

AN ACT

relating to the functions and continuation of the Texas Youth Commission and the Texas Juvenile Probation Commission and to the functions of the Office of Independent Ombudsman for the Texas Youth Commission.

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

ARTICLE 1. TEXAS YOUTH COMMISSION

SECTION 1.001. The heading to Chapter 61, Human Resources Code, is amended to read as follows:

CHAPTER 61. TEXAS YOUTH COMMISSION [~~COUNCIL~~]

SECTION 1.002. Section 61.001, Human Resources Code, is amended by adding Subdivision (3) to read as follows:

(3) "Board" means the board of the commission appointed under Section 61.024.

SECTION 1.003. Section 61.020, Human Resources Code, is amended to read as follows:

Sec. 61.020. SUNSET PROVISION. (a) The Texas Youth Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2011 [~~2009~~].

(b) In the review of the Texas Youth Commission by the Sunset Advisory Commission, as required by this section, the sunset commission shall focus its review on:

1 (1) the commission's compliance with Chapter 263 (S.B.
2 103), Acts of the 80th Legislature, Regular Session, 2007;

3 (2) requirements placed on the agency by legislation
4 enacted by the 81st Legislature, Regular Session, 2009, that
5 becomes law, including implementation of programs for the diversion
6 of youth from the commission; and

7 (3) initiatives of the commission and the Texas
8 Juvenile Probation Commission in coordinating activities and
9 services to better integrate Texas Youth Commission, Texas Juvenile
10 Probation Commission, and county juvenile justice functions,
11 including joint strategic planning, the sharing of youth data
12 across youth-serving agencies, assessments and classification of
13 youth, and collection of data on probation outcomes.

14 (c) In its report to the 82nd Legislature, the sunset
15 commission may include any recommendations it considers
16 appropriate. This subsection and Subsection (b) expire September
17 1, 2011.

18 SECTION 1.004. Section 61.024(a), Human Resources Code, is
19 amended to read as follows:

20 (a) Notwithstanding any other provision of this chapter,
21 effective September 1, 2009, the commission is governed by a board
22 that consists of seven members appointed by the governor with the
23 advice and consent of the senate. Appointments to the board shall
24 be made without regard to the race, color, disability, sex,
25 religion, age, or national origin of the appointees. The governor
26 shall designate a member of the board as the presiding officer of
27 the board to serve in that capacity at the pleasure of the governor.

1 SECTION 1.005. Subchapter B, Chapter 61, Human Resources
2 Code, is amended by adding Sections 61.025 through 61.029 to read as
3 follows:

4 Sec. 61.025. RESTRICTIONS ON BOARD MEMBERSHIP AND
5 EMPLOYMENT. (a) A person may not be a member of the board or
6 employed by the board as the executive director if the person or the
7 person's spouse:

8 (1) is registered, certified, or licensed by a
9 regulatory agency in the field of criminal or juvenile justice;

10 (2) is employed by or participates in the management
11 of a business entity or other organization regulated by or
12 receiving money from the commission;

13 (3) owns or controls, directly or indirectly, more
14 than a 10 percent interest in a business entity or other
15 organization regulated by or receiving money from the commission;
16 or

17 (4) uses or receives a substantial amount of tangible
18 goods, services, or money from the commission, other than
19 compensation or reimbursement authorized by law for board
20 membership, attendance, or expenses.

21 (b) A person may not be a board member and may not be a
22 commission employee who is employed in a "bona fide executive,
23 administrative, or professional capacity," as that phrase is used
24 for purposes of establishing an exemption to the overtime
25 provisions of the federal Fair Labor Standards Act of 1938 (29
26 U.S.C. Section 201 et seq.), if:

27 (1) the person is an officer, employee, or paid

1 consultant of a Texas trade association in the field of criminal or
2 juvenile justice; or

3 (2) the person's spouse is an officer, manager, or paid
4 consultant of a Texas trade association in the field of criminal or
5 juvenile justice.

6 (c) A person may not be a member of the board or act as the
7 general counsel to the board or the commission if the person is
8 required to register as a lobbyist under Chapter 305, Government
9 Code, because of the person's activities for compensation on behalf
10 of a profession related to the operation of the commission.

11 (d) In this section, "Texas trade association" means a
12 cooperative and voluntarily joined statewide association of
13 business or professional competitors in this state designed to
14 assist its members and its industry or profession in dealing with
15 mutual business or professional problems and in promoting their
16 common interest.

17 Sec. 61.026. REMOVAL OF BOARD MEMBERS. (a) It is a ground
18 for removal from the board that a member:

19 (1) does not have at the time of taking office the
20 qualifications required by Section 61.024(b);

21 (2) does not maintain during service on the board the
22 qualifications required by Section 61.024(b);

23 (3) is ineligible for membership under Section 61.025;

24 (4) cannot, because of illness or disability,
25 discharge the member's duties for a substantial part of the member's
26 term; or

27 (5) is absent from more than half of the regularly

1 scheduled board meetings that the member is eligible to attend
2 during a calendar year without an excuse approved by a majority vote
3 of the board.

4 (b) The validity of an action of the board is not affected by
5 the fact that it is taken when a ground for removal of a board member
6 exists.

7 (c) If the executive director has knowledge that a potential
8 ground for removal exists, the executive director shall notify the
9 presiding officer of the board of the potential ground. The
10 presiding officer shall then notify the governor and the attorney
11 general that a potential ground for removal exists. If the
12 potential ground for removal involves the presiding officer, the
13 executive director shall notify the next highest ranking officer of
14 the board, who shall then notify the governor and the attorney
15 general that a potential ground for removal exists.

16 Sec. 61.027. TRAINING FOR BOARD MEMBERS. (a) A person who
17 is appointed to and qualifies for office as a member of the board
18 may not vote, deliberate, or be counted as a member in attendance at
19 a meeting of the board until the person completes a training program
20 that complies with this section.

21 (b) The training program must provide the person with
22 information regarding:

23 (1) the legislation that created the commission;

24 (2) the programs, functions, rules, and budget of the
25 commission;

26 (3) the results of the most recent formal audit of the
27 commission;

1 (4) the requirements of laws relating to open
2 meetings, public information, administrative procedure, and
3 conflicts of interest; and

4 (5) any applicable ethics policies adopted by the
5 commission or the Texas Ethics Commission.

6 (c) A person appointed to the board is entitled to
7 reimbursement, as provided by the General Appropriations Act, for
8 the travel expenses incurred in attending the training program
9 regardless of whether the attendance at the program occurs before
10 or after the person qualifies for office.

11 Sec. 61.028. USE OF TECHNOLOGY. The board shall implement a
12 policy requiring the commission to use appropriate technological
13 solutions to improve the commission's ability to perform its
14 functions. The policy must ensure that the public is able to
15 interact with the commission on the Internet.

16 Sec. 61.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
17 RESOLUTION. (a) The board shall develop and implement a policy to
18 encourage the use of:

19 (1) negotiated rulemaking procedures under Chapter
20 2008, Government Code, for the adoption of commission rules; and

21 (2) appropriate alternative dispute resolution
22 procedures under Chapter 2009, Government Code, to assist in the
23 resolution of internal and external disputes under the commission's
24 jurisdiction.

25 (b) The commission's procedures relating to alternative
26 dispute resolution must conform, to the extent possible, to any
27 model guidelines issued by the State Office of Administrative

1 Hearings for the use of alternative dispute resolution by state
2 agencies.

3 (c) The board shall designate a trained person to:

4 (1) coordinate the implementation of the policy
5 adopted under Subsection (a);

6 (2) serve as a resource for any training needed to
7 implement the procedures for negotiated rulemaking or alternative
8 dispute resolution; and

9 (3) collect data concerning the effectiveness of those
10 procedures, as implemented by the commission.

11 SECTION 1.006. Section 61.0352, Human Resources Code, is
12 amended to read as follows:

13 Sec. 61.0352. DIVISION OF RESPONSIBILITY. The board
14 [~~executive commissioner~~] shall develop and implement policies that
15 clearly separate the policymaking responsibilities of the board
16 [~~executive commissioner~~] and the management responsibilities of
17 the staff of the commission.

18 SECTION 1.007. Section 61.0422, Human Resources Code, is
19 amended to read as follows:

20 Sec. 61.0422. COMPLAINTS REGARDING SERVICES. (a) The
21 commission shall maintain a system to promptly and efficiently act
22 on a [~~keep a file about each written~~] complaint filed with the
23 commission by a person, other than a child receiving services from
24 the commission or the child's parent or guardian, that the
25 commission has authority to resolve. The commission shall maintain
26 information about parties to the complaint, the subject matter of
27 the complaint, a summary of the results of the review or

1 investigation of the complaint, and the disposition of the
2 complaint.

3 (b) The commission shall make information available
4 describing the commission's [~~provide to the person filing the~~
5 ~~complaint and the persons or entities complained about the~~
6 ~~commission's policies and~~] procedures for [~~pertaining to~~]
7 complaint investigation and resolution.

8 (c) The commission[~~, at least quarterly and until final~~
9 ~~disposition of the complaint,~~] shall periodically notify the
10 [~~person filing the~~] complaint parties [~~and the persons or entities~~
11 ~~complained about~~] of the status of the complaint until final
12 disposition, unless the notice would jeopardize an undercover
13 investigation.

14 (d) [~~(b) The commission shall keep information about each~~
15 ~~file required by Subsection (a). The information must include:~~

16 [~~(1) the date the complaint is received,~~

17 [~~(2) the name of the complainant,~~

18 [~~(3) the subject matter of the complaint,~~

19 [~~(4) a record of all persons contacted in relation to~~
20 ~~the complaint,~~

21 [~~(5) a summary of the results of the review or~~
22 ~~investigation of the complaint, and~~

23 [~~(6) for complaints for which the commission took no~~
24 ~~action, an explanation of the reason the complaint was closed~~
25 ~~without action.~~

26 [~~(e)~~] The commission shall keep information about each
27 written complaint filed with the commission by a child receiving

1 services from the commission or the child's parent or guardian. The
2 information must include:

- 3 (1) the subject matter of the complaint;
4 (2) a summary of the results of the review or
5 investigation of the complaint; and
6 (3) the period of time between the date the complaint
7 is received and the date the complaint is closed.

8 SECTION 1.008. Section 61.0423, Human Resources Code, is
9 amended to read as follows:

10 Sec. 61.0423. PUBLIC HEARINGS. (a) The board [~~executive~~
11 ~~commissioner~~] shall develop and implement policies that provide the
12 public with a reasonable opportunity to appear before the board
13 [~~executive commissioner or the executive commissioner's designee~~]
14 and to speak on any issue under the jurisdiction of the commission.

15 (b) The board [~~executive commissioner~~] shall ensure that
16 the location of public hearings held in accordance with this
17 section is rotated between municipalities in which a commission
18 facility is located or that are in proximity to a commission
19 facility.

20 SECTION 1.009. Sections 61.0451(a) and (i), Human Resources
21 Code, are amended to read as follows:

22 (a) The office of inspector general is established at the
23 commission for the purpose of investigating:

24 (1) crimes committed by commission employees,
25 including parole officers employed by or under a contract with the
26 commission; and

27 (2) crimes and delinquent conduct committed at a

1 facility operated by the commission, ~~[or at]~~ a residential facility
2 operated by another entity under a contract with the commission, or
3 any facility in which a child committed to the custody of the
4 commission is housed or receives medical or mental health
5 treatment.

6 (i) The office of inspector general shall immediately
7 report to the executive director ~~[commissioner]~~, the ~~[advisory]~~
8 board, the governor's general counsel, and the state auditor:

9 (1) any particularly serious or flagrant problem
10 concerning the administration of a commission program or operation;
11 or

12 (2) any interference by the executive director,
13 ~~[commissioner or]~~ an employee of the commission, a facility
14 described by Subsection (a)(2), or an officer or employee of a
15 facility described by Subsection (a)(2) with an investigation
16 conducted by the office.

17 SECTION 1.010. Subchapter D, Chapter 61, Human Resources
18 Code, is amended by adding Section 61.067 to read as follows:

19 Sec. 61.067. INFORMATION PROVIDED TO COMMITTING COURT. (a)
20 If a court that commits a child to the commission requests, in the
21 commitment order, that the commission keep the court informed of
22 the progress the child is making while committed to the commission,
23 the commission shall provide the court with periodic updates on the
24 child's progress.

25 (b) A report provided under Subsection (a) may include any
26 information the commission determines to be relevant in evaluating
27 the child's progress, including, as applicable, information

1 concerning the child's treatment, education, and health.

2 (c) A report provided under this section may not include
3 information that is protected from disclosure under state or
4 federal law.

5 SECTION 1.011. Subchapter F, Chapter 61, Human Resources
6 Code, is amended by adding Section 61.08131 to read as follows:

7 Sec. 61.08131. COMPREHENSIVE REENTRY AND REINTEGRATION
8 PLAN FOR CHILDREN; STUDY AND REPORT. (a) The commission shall
9 develop a comprehensive plan to reduce recidivism and ensure the
10 successful reentry and reintegration of children into the community
11 following a child's release under supervision or final discharge,
12 as applicable, from the commission.

13 (b) The comprehensive reentry and reintegration plan
14 developed under this section must provide for:

15 (1) an assessment of each child committed to the
16 commission to determine which skills the child needs to develop to
17 be successful in the community following release under supervision
18 or final discharge;

19 (2) programs that address the assessed needs of each
20 child;

21 (3) a comprehensive network of transition programs to
22 address the needs of children released under supervision or finally
23 discharged from the commission;

24 (4) the identification of providers of existing local
25 programs and transitional services with whom the commission may
26 contract under this section to implement the reentry and
27 reintegration plan; and

1 (5) subject to Subsection (c), the sharing of
2 information between local coordinators, persons with whom the
3 commission contracts under this section, and other providers of
4 services as necessary to adequately assess and address the needs of
5 each child.

6 (c) A child's personal health information may be disclosed
7 under Subsection (b)(5) only in the manner authorized by Section
8 61.0731 or other state or federal law, provided that the disclosure
9 does not violate the Health Insurance Portability and
10 Accountability Act of 1996 (Pub. L. No. 104-191).

11 (d) The programs provided under Subsections (b)(2) and (3)
12 must:

13 (1) be implemented by highly skilled staff who are
14 experienced in working with reentry and reintegration programs for
15 children;

16 (2) provide children with:

17 (A) individualized case management and a full
18 continuum of care;

19 (B) life-skills training, including information
20 about budgeting, money management, nutrition, and exercise;

21 (C) education and, if a child has a learning
22 disability, special education;

23 (D) employment training;

24 (E) appropriate treatment programs, including
25 substance abuse and mental health treatment programs; and

26 (F) parenting and relationship-building classes;

27 and

1 (3) be designed to build for children post-release and
2 post-discharge support from the community into which the child is
3 released under supervision or finally discharged, including
4 support from agencies and organizations within that community.

5 (e) The commission may contract and coordinate with private
6 vendors, units of local government, or other entities to implement
7 the comprehensive reentry and reintegration plan developed under
8 this section, including contracting to:

9 (1) coordinate the supervision and services provided
10 to children during the time children are in the custody of the
11 commission with any supervision or services provided children who
12 have been released under supervision or finally discharged from the
13 commission;

14 (2) provide children awaiting release under
15 supervision or final discharge with documents that are necessary
16 after release or discharge, including identification papers,
17 medical prescriptions, job training certificates, and referrals to
18 services; and

19 (3) provide housing and structured programs,
20 including programs for recovering substance abusers, through which
21 children are provided services immediately following release under
22 supervision or final discharge.

23 (f) To ensure accountability, any contract entered into
24 under this section must contain specific performance measures that
25 the commission shall use to evaluate compliance with the terms of
26 the contract.

27 (g) The commission shall ensure that each reentry and

1 reintegration plan developed for a child under Section 61.0814 is
2 coordinated with the comprehensive reentry and reintegration plan
3 developed under this section.

4 (h) The commission shall conduct and coordinate research to
5 determine whether the comprehensive reentry and reintegration plan
6 developed under this section reduces recidivism rates.

7 (i) Not later than December 1 of each even-numbered year,
8 the commission shall deliver a report of the results of research
9 conducted or coordinated under Subsection (h) to the lieutenant
10 governor, the speaker of the house of representatives, and the
11 standing committees of each house of the legislature with primary
12 jurisdiction over juvenile justice and corrections.

13 SECTION 1.012. Subchapter F, Chapter 61, Human Resources
14 Code, is amended by adding Section 61.08141 to read as follows:

15 Sec. 61.08141. INFORMATION PROVIDED TO COURT BEFORE
16 RELEASE. (a) In addition to providing the court with notice of
17 release of a child under Section 61.081(e), as soon as possible but
18 not later than the 30th day before the date the commission releases
19 the child, the commission shall provide the court that committed
20 the child to the commission:

21 (1) a copy of the child's reentry and reintegration
22 plan developed under Section 61.0814; and

23 (2) a report concerning the progress the child has
24 made while committed to the commission.

25 (b) If, on release, the commission places a child in a
26 county other than the county served by the court that committed the
27 child to the commission, the commission shall provide the

1 information described by Subsection (a) to both the committing
2 court and the juvenile court in the county where the child is placed
3 after release.

4 (c) If, on release, a child's residence is located in
5 another state, the commission shall provide the information
6 described by Subsection (a) to both the committing court and a
7 juvenile court of the other state that has jurisdiction over the
8 area in which the child's residence is located.

9 SECTION 1.013. Section 61.0911, Human Resources Code, is
10 amended to read as follows:

11 Sec. 61.0911. COORDINATED STRATEGIC PLAN. The Texas Youth
12 Commission shall biennially develop with the Texas Juvenile
13 Probation Commission a coordinated strategic plan in the manner
14 described by Sections [~~as required by Section~~] 141.0471 and
15 141.0472.

16 SECTION 1.014. Section 61.098(b), Human Resources Code, is
17 amended to read as follows:

18 (b) As appropriate, the district attorney, criminal
19 district attorney, or county attorney representing the state in
20 criminal matters before the district or inferior courts of the
21 county who would otherwise represent the state in the prosecution
22 of an offense or delinquent conduct concerning the commission and
23 described by Article 104.003(a), Code of Criminal Procedure, may
24 request that the special prosecution unit prosecute, or assist in
25 the prosecution of, the offense or delinquent conduct.

1 ARTICLE 2. OFFICE OF INDEPENDENT OMBUDSMAN FOR THE TEXAS YOUTH
2 COMMISSION

3 SECTION 2.001. Section 64.054, Human Resources Code, is
4 amended to read as follows:

5 Sec. 64.054. SUNSET PROVISION. (a) The office is
6 subject to review under Chapter 325, Government Code (Texas Sunset
7 Act), but is not abolished under that chapter. The office shall be
8 reviewed during the periods in which the Texas Youth Commission is
9 ~~[state agencies abolished in 2009 and every 12th year after 2009~~
10 ~~are]~~ reviewed.

11 (b) Notwithstanding Subsection (a), the Sunset Advisory
12 Commission shall focus its review of the office on compliance with
13 requirements placed on the office by legislation enacted by the
14 81st Legislature, Regular Session, 2009, that becomes law. This
15 subsection expires September 1, 2011.

16 SECTION 2.002. Section 64.058, Human Resources Code, is
17 amended to read as follows:

18 Sec. 64.058. RULEMAKING AUTHORITY. (a) The office by
19 rule shall establish policies and procedures for the operations of
20 the office of independent ombudsman.

21 (b) The office and the commission shall adopt rules
22 necessary to implement Section 64.060, including rules that
23 establish procedures for the commission to review and comment on
24 reports of the office and for the commission to expedite or
25 eliminate review of and comment on a report due to an emergency or a
26 serious or flagrant circumstance described by Section 64.055(b).

27 SECTION 2.003. Subchapter B, Chapter 64, Human Resources

1 Code, is amended by adding Sections 64.060 and 64.061 to read as
2 follows:

3 Sec. 64.060. REVIEW AND FORMAT OF REPORTS. (a) The office
4 shall accept, both before and after publication, comments from the
5 commission concerning the following types of reports published by
6 the office under this chapter:

7 (1) the office's quarterly report under Section
8 64.055(a);

9 (2) reports concerning serious or flagrant
10 circumstances under Section 64.055(b); and

11 (3) any other formal reports containing findings and
12 making recommendations concerning systemic issues that affect the
13 commission.

14 (b) The commission may not submit comments under Subsection
15 (a) after the 30th day after the date the report on which the
16 commission is commenting is published.

17 (c) The office shall ensure that reports described by
18 Subsection (a) are in a format to which the commission can easily
19 respond.

20 (d) After receipt of comments under this section, the office
21 is not obligated to change any report or change the manner in which
22 the office performs the duties of the office.

23 Sec. 64.061. COMPLAINTS. (a) The office shall maintain a
24 system to promptly and efficiently act on complaints filed with the
25 office that relate to the operations or staff of the office. The
26 office shall maintain information about parties to the complaint,
27 the subject matter of the complaint, a summary of the results of the

1 review or investigation of the complaint, and the disposition of
2 the complaint.

3 (b) The office shall make information available describing
4 its procedures for complaint investigation and resolution.

5 (c) The office shall periodically notify the complaint
6 parties of the status of the complaint until final disposition.

7 SECTION 2.004. Subchapter C, Chapter 64, Human Resources
8 Code, is amended by adding Section 64.104 to read as follows:

9 Sec. 64.104. MEMORANDUM OF UNDERSTANDING. (a) The office
10 and the commission shall enter into a memorandum of understanding
11 concerning:

12 (1) the most efficient manner in which to share
13 information with one another; and

14 (2) the procedures for handling overlapping
15 monitoring duties and activities performed by the office and the
16 commission.

17 (b) The memorandum of understanding entered into under
18 Subsection (a), at a minimum, must:

19 (1) address the interaction of the office with that
20 portion of the commission that conducts an internal audit under
21 Section 61.0331;

22 (2) address communication between the office and the
23 commission concerning individual situations involving children
24 committed to the commission and how those situations will be
25 documented and handled;

26 (3) contain guidelines on the office's role in
27 relevant working groups and policy development decisions at the

1 commission;

2 (4) ensure opportunities for sharing information
3 between the office and the commission for the purposes of assuring
4 quality and improving programming within the commission; and

5 (5) preserve the independence of the office by
6 authorizing the office to withhold information concerning matters
7 under active investigation by the office from the commission and
8 commission staff and to report the information to the governor.

9 ARTICLE 3. TEXAS JUVENILE PROBATION COMMISSION

10 SECTION 3.001. Section 141.011(a), Human Resources Code, is
11 amended to read as follows:

12 (a) The commission consists of:

13 (1) two district court judges who sit as juvenile
14 court judges;

15 (2) two county judges or commissioners; ~~and~~

16 (3) one chief juvenile probation officer;

17 (4) one mental health treatment professional licensed
18 under Subtitle B or I, Title 3, Occupations Code;

19 (5) one educator, as that term is defined by Section
20 5.001, Education Code;

21 (6) one member who represents an organization that
22 advocates on behalf of juvenile offenders or victims of delinquent
23 or criminal conduct; and

24 (7) one member ~~[five members]~~ of the public who is
25 ~~[are]~~ not an employee ~~[employees]~~ in the criminal or juvenile
26 justice system and is recognized in the community for the person's
27 interest in youth.

1 SECTION 3.002. Section 141.012, Human Resources Code, is
2 amended to read as follows:

3 Sec. 141.012. SUNSET PROVISION. (a) The Texas Juvenile
4 Probation Commission is subject to Chapter 325, Government Code
5 (Texas Sunset Act). Unless continued in existence as provided by
6 that chapter, the commission is abolished and this chapter expires
7 September 1, 2011 [~~2009~~].

8 (b) In the review of the Texas Juvenile Probation Commission
9 by the Sunset Advisory Commission, as required by this section, the
10 sunset commission shall focus its review on the following:

11 (1) the commission's compliance with Chapter 263 (S.B.
12 103), Acts of the 80th Legislature, Regular Session, 2007;

13 (2) requirements placed on the agency by legislation
14 enacted by the 81st Legislature, Regular Session, 2009, that
15 becomes law, including implementation of programs for the diversion
16 of youth from the Texas Youth Commission; and

17 (3) initiatives of the commission and the Texas Youth
18 Commission in coordinating activities and services to better
19 integrate Texas Juvenile Probation Commission, Texas Youth
20 Commission, and county juvenile justice functions, including joint
21 strategic planning, the sharing of youth data across youth-serving
22 agencies, assessment and classification of youth, and collection of
23 data on probation outcomes.

24 (c) In its report to the 82nd Legislature, the sunset
25 commission may include any recommendations it considers
26 appropriate. This subsection and Subsection (b) expire September 1,
27 2011.

1 SECTION 3.003. Section 141.014, Human Resources Code, is
2 amended to read as follows:

3 Sec. 141.014. RESTRICTIONS ON COMMISSION APPOINTMENT,
4 MEMBERSHIP, AND EMPLOYMENT. (a) A person may not be [~~is not~~
5 ~~eligible for appointment or service as~~] a public member of the
6 commission if the person or the person's spouse:

7 (1) owns or controls, directly or indirectly, more
8 than a 10 percent interest in a business entity or other
9 organization regulated by or receiving money from the commission
10 [~~or receiving funds from the commission~~]; [~~or~~]

11 (2) uses or receives a substantial amount of tangible
12 goods, services, or funds from the commission, other than
13 compensation or reimbursement authorized by law for commission
14 membership, attendance, or expenses;

15 (3) is registered, certified, or licensed by a
16 regulatory agency in the field of criminal or juvenile justice; or

17 (4) is employed by or participates in the management
18 of a business entity or other organization regulated by or
19 receiving money from the commission.

20 (b) A person may not be a member of the commission and may
21 not be a commission employee employed in a "bona fide executive,
22 administrative, or professional capacity," as that phrase is used
23 for purposes of establishing an exemption to the overtime
24 provisions of the federal Fair Labor Standards Act of 1938 (29
25 U.S.C. Section 201 et seq.), if:

26 (1) the person is an officer, employee, or paid
27 consultant of a Texas trade association in the field of criminal or

1 juvenile justice; or

2 (2) the person's spouse is an officer, manager, or paid
3 consultant of a Texas trade association in the field of criminal or
4 juvenile justice [~~An officer, employee, or paid consultant of a~~
5 ~~trade association in the field of criminal or juvenile justice may~~
6 ~~not be a member or employee of the commission].~~

7 (c) [~~A person who is the spouse of an officer, employee, or~~
8 ~~paid consultant of a trade association in the field of criminal or~~
9 ~~juvenile justice may not be a commission member or a commission~~
10 ~~employee, including exempt employees, compensated at grade 17 or~~
11 ~~over according to the position classification schedule under the~~
12 ~~General Appropriations Act.~~

13 [~~(d)~~] A person may not serve as a member of the commission or
14 act as the general counsel to the commission if the person is
15 required to register as a lobbyist under Chapter 305, Government
16 Code, because of the person's activities for compensation in or on
17 behalf of a profession related to the operation of the commission.

18 (d) [~~(c)~~] In this section, "Texas trade association" means
19 a [~~nonprofit,~~] cooperative and [~~7~~] voluntarily joined statewide
20 association of business or professional competitors in this state
21 designed to assist its members and its industry or profession in
22 dealing with mutual or professional problems and in promoting their
23 common interest.

24 SECTION 3.004. Section 141.0145, Human Resources Code, is
25 amended to read as follows:

26 Sec. 141.0145. TRAINING FOR COMMISSION MEMBERS. (a) A [~~To~~
27 ~~be eligible to take office as a member of the commission, a]~~ person

1 who is appointed to and qualifies for office as a member of the
2 commission may not vote, deliberate, or be counted as a member in
3 attendance at a meeting of the commission until the person
4 completes [~~must complete at least one course of~~] a training program
5 that complies with this section.

6 (b) The training program must provide information to the
7 person regarding:

8 (1) the [~~enabling~~] legislation that created the
9 commission [~~and its policymaking body to which the person is~~
10 ~~appointed to serve~~];

11 (2) the programs operated by the commission;

12 (3) the roles [~~role~~] and functions of the commission;

13 (4) [~~the rules of the commission with an emphasis on~~
14 ~~the rules that relate to disciplinary and investigatory authority,~~

15 [~~(5)~~] the [~~current~~] budget of [~~for~~] the commission;

16 (5) [~~(6)~~] the results of the most recent formal audit
17 of the commission;

18 (6) [~~(7)~~] the requirements of law relating to open
19 meetings, public information, administrative procedure, and
20 conflicts of interest [~~the:~~

21 [~~(A) open meetings law, Chapter 551, Government~~
22 ~~Code,~~

23 [~~(B) open records law, Chapter 552, Government~~
24 ~~Code, and~~

25 [~~(C) administrative procedure law, Chapter 2001,~~
26 ~~Government Code~~]; and

27 (7) [~~(8) the requirements of the conflict of~~

1 ~~interests laws and other laws relating to public officials, and~~

2 ~~[(9)]~~ any applicable ethics policies adopted by the
3 commission or the Texas Ethics Commission.

4 (c) A person appointed to the commission is entitled to
5 reimbursement, as provided in the General Appropriations Act, for
6 travel expenses incurred in attending the training program,
7 regardless of whether the attendance at the program occurs before
8 or after the person qualifies for office ~~[as provided by the General~~
9 ~~Appropriations Act and as if the person were a member of the~~
10 ~~commission]~~.

11 SECTION 3.005. Sections 141.017(a) and (c), Human Resources
12 Code, are amended to read as follows:

13 (a) It is a ground for removal from the commission if a
14 member:

15 (1) does not have at the time of taking office
16 ~~[appointment]~~ the qualifications required by Section 141.011;

17 (2) does not maintain during service on the commission
18 the qualifications required by Section 141.011 ~~[is not eligible for~~
19 ~~appointment to or service on the commission as provided by Section~~
20 ~~141.014(a)]~~;

21 (3) is ineligible for membership under Section 141.014
22 ~~[violates a prohibition established by Section 141.014(b), (c), or~~
23 ~~(d)]~~;

24 (4) cannot, because of illness or disability,
25 discharge the member's duties for a substantial part of the term for
26 which the member is appointed ~~[because of illness or disability]~~;

27 or

1 (5) is absent from more than half of the regularly
2 scheduled commission meetings that the member is eligible to attend
3 during a calendar year unless the absence is excused by majority
4 vote of the commission.

5 (c) If the director has knowledge that a potential ground
6 for removal exists, the director shall notify the presiding officer
7 [~~chairman~~] of the commission of the potential ground. The
8 presiding officer [~~chairman~~] shall then notify the governor and the
9 attorney general that a potential ground for removal exists. If the
10 potential ground for removal involves the presiding officer
11 [~~chairman~~], the director shall notify the next highest officer of
12 the commission, who shall notify the governor and the attorney
13 general that a potential ground for removal exists.

14 SECTION 3.006. Section 141.022(b), Human Resources Code, is
15 amended to read as follows:

16 (b) The advisory council shall report any determinations
17 made under Subsection (c) to the members of the commission
18 appointed under Section 141.011 [~~the director~~].

19 SECTION 3.007. Subchapter B, Chapter 141, Human Resources
20 Code, is amended by adding Sections 141.027 through 141.029 to read
21 as follows:

22 Sec. 141.027. COMPLAINTS. (a) The commission shall
23 maintain a system to promptly and efficiently act on complaints
24 filed with the commission, other than complaints received under
25 Section 141.049. The commission shall maintain information about
26 parties to the complaint, the subject matter of the complaint, a
27 summary of the results of the review or investigation of the

1 complaint, and its disposition.

2 (b) The commission shall make information available
3 describing its procedures for complaint investigation and
4 resolution.

5 (c) The commission shall periodically notify the complaint
6 parties of the status of the complaint until final disposition.

7 Sec. 141.028. USE OF TECHNOLOGY. The commission shall
8 implement a policy requiring the commission to use appropriate
9 technological solutions to improve the commission's ability to
10 perform its functions. The policy must ensure that the public is
11 able to interact with the commission on the Internet.

12 Sec. 141.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
13 RESOLUTION. (a) The commission shall develop and implement a
14 policy to encourage the use of:

15 (1) negotiated rulemaking procedures under Chapter
16 2008, Government Code, for the adoption of commission rules; and

17 (2) appropriate alternative dispute resolution
18 procedures under Chapter 2009, Government Code, to assist in the
19 resolution of internal and external disputes under the commission's
20 jurisdiction.

21 (b) The commission's procedures relating to alternative
22 dispute resolution must conform, to the extent possible, to any
23 model guidelines issued by the State Office of Administrative
24 Hearings for the use of alternative dispute resolution by state
25 agencies.

26 (c) The commission shall designate a trained person to:

27 (1) coordinate the implementation of the policy

1 adopted under Subsection (a);

2 (2) serve as a resource for any training needed to
3 implement the procedures for negotiated rulemaking or alternative
4 dispute resolution; and

5 (3) collect data concerning the effectiveness of those
6 procedures, as implemented by the commission.

7 SECTION 3.008. Section 141.042, Human Resources Code, is
8 amended by amending Subsections (a), (e), and (h) and adding
9 Subsections (d), (f), (i), and (j) to read as follows:

10 (a) The commission shall adopt reasonable rules that
11 provide:

12 (1) minimum standards for personnel, staffing, case
13 loads, programs, facilities, record keeping, equipment, and other
14 aspects of the operation of a juvenile board that are necessary to
15 provide adequate and effective probation services;

16 (2) a code of ethics for probation and detention
17 officers and for the enforcement of that code;

18 (3) appropriate educational, preservice and
19 in-service training, and certification standards for probation and
20 detention officers or court-supervised community-based program
21 personnel;

22 (4) subject to Subsection (d), minimum standards for
23 public and private juvenile pre-adjudication secure detention
24 facilities, public juvenile post-adjudication secure correctional
25 facilities that are operated under the authority of a juvenile
26 board or governmental unit, [~~and~~] private juvenile
27 post-adjudication secure correctional facilities operated under a

1 contract with a governmental unit, except those facilities exempt
2 from certification by Section 42.052(g), and nonsecure
3 correctional facilities operated by or under contract with a
4 governmental unit; and

5 (5) minimum standards for juvenile justice
6 alternative education programs created under Section 37.011,
7 Education Code, in collaboration and conjunction with the Texas
8 Education Agency, or its designee.

9 (d) In adopting rules under Subsection (a)(4), the
10 commission shall ensure that the minimum standards for facilities
11 described by Subsection (a)(4) are designed to ensure that
12 juveniles confined in those facilities are provided the rights,
13 benefits, responsibilities, and privileges to which a juvenile is
14 entitled under the United States Constitution, federal law, and the
15 constitution and laws of this state. The minimum standards must
16 include a humane physical and psychological environment, safe
17 conditions of confinement, protection from harm, adequate
18 rehabilitation and education, adequate medical and mental health
19 treatment, and due process of law.

20 (e) Juvenile probation departments shall use the mental
21 health screening instrument selected by the commission for the
22 initial screening of children under the jurisdiction of probation
23 departments who have been formally referred to the department. The
24 commission shall give priority to training in the use of this
25 instrument in any preservice or in-service training that the
26 commission provides for probation officers. A clinical assessment
27 by a licensed mental health professional may be substituted for the

1 mental health screening instrument selected by the commission if
2 the clinical assessment is performed in the time prescribed by the
3 commission[~~. Juvenile probation departments shall report data from~~
4 ~~the use of the screening instrument or the clinical assessment to~~
5 ~~the commission in a format and in the time prescribed by the~~
6 ~~commission)].~~

7 (f) A juvenile probation department must, before the
8 disposition of a child's case and using a validated risk and needs
9 assessment instrument or process provided or approved by the
10 commission, complete a risk and needs assessment for each child
11 under the jurisdiction of the juvenile probation department.

12 (h) A juvenile board that does not accept state aid funding
13 from the commission under Section 141.081 shall report to the
14 commission each month on a form provided by the commission the same
15 data as that required of counties accepting state aid funding
16 regarding juvenile justice activities under the jurisdiction of the
17 juvenile board. If the commission makes available free software to
18 the juvenile board for the automation and tracking of juveniles
19 under the jurisdiction of the juvenile board, the commission may
20 require the monthly report to be provided in an electronic format
21 adopted by [~~rule by~~] the commission.

22 (i) A juvenile probation department shall report data from
23 the use of the screening instrument or clinical assessment under
24 Subsection (e) and the risk and needs assessment under Subsection
25 (f) to the commission in the format and at the time prescribed by
26 the commission.

27 (j) The commission shall adopt rules to ensure that youth in

1 the juvenile justice system are assessed using the screening
2 instrument or clinical assessment under Subsection (e) and the risk
3 and needs assessment under Subsection (f).

4 SECTION 3.009. Subchapter C, Chapter 141, Human Resources
5 Code, is amended by amending Section 141.0471 and adding Section
6 141.0472 to read as follows:

7 Sec. 141.0471. COORDINATED STRATEGIC PLANNING COMMITTEE
8 [~~PLAN FOR JUVENILE JUSTICE SYSTEM~~]. (a) The director [~~commission~~]
9 and the executive director of the Texas Youth Commission shall
10 jointly appoint a strategic planning committee to biennially
11 develop a coordinated strategic plan which shall guide, but not
12 substitute for, the strategic plans developed individually by the
13 agencies. The director and the executive director of the Texas
14 Youth Commission are co-presiding officers of the strategic
15 planning committee.

16 (b) The director shall appoint four members to the strategic
17 planning committee. The director shall appoint at least:

18 (1) one committee member who represents the interests
19 of families of juvenile offenders;

20 (2) one committee member who represents the interests
21 of local juvenile probation departments; and

22 (3) one committee member who is a mental health
23 treatment professional licensed under Subtitle B or I, Title 3,
24 Occupations Code.

25 (c) The executive director of the Texas Youth Commission
26 shall appoint four members to the strategic planning committee.

27 The executive director shall appoint at least:

1 (1) one committee member who represents the interests
2 of juvenile offenders;

3 (2) one committee member who represents the interests
4 of the victims of delinquent or criminal conduct; and

5 (3) one committee member who is an educator as defined
6 by Section 5.001, Education Code.

7 Sec. 141.0472. COORDINATED STRATEGIC PLAN; ADOPTION OF
8 PLAN. (a) [~~(b)~~] The coordinated strategic plan developed by the
9 strategic planning committee under Section 141.0471 must [~~shall~~]:

10 (1) identify short-term and long-term policy goals;

11 (2) identify time frames and strategies for meeting
12 the goals identified under Subdivision (1);

13 (3) estimate population projections, including
14 projections of population characteristics;

15 (4) estimate short-term and long-term capacity,
16 programmatic, and funding needs;

17 (5) describe intensive service and surveillance
18 parole pilot programs to be jointly developed;

19 (6) include an evaluation of aftercare services
20 emphasizing concrete outcome measures, including recidivism and
21 educational progress;

22 (7) identify objective criteria for the various
23 decision points throughout the continuum of juvenile justice
24 services and sanctions to guard against disparate treatment of
25 minority youth; [~~and~~]

26 (8) identify cross-agency outcome measures by which to
27 evaluate the effectiveness of the system generally;

1 (9) include a plan of implementation for the
2 development of common data sources and data sharing among the
3 commission, juvenile probation departments, the Texas Youth
4 Commission, the Department of Family and Protective Services, the
5 Department of State Health Services, the Health and Human Services
6 Commission, the Texas Education Agency, and other state agencies
7 that serve youth in the juvenile justice system;

8 (10) include the development of new, or the
9 improvement of existing, validated risk assessment instruments;

10 (11) include strategies to determine which programs
11 are most effective in rehabilitating youth in the juvenile justice
12 system;

13 (12) include planning for effective aftercare
14 programs and services, including ensuring that youth in the
15 juvenile justice system have personal identification and
16 appropriate referrals to service providers; and

17 (13) track performance measures to illustrate the
18 costs of different levels of treatment and to identify the most
19 cost-effective programs in each component of the juvenile justice
20 system in this state.

21 (b) In addition to the information described by Subsection
22 (a), the coordinated strategic plan must include specific processes
23 and procedures for routinely communicating juvenile justice system
24 information between the commission and the Texas Youth Commission
25 and determining opportunities to coordinate practices for
26 improving outcomes for youth.

27 (c) The governing boards [~~board~~] of the commission [~~Texas~~

1 ~~Juvenile Probation Commission]~~ and the ~~[executive commissioner of~~
2 ~~the]~~ Texas Youth Commission shall review and adopt the coordinated
3 strategic plan on or before December 1st of each odd-numbered year,
4 or before the adoption of the agency's individual strategic plan,
5 whichever is earlier.

6 SECTION 3.010. Section 141.049, Human Resources Code, is
7 amended to read as follows:

8 Sec. 141.049. COMPLAINTS RELATING TO JUVENILE BOARDS. (a)
9 The commission shall maintain a system to promptly and efficiently
10 act on a ~~[keep an information file about each]~~ complaint filed with
11 the commission relating to a juvenile board funded by the
12 commission. The commission shall maintain information about
13 parties to the complaint, a summary of the results of the review or
14 investigation of the complaint, and the disposition of the
15 complaint.

16 (b) The commission shall make information available
17 describing the commission's procedures for the investigation and
18 resolution of a complaint filed with the commission relating to a
19 juvenile board funded by the commission.

20 (c) The commission shall investigate the allegations in the
21 complaint and make a determination of whether there has been a
22 violation of the commission's rules relating to juvenile probation
23 programs, services, or facilities.

24 (d) ~~[(b)]~~ If a written complaint is filed with the
25 commission relating to a juvenile board funded by the commission,
26 the commission~~[, at least quarterly and until final disposition of~~
27 ~~the complaint,~~] shall periodically notify the complainant and the

1 juvenile board of the status of the complaint until final
2 disposition, unless notice would jeopardize an undercover
3 investigation.

4 SECTION 3.011. Section 141.050, Human Resources Code, is
5 amended by adding Subsection (c) to read as follows:

6 (c) The commission shall consider the past performance of a
7 juvenile board when contracting with the juvenile board for local
8 probation services other than basic probation services. In
9 addition to the contract standards described by Subsection (a), a
10 contract with a juvenile board for probation services other than
11 basic probation services must:

12 (1) include specific performance targets for the
13 juvenile board based on the juvenile board's historic performance
14 of the services; and

15 (2) require a juvenile board to report on the juvenile
16 board's success in meeting the performance targets described by
17 Subdivision (1).

18 SECTION 3.012. Subchapter C, Chapter 141, Human Resources
19 Code, is amended by adding Sections 141.057, 141.058, and 141.059
20 to read as follows:

21 Sec. 141.057. DATA COLLECTION. (a) The commission shall
22 collect comprehensive data concerning the outcomes of local
23 probation programs throughout the state.

24 (b) Data collected under Subsection (a) must include:

25 (1) a description of the types of programs and
26 services offered by a juvenile probation department, including a
27 description of the components of each program or service offered;

1 and

2 (2) to the extent possible, the rate at which
3 juveniles who enter or complete juvenile probation are later
4 committed to the custody of the state.

5 Sec. 141.058. QUARTERLY REPORT ON ABUSE, NEGLECT, AND
6 EXPLOITATION. (a) On January 1, 2010, and quarterly after that
7 date, the commission shall prepare and deliver a report to the board
8 concerning the final outcome of any complaint received under
9 Section 261.405, Family Code, that concerns the abuse, neglect, or
10 exploitation of a juvenile. The report must include a summary of
11 the actions performed by the commission and any applicable juvenile
12 board or juvenile probation department in resolving the complaint.

13 (b) A report prepared under Subsection (a) is public
14 information under Chapter 552, Government Code, only to the extent
15 authorized by that chapter.

16 Sec. 141.059. RESIDENTIAL TREATMENT FACILITY. (a) The
17 commission may contract with a local mental health and mental
18 retardation authority that, on April 1, 2009, had an unutilized or
19 underutilized residential treatment facility, for the
20 establishment of a residential treatment facility for juveniles
21 with mental illness or emotional injury who, as a condition of
22 juvenile probation, are ordered by a court to reside at the facility
23 and receive education services at the facility. The commission may
24 work in cooperation with the local mental health and mental
25 retardation authority to provide mental health residential
26 treatment services for juveniles residing at a facility established
27 under this section.

1 amended to read as follows:

2 (a) To be eligible for appointment as a probation officer, a
3 person who was not employed as a probation officer before September
4 1, 1981, must:

5 (1) be of good moral character;

6 (2) have acquired a bachelor's degree conferred by a
7 college or university accredited by an accrediting organization
8 recognized by the Texas Higher Education Coordinating Board;

9 (3) have either:

10 (A) one year of graduate study in criminology,
11 corrections, counseling, law, social work, psychology, sociology,
12 or other field of instruction approved by the commission; or

13 (B) one year of experience in full-time case
14 work, counseling, or community or group work:

15 (i) in a social service, community,
16 corrections, or juvenile agency that deals with offenders or
17 disadvantaged persons; and

18 (ii) that the commission determines
19 provides the kind of experience necessary to meet this requirement;

20 (4) have satisfactorily completed the course of
21 preservice training or instruction and any continuing education
22 required by the commission;

23 (5) have passed the tests or examinations required by
24 the commission; and

25 (6) possess the level of certification required by the
26 commission.

27 SECTION 3.015. Subchapter D, Chapter 141, Human Resources

1 Code, is amended by adding Section 141.0612 to read as follows:

2 Sec. 141.0612. MINIMUM STANDARDS FOR CERTAIN EMPLOYEES OF
3 NONSECURE CORRECTIONAL FACILITIES. (a) The commission by rule
4 shall adopt certification standards for persons who are employed in
5 nonsecure correctional facilities that accept only juveniles who
6 are on probation and that are operated by or under contract with a
7 governmental unit, as defined by Section 101.001, Civil Practice
8 and Remedies Code.

9 (b) The certification standards adopted under Subsection
10 (a) must be substantially similar to the certification requirements
11 for detention officers under Section 141.0611.

12 SECTION 3.016. Section 141.064, Human Resources Code, is
13 amended to read as follows:

14 Sec. 141.064. REVOCATION OR SUSPENSION OF CERTIFICATION.

15 (a) The commission may revoke or suspend a certification, or
16 reprimand a certified officer:

17 (1) [7] for a violation of this chapter or a commission
18 rule; or

19 (2) if, under Subsection (c), a panel determines that
20 continued certification of the person threatens juveniles in the
21 juvenile justice system.

22 (b) The commission may place on probation a person whose
23 certification is suspended. If the suspension is probated, the
24 commission may require the person to:

25 (1) report regularly to the commission on matters that
26 are the basis of the probation; and

27 (2) continue or review professional education until

1 the person attains a degree of skill satisfactory to the commission
2 in those areas that are the basis of the probation.

3 (c) The director may convene, in person or telephonically, a
4 panel of three commission members to determine if a person's
5 continued certification threatens juveniles in the juvenile
6 justice system. If the panel determines that the person's
7 continued certification threatens juveniles in the juvenile
8 justice system, the person's license is temporarily suspended until
9 an administrative hearing is held as soon as possible under
10 Subsection (d). The director may convene a panel under this
11 subsection only if the danger posed by the person's continued
12 certification is imminent. The panel may hold a telephonic meeting
13 only if immediate action is required and convening the panel at one
14 location is inconvenient for any member of the panel.

15 (d) A person is entitled to a hearing before the State
16 Office of Administrative Hearings [~~commission or a hearings officer~~
17 ~~appointed by the commission]~~ if the commission proposes to suspend
18 or revoke the person's certification.

19 (e) A person may appeal a ruling or order issued under this
20 section to a district court in the county in which the person
21 resides or in Travis County. The standard of review is under the
22 substantial evidence rule. [~~The commission shall prescribe~~
23 ~~procedures by which each decision to suspend or revoke is made by or~~
24 ~~is appealable to the commission.]~~

25 SECTION 3.017. Section 141.081, Human Resources Code, is
26 amended by adding Subsection (d) to read as follows:

27 (d) The commission by rule shall, not later than September

1 1, 2010, establish one or more basic probation services funding
2 formulas and one or more community corrections funding formulas.
3 The funding formulas established under this subsection must include
4 each grant for which the commission, on or before September 1, 2009,
5 established an allocation formula.

6 ARTICLE 4. MISCELLANEOUS PROVISIONS

7 SECTION 4.001. Chapter 13, Code of Criminal Procedure, is
8 amended by adding Article 13.34 to read as follows:

9 Art. 13.34. CERTAIN OFFENSES COMMITTED AGAINST CHILD
10 COMMITTED TO TEXAS YOUTH COMMISSION. An offense described by
11 Article 104.003(a) committed by an employee or officer of the Texas
12 Youth Commission or a person providing services under a contract
13 with the commission against a child committed to the commission may
14 be prosecuted in:

15 (1) any county in which an element of the offense
16 occurred; or

17 (2) Travis County.

18 SECTION 4.002. Section 29.012, Education Code, is amended
19 by adding Subsection (e) to read as follows:

20 (e) This section does not apply to a residential treatment
21 facility for juveniles established under Section 141.059, Human
22 Resources Code.

23 SECTION 4.003. Subchapter E, Chapter 30, Education Code, is
24 amended by adding Section 30.106 to read as follows:

25 Sec. 30.106. READING AND BEHAVIOR PLAN. (a) Because
26 learning and behavior are inextricably linked and learning and
27 improved behavior correlate with decreased recidivism rates, the

1 Texas Youth Commission shall not only fulfill the commission's
2 duties under state and federal law to provide general and special
3 educational services to students in commission educational
4 programs but also shall implement a comprehensive plan to improve
5 the reading skills and behavior of those students.

6 (b) To improve the reading skills of students in Texas Youth
7 Commission educational programs, the commission shall:

8 (1) adopt a reliable battery of reading assessments
9 that:

10 (A) are based on a normative sample appropriate
11 to students in commission educational programs;

12 (B) are designed to be administered on an
13 individual basis; and

14 (C) allow school employees to:

15 (i) evaluate performance in each essential
16 component of effective reading instruction, including phonemic
17 awareness, phonics, fluency, vocabulary, and comprehension;

18 (ii) monitor progress in areas of
19 deficiency specific to an individual student; and

20 (iii) provide reading performance data;

21 (2) administer the assessments adopted under
22 Subdivision (1):

23 (A) at periodic intervals not to exceed 12
24 months, to each student in a commission educational program; and

25 (B) at least 15 days and not more than 30 days
26 before a student is released from the commission;

27 (3) provide at least 60 minutes per school day of

1 individualized reading instruction to each student in a commission
2 educational program who exhibits deficits in reading on the
3 assessments adopted under Subdivision (1):

4 (A) by trained educators with expertise in
5 teaching reading to struggling adolescent readers; and

6 (B) through the use of scientifically based,
7 peer-reviewed reading curricula that:

8 (i) have proven effective in improving the
9 reading performance of struggling adolescent readers;

10 (ii) address individualized and
11 differentiated reading goals; and

12 (iii) include each of the essential
13 components of effective reading instruction, including phonemic
14 awareness, phonics, fluency, vocabulary, and comprehension;

15 (4) require each teacher in a commission regular or
16 special educational program who teaches English language arts,
17 reading, mathematics, science, social studies, or career and
18 technology education to be trained in incorporating content area
19 reading instruction using empirically validated instructional
20 methods that are appropriate for struggling adolescent readers; and

21 (5) evaluate the effectiveness of the commission's
22 plan to increase reading skills according to the following
23 criteria:

24 (A) an adequate rate of improvement in reading
25 performance, as measured by monthly progress monitoring using
26 curricular-based assessments in each of the essential components of
27 effective reading instruction, including phonemic awareness,

1 phonics, fluency, vocabulary, and comprehension;

2 (B) a significant annual rate of improvement in
3 reading performance, disaggregated by subgroups designated under
4 commission rule, as measured using the battery of reading
5 assessments adopted under Subdivision (1); and

6 (C) student ratings of the quality and impact of
7 the reading plan under this subsection, as measured on a student
8 self-reporting instrument.

9 (c) To increase the positive social behaviors of students in
10 Texas Youth Commission educational programs and to create an
11 educational environment that facilitates learning, the commission
12 shall:

13 (1) adopt system-wide classroom and individual
14 positive behavior supports that incorporate a continuum of
15 prevention and intervention strategies that:

16 (A) are based on current behavioral research; and

17 (B) are systematically and individually applied
18 to students consistent with the demonstrated level of need;

19 (2) require each teacher and other educational staff
20 member in a commission educational program to be trained in
21 implementing the positive behavior support system adopted under
22 Subdivision (1); and

23 (3) adopt valid assessment techniques to evaluate the
24 effectiveness of the positive behavior support system according to
25 the following criteria:

26 (A) documentation of school-related disciplinary
27 referrals, disaggregated by the type, location, and time of

1 infraction and by subgroups designated under commission rule;

2 (B) documentation of school-related disciplinary
3 actions, including time-out, placement in security, and use of
4 restraints and other aversive control measures, disaggregated by
5 subgroups designated under commission rule;

6 (C) validated measurement of systemic positive
7 behavioral support interventions; and

8 (D) the number of minutes students are out of the
9 regular classroom because of disciplinary reasons.

10 (d) The Texas Youth Commission shall consult with faculty
11 from institutions of higher education who have expertise in reading
12 instruction for adolescents, in juvenile corrections, and in
13 positive behavior supports to develop and implement the plan under
14 Subsections (b) and (c).

15 (e) A student in a Texas Youth Commission educational
16 program may not be released on parole from the commission unless the
17 student participates, to the extent required by commission rule, in
18 the positive behavior support system under Subsection (c). A
19 student in a commission educational program who exhibits deficits
20 in reading on the assessments adopted under Subsection (b)(1) must
21 also participate in reading instruction to the extent required by
22 this section and by commission rule before the student may be
23 released on parole.

24 (f) Not later than December 1, 2010, the Texas Youth
25 Commission shall report to the legislature concerning:

26 (1) the effectiveness of the commission's reading plan
27 based on the criteria specified by Subsection (b)(5); and

1 (2) the implementation of the positive behavior
2 support system plan under Subsection (c).

3 (g) Not later than December 1, 2012, the Texas Youth
4 Commission shall report to the legislature concerning the
5 effectiveness of the positive behavior support system based on the
6 criteria specified by Subsection (c)(3).

7 (h) Subsections (f) and (g) and this subsection expire
8 January 1, 2013.

9 SECTION 4.004. Section 51.02, Family Code, is amended by
10 adding Subdivision (8-a) to read as follows:

11 (8-a) "Nonsecure correctional facility" means a
12 facility, other than a secure correctional facility, that accepts
13 only juveniles who are on probation and that is operated by or under
14 contract with a governmental unit, as defined by Section 101.001,
15 Civil Practice and Remedies Code.

16 SECTION 4.005. Chapter 51, Family Code, is amended by
17 adding Section 51.126 to read as follows:

18 Sec. 51.126. NONSECURE CORRECTIONAL FACILITIES. (a) A
19 nonsecure correctional facility for juvenile offenders may be
20 operated only by:

21 (1) a governmental unit, as defined by Section
22 101.001, Civil Practice and Remedies Code; or

23 (2) a private entity under a contract with a
24 governmental unit in this state.

25 (b) In each county, each judge of the juvenile court and a
26 majority of the members of the juvenile board shall personally
27 inspect, at least annually, all nonsecure correctional facilities

1 that are located in the county and shall certify in writing to the
2 authorities responsible for operating and giving financial support
3 to the facilities and to the Texas Juvenile Probation Commission
4 that the facility or facilities are suitable or unsuitable for the
5 confinement of children. In determining whether a facility is
6 suitable or unsuitable for the confinement of children, the
7 juvenile court judges and juvenile board members shall consider:

8 (1) current monitoring and inspection reports and any
9 noncompliance citation reports issued by the Texas Juvenile
10 Probation Commission, including the report provided under
11 Subsection (c), and the status of any required corrective actions;
12 and

13 (2) the other factors described under Sections
14 51.12(c)(2)-(7).

15 (c) The Texas Juvenile Probation Commission shall annually
16 inspect each nonsecure correctional facility. The Texas Juvenile
17 Probation Commission shall provide a report to each juvenile court
18 judge presiding in the same county as an inspected facility
19 indicating whether the facility is suitable or unsuitable for the
20 confinement of children in accordance with minimum professional
21 standards for the confinement of children in nonsecure confinement
22 promulgated by the Texas Juvenile Probation Commission or, at the
23 election of the juvenile board of the county in which the facility
24 is located, the current standards promulgated by the American
25 Correctional Association.

26 (d) A governmental unit or private entity that operates or
27 contracts for the operation of a juvenile nonsecure correctional

1 facility in this state under Subsection (a), except for a facility
2 operated by or under contract with the Texas Youth Commission,
3 shall:

4 (1) register the facility annually with the Texas
5 Juvenile Probation Commission; and

6 (2) adhere to all applicable minimum standards for the
7 facility.

8 (e) The Texas Juvenile Probation Commission may deny,
9 suspend, or revoke the registration of any facility required to
10 register under Subsection (d) if the facility fails to:

11 (1) adhere to all applicable minimum standards for the
12 facility; or

13 (2) timely correct any notice of noncompliance with
14 minimum standards.

15 SECTION 4.006. Chapter 614, Health and Safety Code, is
16 amended by adding Section 614.018 to read as follows:

17 Sec. 614.018. CONTINUITY OF CARE FOR JUVENILES WITH MENTAL
18 IMPAIRMENTS. (a) The Texas Juvenile Probation Commission, the
19 Texas Youth Commission, the Department of Public Safety, the
20 Department of State Health Services, the Department of Aging and
21 Disability Services, the Department of Family and Protective
22 Services, the Texas Education Agency, and local juvenile probation
23 departments shall adopt a memorandum of understanding that
24 establishes their respective responsibilities to institute a
25 continuity of care and service program for juveniles with mental
26 impairments in the juvenile justice system. The Texas Correctional
27 Office on Offenders with Medical and Mental Impairments shall

1 coordinate and monitor the development and implementation of the
2 memorandum of understanding.

3 (b) The memorandum of understanding must establish methods
4 for:

5 (1) identifying juveniles with mental impairments in
6 the juvenile justice system and collecting and reporting relevant
7 data to the office;

8 (2) developing interagency rules, policies, and
9 procedures for the coordination of care of and the exchange of
10 information on juveniles with mental impairments who are committed
11 to or treated, served, or supervised by the Texas Youth Commission,
12 the Texas Juvenile Probation Commission, the Department of Public
13 Safety, the Department of State Health Services, the Department of
14 Family and Protective Services, the Department of Aging and
15 Disability Services, the Texas Education Agency, local juvenile
16 probation departments, local mental health or mental retardation
17 authorities, and independent school districts; and

18 (3) identifying the services needed by juveniles with
19 mental impairments in the juvenile justice system.

20 (c) For purposes of this section, "continuity of care and
21 service program" includes:

22 (1) identifying the medical, psychiatric, or
23 psychological care or treatment needs and educational or
24 rehabilitative service needs of a juvenile with mental impairments
25 in the juvenile justice system;

26 (2) developing a plan for meeting the needs identified
27 under Subdivision (1); and

1 (3) coordinating the provision of continual
2 treatment, care, and services throughout the juvenile justice
3 system to juveniles with mental impairments.

4 SECTION 4.007. Sections 614.017(a) and (b), Health and
5 Safety Code, are amended to read as follows:

6 (a) An agency shall:

7 (1) accept information relating to a special needs
8 offender or a juvenile with a mental impairment that is sent to the
9 agency to serve the purposes of continuity of care and services
10 regardless of whether other state law makes that information
11 confidential; and

12 (2) disclose information relating to a special needs
13 offender or a juvenile with a mental impairment, including
14 information about the offender's or juvenile's identity, needs,
15 treatment, social, criminal, and vocational history, supervision
16 status and compliance with conditions of supervision, and medical
17 and mental health history, if the disclosure serves the purposes of
18 continuity of care and services.

19 (b) Information obtained under this section may not be used
20 as evidence in any juvenile or criminal proceeding, unless obtained
21 and introduced by other lawful evidentiary means.

22 SECTION 4.008. Section 614.017(c), Health and Safety Code,
23 is amended by amending Subdivision (1) and adding Subdivision (3)
24 to read as follows:

25 (1) "Agency" includes any of the following entities
26 and individuals, a person with an agency relationship with one of
27 the following entities or individuals, and a person who contracts

1 with one or more of the following entities or individuals:

2 (A) the Texas Department of Criminal Justice and
3 the Correctional Managed Health Care Committee;

4 (B) the Board of Pardons and Paroles;

5 (C) the Department of State Health Services;

6 (D) the Texas Juvenile Probation Commission;

7 (E) the Texas Youth Commission;

8 (F) the Department of Assistive and
9 Rehabilitative Services;

10 (G) the Texas Education Agency;

11 (H) the Commission on Jail Standards;

12 (I) the Department of Aging and Disability
13 Services;

14 (J) the Texas School for the Blind and Visually
15 Impaired;

16 (K) community supervision and corrections
17 departments and local juvenile probation departments;

18 (L) personal bond pretrial release offices
19 established under Article 17.42, Code of Criminal Procedure;

20 (M) local jails regulated by the Commission on
21 Jail Standards;

22 (N) a municipal or county health department;

23 (O) a hospital district;

24 (P) a judge of this state with jurisdiction over
25 juvenile or criminal cases;

26 (Q) an attorney who is appointed or retained to
27 represent a special needs offender or a juvenile with a mental

1 impairment;

2 (R) the Health and Human Services Commission;

3 (S) the Department of Information Resources;

4 [~~and~~]

5 (T) the bureau of identification and records of
6 the Department of Public Safety, for the sole purpose of providing
7 real-time, contemporaneous identification of individuals in the
8 Department of State Health Services client data base; and

9 (U) the Department of Family and Protective
10 Services.

11 (3) "Juvenile with a mental impairment" means a
12 juvenile with a mental impairment in the juvenile justice system.

13 SECTION 4.009. Section 614.009, Health and Safety Code, is
14 amended to read as follows:

15 Sec. 614.009. BIENNIAL REPORT. Not later than February 1 of
16 each odd-numbered year, the office shall present to the board and
17 file with the governor, lieutenant governor, and speaker of the
18 house of representatives a report giving the details of the
19 office's activities during the preceding biennium. The report must
20 include:

21 (1) an evaluation of any demonstration project
22 undertaken by the office;

23 (2) an evaluation of the progress made by the office
24 toward developing a plan for meeting the treatment, rehabilitative,
25 and educational needs of offenders with special needs;

26 (3) recommendations of the office made in accordance
27 with Section 614.007(5);

1 (4) an evaluation of the development and
2 implementation of the continuity of care and service programs
3 established under Sections 614.013, 614.014, 614.015, [~~and~~
4 614.016, and 614.018, changes in rules, policies, or procedures
5 relating to the programs, future plans for the programs, and any
6 recommendations for legislation; and

7 (5) any other recommendations that the office
8 considers appropriate.

9 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

10 SECTION 5.001. Sections 61.025 and 61.027, Human Resources
11 Code, as added by this Act, and Sections 141.014 and 141.0145, Human
12 Resources Code, as amended by this Act, apply only to a person who
13 is appointed or reappointed as a member of the governing board of
14 the Texas Youth Commission or the Texas Juvenile Probation
15 Commission on or after the effective date of this Act. A person
16 appointed or reappointed as a member of the board or commission
17 before the effective date of this Act is governed by the law in
18 effect immediately before that date, and the former law is
19 continued in effect for that purpose.

20 SECTION 5.002. Section 61.026, Human Resources Code, as
21 added by this Act, and Section 141.017, Human Resources Code, as
22 amended by this Act, apply only to a ground for removal that occurs
23 on or after the effective date of this Act. A ground for removal
24 that occurs before the effective date of this Act is governed by the
25 law in effect immediately before that date, and the former law is
26 continued in effect for that purpose.

27 SECTION 5.003. (a) Section 141.011(a), Human Resources

1 Code, as amended by this Act, applies only to a person appointed to
2 the Texas Juvenile Probation Commission on or after the effective
3 date of this Act. A person appointed to the Texas Juvenile
4 Probation Commission before the effective date of this Act is
5 governed by the law in effect on the date the person was appointed,
6 and that law is continued in effect for that purpose.

7 (b) A person serving on the Texas Juvenile Probation
8 Commission on the effective date of this Act continues to serve on
9 the commission until the person's term expires. When a term expires
10 or a vacancy on the commission occurs, the governor shall make
11 appointments in accordance with Section 141.011(a), Human
12 Resources Code, as amended by this Act.

13 SECTION 5.004. Section 141.059, Human Resources Code, as
14 added by this Act, and Section 29.012, Education Code, as amended by
15 this Act, apply beginning with the 2009-2010 school year.

16 SECTION 5.005. Article 13.34, Code of Criminal Procedure,
17 as added by this Act, applies only to an offense committed on or
18 after the effective date of this Act. An offense committed before
19 the effective date of this Act is covered by the law in effect when
20 the offense was committed, and the former law is continued in effect
21 for that purpose. For purposes of this section, an offense was
22 committed before the effective date of this Act if any element of
23 the offense occurred before that date.

24 SECTION 5.006. (a) Not later than November 1, 2009, the
25 Texas Youth Commission shall adopt the battery of reading
26 assessments as required by Section 30.106(b), Education Code, as
27 added by this Act.

1 (b) Not later than January 1, 2010, the Texas Youth
2 Commission shall begin administering the battery of reading
3 assessments as required by Section 30.106(b), Education Code, as
4 added by this Act.

5 SECTION 5.007. Section 30.106(e), Education Code, as added
6 by this Act, applies to release on parole from the Texas Youth
7 Commission beginning September 1, 2010.

8 SECTION 5.008. This Act takes effect immediately if it
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 3689 was passed by the House on May 4, 2009, by the following vote: Yeas 140, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3689 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3689 on May 31, 2009, by the following vote: Yeas 147, Nays 0, 1 present, not voting.

Chief Clerk of the House

H.B. No. 3689

I certify that H.B. No. 3689 was passed by the Senate, with amendments, on May 27, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3689 on May 31, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor