and policy division of the Governor's office. The substitute requires that the Council adopt the Plan not later than September 1, 2010, and every fifth year after that date, or as soon as possible after that date. C.S.H.B. 3689 also requires TJPC to collect comprehensive data concerning the outcomes of local probation programs throughout the state and specifies certain information the data must include.

The substitute requires the Council, beginning in 2011, not later than June 1 of each year or as soon as possible after that date, to review, revise, and update the Plan adopted in the previous fiscal year and submit the Plan to TJPC and TYC for review and comment. C.S.H.B. 3689 requires the Council to readopt the Plan, after making any necessary changes, by September 1 of each year or as soon as possible after that date. The substitute specifies the goals the council shall have when reviewing and updating the Plan. The substitute also requires the Council to prepare and submit an annual implementation report in December of each year to the Governor, Lieutenant Governor, Speaker, and Criminal Justice Legislative Oversight Committee.

Establishes a voluntary community corrections pilot program for lower-risk juvenile offenders.

C.S.H.B. 3689 requires TJPC, in coordination with TYC, to develop guidelines for the implementation of pilot programs that are established voluntarily by juvenile boards and aimed at keeping lower-risk offenders in community settings. The substitute allows juvenile courts in counties with pilot programs to require participation of juveniles found to have engaged in felony conduct that did not involve the use or threat of force. The substitute also allows juvenile courts in counties with pilot programs to extend probation up to the child's 19th birthday. The substitute provides that TJPC must implement the pilot program only if the Legislature specifically appropriates money for that purpose.

The substitute provides for TJPC to distribute state funding grants to participating juvenile probation departments based on a funding formula that takes into account the average daily cost of state confinement, average length of stay in a state facility, projected yearly commitments to the State, and other relevant factors. The substitute provides that funds "follow the youth" so that, if a juvenile court ends up sending a youth participating in the pilot to the State, pilot funds pay for that youth's state commitment; however, the substitute provides that the money subtracted may not exceed the amount the juvenile board initially received for the juvenile. The substitute also requires participating juvenile probation boards to report regularly on the use of pilot funds and related program outcomes.

Adds to TJPC and TYC's Coordinated Strategic Plan processes for communicating juvenile justice system information between the agencies.

C.S.H.B. 3689 clarifies that the coordinated strategic plan required by existing statute of TJPC and TYC shall guide, but not substitute for, the juvenile justice improvement plan. The substitute also requires the plan to include processes and procedures to routinely communicate information between the agencies and to determine opportunities to coordinate practices for serving youth.

Requires a memorandum of understanding establishing a continuity of care system for juvenile offenders with mental impairments.

C.S.H.B. 3689 requires that the Texas Juvenile Justice Board, the Department of Public Safety, the Department of State Health Services, the Department of Aging and Disability Services, the Department of Family and Protective Services, the Texas Education Agency, and local juvenile probation departments adopt an MOU establishing their responsibilities in providing continuity of care for juvenile offenders

with mental impairments. The substitute assigns the Texas Correctional Office on Offenders with Medical or Mental Impairments the responsibility of coordinating development and implementation of the MOU.

Changes the membership of the Texas Juvenile Probation Commission.

C.S.H.B. 3689 reduces the number of public members on TJPC from five to two; and then adds one juvenile court prosecutor, one defense attorney certified by the Juvenile Law Section of the State Bar, and one member who represents an organization that advocates for youth or victims of crime.

Changes the membership of the Juvenile Services Advisory Council.

Changes the membership of the Juvenile Services Advisory Council that advises TJPC to include only chief probation officers. The substitute requires the Council to include chief probation officers representing the following kinds of departments: three from probation departments serving counties with populations of less than 10,000; four from probation departments serving counties with populations of 10,000 or more but less than 50,001; three from probation departments serving counties with populations of 50,001 or more but less than 200,001; and three from probation departments serving counties with populations 200,001 or more.

Requires TJPC to consider past performance when contracting with juvenile boards for local probation services.

C.S.H.B. 3689 requires TJPC to consider a juvenile board's past performance when awarding contracts for local probation services other than basic probation services. The substitute further mandates that these contracts include specific performance targets and require juvenile boards to report on their success in meeting them.

Requires TJPC to establish basic probation and community corrections funding formulas in rule.

C.S.H.B. 3689 requires TJPC to establish, through rule, funding formulas for basic probation services and community corrections. The substitute requires that the formulas established in rule must include each grant for which TJPC established an allocation formula on or before September 1, 2009.

Requires regulation of nonsecure correctional facilities used only for youth on probation.

C.S.H.B. 3689 defines a nonsecure correctional facility for juvenile offenders and which entities may operate one, and requires TJPC to annually inspect each nonsecure correctional facility that is used only for youth on probation. The substitute requires TJPC to report on the facility's suitability for the confinement of children, according to certain standards, to each juvenile court judge presiding in the same county as the inspected facility. The substitute mandates that, unless operated by or under contract with TJPC, such facilities must be registered with TJPC and adhere to applicable minimum standards.

C.S.H.B. 3689 further specifies that TJPC may deny, suspend, or revoke this registration if the facility does not adhere to applicable minimum standards or correct, in a timely fashion, noncompliance with these standards.

The substitute also requires TJPC to adopt in rule minimum certification standards for officers working in these facilities and requires that these standards be substantially similar to those for other detention officers.

C.S.H.B. 3689 requires that each judge of a juvenile court and a majority of the members of the local juvenile board inspect, at least annually, all of these facilities in the county. The substitute requires these officials to certify in writing to TJPC and other responsible entities whether the facilities are suitable for confining children.

Specifies that TJPC's minimum standards for juvenile probation facilities ensure various rights and benefits for juveniles.

C.S.H.B. 3689 requires that, in adopting rules, TJPC ensure that its minimum standards for juvenile probation facilities meet certain requirements. The substitute provides that standards ensure that juveniles in these facilities receive the rights, benefits, responsibilities, and privileges that a juvenile is entitled to under the United States Constitution, federal law, and the constitution and laws of Texas. The substitute further specifies that the minimum standards must include a humane physical and psychological environment, safe conditions and protection from harm, adequate rehabilitation and education, adequate medical and mental health treatment, and due process of law.

Conforms key elements of the juvenile detention and probation officer certification program to commonly applied licensing practices.

C.S.H.B. 3689 contains provisions related to the probation and detention officer certification program. The substitute authorizes TJPC to require certified detention and probation officers to obtain continuing education as a condition for renewal.

The substitute requires TJPC, beginning January 1, 2010, to report quarterly to its governing board on the final outcome of abuse, neglect, and exploitation complaints regarding local juvenile probation departments. The substitute requires the report to summarize actions taken by TJPC, a juvenile board, and a juvenile probation department, as applicable, to resolve the complaint and specifies that the report is public information.

C.S.H.B. 3689 transfers disciplinary hearings for certified detention and probation officers from TJPC to the State Office of Administrative Hearings.

The substitute authorizes TJPC to place on probation a detention or probation officer whose certification is suspended. The substitute authorizes TJPC to require the officer to report back on issues that are the basis of the probation and continue or review professional education to address these issues. The substitute authorizes the temporary suspension of a detention or probation officer's certification if it threatens juveniles in the system. The substitute authorizes the executive director of TJPC to convene a panel of three TJPC members to make this determination if the danger posed by continued certification is imminent. The substitute allows the panel to meet telephonically under certain conditions. The substitute requires that an administrative hearing be convened as soon as possible for a person whose certification is temporarily suspended. The substitute indicates that certified detention and probation officers may appeal rulings or orders to district court where they reside or in Travis County under the substantial evidence rule.

Requires TYC to give juvenile courts reports on, and access to, information on youths' progress while committed to TYC.

C.S.H.B. 3689 mandates that TYC provide a court committing a youth to state confinement periodic updates on that youth's progress, at the court's request in the commitment order. In addition, as soon as possible, but not later than 30 days before TYC releases a child to the community, the substitute requires TYC to provide the committing court a report on the child's progress while in state confinement and a copy of the child's reentry and reintegration plan currently required by state statute. If a child is released to a county other than that of the committing court, the substitute requires that these documents also be provided to the juvenile court in the county of release. If, on release, a child's residence is located in another state, the substitute requires TYC to also provide the information to the juvenile court of that state that has jurisdiction over the child's area upon release.

Requires TYC to develop a plan to reduce recidivism and ensure successful reentry and reintegration of children into the community on their release.

C.S.H.B. 3689 requires the reentry plan to provide for: an assessment of each youth committed to TYC to determine the skills needed for successful release; programs that address assessed needs; a network of transition programs for youth on parole or discharged from TYC; an identification of providers with whom TYC may contract to implement the plan; and sharing of information with local service providers to assess and address youth's needs. The substitute mandates that reentry programs be implemented by highly skilled staff and provide youth with individualized case management, life-skills training, education, employment training, treatment programs, parenting classes, and be designed to build post-discharge support from the community. C.S.H.B. 3689 authorizes TYC to contract with public and private entities to coordinate supervision and services to implement the plan; provide children with documents needed after release; and provide housing and structured programs. The substitute requires contracts to include specific performance measures, and requires TYC to determine and report to the Legislature on whether the plan reduces recidivism rates. The substitute requires the new reentry plan to coordinate with reentry plans already in law.

Permits the prosecution of certain offenses against TYC youth in the county of offense or in Travis County.

C.S.H.B. 3689 clarifies that the Special Prosecution Unit may assist in the prosecution of certain offenses and permits prosecution of certain cases relating to offenses against youth in TYC in the county of the offense or in Travis County.

Requires OIO to accept TYC comments on certain OIO reports.

C.S.H.B. 3689 requires TYC and OIO to jointly develop and adopt rules outlining procedures for TYC to review and comment on OIO's reports. The substitute requires OIO to accept comments from TYC on certain types of reports and prohibits TYC from submitting comments after the 30-day period following the publication of a report. The substitute requires OIO to ensure certain reports are in a format to which TYC can easily respond. The OIO is not obligated to change its reports or the way it performs its duties based on comments it receives.

Requires TYC and OIO to adopt an MOU outlining how they should communicate.

The substitute requires TYC and OIO to adopt an MOU addressing the most efficient manner to share information and procedures for handling overlapping monitoring duties and activities. The MOU must maintain OIO's right to withhold confidential information from TYC.

Applies standard Sunset across-the-board recommendations to TJPC, TYC, OIO, and the Juvenile Justice Policy Coordinating Council.

The substitute applies standard Sunset language to TYC and TJPC regarding eligibility for appointment and employment, designation of presiding officers, board member training, and grounds for removing board members. The substitute also applies standard Sunset language to TYC and TJPC regarding the effective use of technology and the use of negotiated rulemaking and alternative dispute resolution. The substitute updates standard Sunset language for TYC regarding handling complaints they receive. The substitute updates language relating to how TJPC maintains information on complaints relating to juvenile boards and adds standard Sunset language about handling all other complaints they receive.

C.S.H.B. 3689 contains standard Sunset language requiring OIO to maintain information on all complaints that relate to the operations or staff of the office and to notify the parties about policies for and status of complaints.

C.S.H.B. 3689 applies standard Sunset language to the Council regarding unbiased appointments, designation of the presiding officer, and eligibility for appointment.

Establishes Sunset dates for the Juvenile Justice Policy Coordinating Council, TJPC, TYC, and OIO.

The substitute sets a twelve-year Sunset date of September 1, 2021, for the Council and TJPC. The substitute sets a two-year Sunset date of September 1, 2011 for TYC and limits the scope of the review to Senate Bill 103 (2007) compliance. C.S.H.B. 3689 provides that OIO goes through Sunset review at the same time as TYC, rather than with agencies abolished in 2009 and every 12th year thereafter.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary two-thirds vote, the Act takes effect September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 3689 modifies the original bill by maintaining TYC and TJPC as independent agencies with separate boards, and establishing the Juvenile Justice Policy Coordinating Council to evaluate and make recommendations on the operations and programs of TYC and TJPC, rather than abolishing these two agencies and transferring their functions to a new Texas Juvenile Justice Department (Department) governed by a single Texas Juvenile Justice Board (Board). In maintaining separate agencies, C.S.H.B. 3689 does not contain language in H.B. 3689 transferring and amending existing statutory provisions for TYC and TJPC to the new Department created by the original bill. The substitute also modifies existing statute to provide for the continuation of TYC and TJPC. The substitute does not contain language in the original bill providing for the transition of programs and services from TYC and TJPC to the new Department created by H.B. 3689, including language creating a transition team to oversee the process and language defining the time period for the transition. The substitute removes language in the original bill generally requiring TYC and TJPC to implement changes in law included in the original bill, including adoption of any necessary or required rule, in the one-year transition period for the new Department. The substitute also does not contain language in the original bill allowing a juvenile probation department to appeal a decision of TJPC's executive director to the Board.

C.S.H.B. 3689 establishes the new Juvenile Justice Policy Coordinating Council (Council) to evaluate the operations of TJPC and TYC and make recommendations to those agencies concerning the provision and coordination of services and operations. The substitute, unlike the original bill which does not create the Council, contains language including provisions regarding the membership of the Council, the use of agency staff and resources, and reimbursement.

H.B. 3689 requires the Juvenile Justice Improvement Plan Committee to develop a plan and submit it to the Department for adoption after review and comment by the Governor, Lieutenant Governor, Speaker, and Criminal Justice Legislative Oversight Committee, where C.S.H.B. 3689 requires that the plan be developed by the Juvenile Justice Policy Coordinating Council and submitted to the Governor, Lieutenant Governor, Speaker, Criminal Justice Legislative Oversight Committee, TYC, and TJPC for comment before adoption. H.B. 3689 requires the Department to update and adopt the Juvenile Justice Improvement Plan annually by September 1 and to report on implementation of the Plan each year to the Governor, Lieutenant Governor, Speaker, and Criminal Justice Legislative Oversight Committee.

C.S.H.B. 3689 requires the Council to update the plan annually by June 1 and readopt the Plan annually by September 1, after submitting the plan to TYC and TJPC for comment. The substitute requires the

Council to report on implementation of the Plan each year to the Governor, Lieutenant Governor, Speaker, and Criminal Justice Legislative Oversight Committee. The substitute also contains language not contained in the original bill that requires the Council to adopt a new plan every five years.

H.B. 3689 requires the Department to collect comprehensive data concerning the outcomes of local probation programs throughout the state and specifies certain information the data must include. C.S.H.B. 3689 requires TJPC to collect this data and adds “to the extent possible” to the requirement that it include the rate at which juveniles who enter or complete juvenile probation are later committed to the state custody.

H.B. 3689 requires TYC, TJPC, and, after its creation, the new Department, to develop guidelines for pilot programs aimed at keeping lower-risk offenders in community settings and to provide pilot funding to participating counties through a funding formula. C.S.H.B. 3689 requires TJPC, in coordination with TYC, to develop guidelines for pilot programs aimed at keeping lower-risk offenders in community settings and to provide pilot funding to participating counties through a funding formula. The substitute also allows juvenile courts in counties with pilot programs to extend probation up to the child’s 19th birthday. The original bill requires costs associated with a participating juvenile’s commitment to the State to be subtracted from a juvenile board’s grant allotment, to be computed on the average daily cost of committing a juvenile to a facility operated by the Department. The substitute also includes this requirement, but changes the computation to include the average daily cost of committing a juvenile to a facility operated by or under contract with TYC and adds a provision that the money subtracted may not exceed the amount the juvenile board initially received for the juvenile. The substitute does not contain a provision in the original bill creating a reserve account but does contain language not in the original bill clarifying that the pilot should only be implemented if the Legislature appropriates necessary funding.

The original bill repealed the statutory provision requiring a TJPC and TYC coordinated strategic plan. The substitute does not repeal this language and adds to it processes for communicating juvenile justice system information between the agencies. The substitute also adds language not found in H.B. 3689 requiring that the Council use the staff, equipment, and facilities of TYC and TJPC as necessary to carry out its duties. The substitute also requires that an interagency agreement provide that cost of staff used by the Council be shared between TYC and TJPC in proportion to each agency’s operating budget.

H.B. 3689 requires the Department and other agencies to adopt a memorandum of understanding establishing a continuity of care system for juvenile offenders with mental impairments. C.S.H.B. 3689 requires the Texas Juvenile Justice Board and other agencies to adopt a memorandum of understanding establishing a continuity of care system for juvenile offenders with mental impairments.

Unlike the original bill, C.S.H.B. 3689 reduces the number of public members on TJPC from five to two, and adds one juvenile court prosecutor, one defense attorney certified by the Juvenile Law Section of the State Bar, and one member who represents an organization that advocates for youth or victims of crime. The substitute also contains language not in the original bill changing the membership of the Juvenile Services Advisory Council to include only chief probation officers representing the following kinds of departments: three from probation departments serving counties with populations of less than 10,000; four from probation departments serving counties with populations of 10,000 or more but less than 50,001; three from probation departments serving counties with populations of 50,001 or more but less than 200,001; and three from probation departments serving counties with populations 200,001 or more.

H.B. 3689 requires the Department, on and after September 1, 2010, to consider a juvenile board’s past performance when awarding contracts for local probation services other than basic probation services. C.S.H.B. 3689 requires TJPC to consider a juvenile board’s past performance when awarding contracts for local probation services other than basic probation services and removes the starting date for this provision. The substitute requires TJPC, not the Department, to establish specific performance targets and define certain contracts, but does not require targets and contracts to be defined by September 1, 2010.

The original bill requires the Department to establish basic probation and community corrections funding formulas in rule. The substitute requires TJPC to establish these formulas in rule.

H.B. 3689 requires the Department to regulate all public and private nonsecure correctional facilities that accept only youth on probation. C.S.H.B. 3689 requires TJPC to regulate all public and private nonsecure correctional facilities that accept only youth on probation. The substitute changes the definition of nonsecure correctional facility in the original bill and clarifies who may operate a nonsecure facility.

The original bill requires the Department to establish certification standards for employees who work in nonsecure correctional facilities that accept only youth on probation. The substitute requires the Texas Juvenile Justice Board to establish these standards.

H.B. 3689 requires a local juvenile justice board to annually inspect any nonsecure correctional facility in its jurisdiction used only for youth on probation, and certify the facility's suitability with the Department. C.S.H.B. 3689 requires a local juvenile justice board to annually inspect any nonsecure correctional facility in its jurisdiction used only for youth on probation, and certify the facility's suitability with TJPC.

The substitute adds language not in the original bill requiring TJPC rules to ensure that its minimum standards for juvenile probation facilities meet certain specifications. The substitute specifies that these standards ensure that juveniles in these facilities are provided the rights, benefits, responsibilities, and privileges that juveniles are entitled to under the United States Constitution, federal law, and the constitution and laws of Texas. The minimum standards must include a humane physical and psychological environment, safe conditions of confinement and protection from harm, adequate rehabilitation and education, adequate medical and mental health treatment, and due process of law.

The original bill authorizes the Department to require certified juvenile probation and detention officers to obtain continuing education as a condition for renewal of certification. The substitute authorizes TJPC to require certified juvenile probation and detention officers to obtain continuing education as a condition for renewal of certification.

The original bill requires the Department to report annually on September 1 or as soon as possible thereafter to the Board, on the final resolution of abuse, neglect, and exploitation complaints regarding local juvenile probation departments. The substitute requires TJPC to make this same report quarterly to its governing board, beginning on January 1, 2010.

H.B. 3689 authorizes the Department to place certified probation and detention officers on probation; C.S.H.B. 3689 authorizes TJPC to do so.

The original bill authorizes the Department to temporarily suspend a detention or probation officer's certification if it threatens juveniles in the system; the substitute authorizes TJPC to do so.

The original bill indicates that certified detention and probation officers may appeal Department actions to district court under the substantial evidence standard. The substitute indicates that certified detention and probation officers may appeal TJPC actions to district court under the substantial evidence standard.

H.B. 3689 transfers disciplinary hearings for certified officers to the State Office of Administrative Hearings (SOAH) if the Department proposes to suspend or revoke a certification; C.S.H.B. 3689 transfers these hearings to SOAH if TJPC proposes suspension or revocation of a certification.

The original bill requires the Department to give the convicting court periodic updates on the progress of a youth in TYC, at the court's request. The substitute changes this language to require TYC to provide the committing court periodic updates if the court requests in the commitment order to be kept informed of the child's progress. H.B. 3689 requires the Department to provide the committing court, and in some cases the court in the county of release, a copy of the child's reentry and reintegration plan and a report on the child's progress no later than 90 days before release. C.S.H.B. 3689 contains these same reporting requirements but changes the language to require them as soon as possible but not later than 30 days before release, and the substitute adds that if a child's residence upon release is located in another state, TYC must also provide the reports to the court of the other state that has jurisdiction over the area in which the child's residence is located.

The substitute contains language not in the original bill requiring TYC to develop a comprehensive plan to reduce recidivism and ensure successful reentry and reintegration of children into the community on their release, specifying items the plan must provide for, authorizing contracting to implement the plan, and requiring TYC to report to the Legislature on whether the plan reduces recidivism rates. The substitute requires this plan to coordinate with reentry and reintegration plans already required by statute.

C.S.H.B. 3689 contains language not in the original bill clarifying that the Special Prosecution Unit may assist in the prosecution of certain offenses and permits prosecution of certain cases relating to offenses against youth in TYC in the county of the offense or in Travis County.

H.B. 3689 requires TYC and OIO, and, after its creation, the new Department and OIO, to jointly develop and adopt rules outlining procedures for review and comment on OIO's reports. C.S.H.B. 3689 requires TYC and OIO to jointly develop and adopt rules outlining procedures for TYC to review and comment on OIO's reports.

The original bill requires TYC and OIO, and, after its creation, the new Department and OIO to adopt an MOU addressing the most efficient manner to share information and procedures for handling overlapping monitoring duties. The substitute requires TYC and OIO to adopt the MOU.

H.B. 3689 applies and updates appropriate across-the-board Sunset language to the new Department created by the original bill and to OIO. C.S.H.B. 3689 applies and updates appropriate across-the-board language for TYC, TJPC, OIO, and the Council.

The original bill establishes a Sunset date of September 1, 2015 for the Texas Juvenile Justice Board and the Texas Juvenile Justice Department. The substitute sets a twelve-year Sunset date of September 1, 2021, for the Council and TJPC. The substitute sets a two-year Sunset date of September 1, 2011 for TYC and limits the scope of the review to Senate Bill 103 (2007) compliance. The original bill requires that OIO undergo Sunset review during the same time period as the Department. The substitute requires that OIO undergo Sunset review during the same time period as TYC.

H.B. 3689 repeals provisions related to the separate agencies, including Section 61.024, Human Resources Code, Subchapters A and B, Chapter 61, Human Resources Code, and Subchapters A and B, Chapter 141, Human Resources Code. C.S.H.B. 3689 does not repeal these provisions.

The substitute contains transitional language not contained in the original bill pertaining to sections affecting the Juvenile Justice Policy Coordinating Council, the Juvenile Services Advisory Council, certain requirements of TJPC, and offenses against TYC youth. The substitute does not contain conforming amendments in the original bill related to the creation of the new Department.

The effective date in the substitute is upon passage or September 1, 2009, if the bill does not receive the necessary two-thirds vote. The effective date in the original bill is September 1, 2009.