

SENATE AMENDMENTS

2nd Printing

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H.B. No. 3689

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the functions and continuation of the Texas Youth
3 Commission and the Texas Juvenile Probation Commission and to the
4 functions of the Office of Independent Ombudsman for the Texas
5 Youth Commission.

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

7 ARTICLE 1. JUVENILE JUSTICE POLICY COORDINATING COUNCIL

8 SECTION 1.001. Title 1, Human Resources Code, is amended by
9 adding Chapter 2 to read as follows:

10 CHAPTER 2. JUVENILE JUSTICE POLICY COORDINATING COUNCIL

11 SUBCHAPTER A. GENERAL AND ADMINISTRATIVE PROVISIONS

12 Sec. 2.001. DEFINITIONS. (a) The definitions provided by
13 Sections 61.001 and 141.002 apply to this chapter.

14 (b) In this chapter:

15 (1) "Council" means the Juvenile Justice Policy
16 Coordinating Council.

17 (2) "Juvenile justice agency" means:

18 (A) the Texas Youth Commission; or

19 (B) the Texas Juvenile Probation Commission.

20 Sec. 2.002. COMPOSITION OF COUNCIL; PRESIDING OFFICER. (a)
21 The council is composed of 18 members.

22 (b) The executive head of each of the following agencies, or
23 that person's designee, serves as a nonvoting member of the
24 council:

- 1 (1) the Texas Education Agency;
- 2 (2) the Health and Human Services Commission;
- 3 (3) the Department of Family and Protective Services;
- 4 (4) the Department of State Health Services;
- 5 (5) the Department of Aging and Disability Services;
- 6 (6) the Texas Workforce Commission; and
- 7 (7) the Texas Department of Criminal Justice.

8 (c) The presiding officer of the Texas Juvenile Probation
9 Commission and the presiding officer of the board of the Texas Youth
10 Commission serve as voting members of the council.

11 (d) The governor shall appoint, with the advice and consent
12 of the senate, the following nine voting members:

- 13 (1) one juvenile court judge;
- 14 (2) one prosecutor in juvenile court;
- 15 (3) one defense attorney who regularly represents
16 children alleged to have engaged in delinquent conduct or conduct
17 indicating a need for supervision;
- 18 (4) one chief juvenile probation officer of a juvenile
19 probation department;
- 20 (5) one mental health treatment professional;
- 21 (6) one educator, as that term is defined by Section
22 5.001, Education Code;
- 23 (7) one member who is an advocate with experience in
24 juvenile issues and policy;
- 25 (8) one member who is a member of the governing board
26 of the Texas Juvenile Probation Commission and is not the presiding
27 officer of that board; and

1 (9) one member who is a member of the board of the
2 Texas Youth Commission and is not the presiding officer of that
3 board.

4 (e) Members appointed under Subsection (d) serve staggered
5 six-year terms, with the terms of three members expiring on
6 February 1 of each odd-numbered year.

7 (f) The governor shall make appointments to the council
8 under Subsection (d):

9 (1) with regard to the geographical region of this
10 state in which each appointee resides; and

11 (2) without regard to the race, color, disability,
12 sex, religion, age, or national origin of the appointee.

13 (g) The governor shall designate a member of the council as
14 the presiding officer of the council to serve in that capacity at
15 the pleasure of the governor.

16 Sec. 2.003. RESTRICTIONS ON AND QUALIFICATIONS FOR COUNCIL
17 MEMBERSHIP. (a) A person may not be a member of the council if the
18 person is required to register as a lobbyist under Chapter 305,
19 Government Code, because of the person's activities for
20 compensation on behalf of a profession related to the operation of a
21 juvenile justice agency.

22 (b) To be a member of the council, a person must have, as
23 appropriate, documented expertise or educational training in the
24 person's professional field.

25 Sec. 2.004. REIMBURSEMENT. A council member is not
26 entitled to compensation for service on the council but is entitled
27 to reimbursement for actual and necessary expenses incurred in

1 performing official duties as a council member.

2 Sec. 2.005. MEETINGS; PUBLIC PARTICIPATION. (a) The
3 council shall hold regular quarterly meetings on dates set by the
4 council and special meetings at the call of the presiding officer.

5 (b) The council shall adopt rules regulating the council's
6 proceedings.

7 (c) The council shall keep a public record of the council's
8 decisions at the council's general office.

9 Sec. 2.006. SHARING OF STAFF, EQUIPMENT, AND FACILITIES;
10 ALLOCATION OF COSTS. (a) The council shall use the staff,
11 equipment, and facilities of juvenile justice agencies to the
12 extent necessary to carry out the council's duties.

13 (b) An interagency agreement must provide that the cost of
14 staff used by the council is to be:

15 (1) shared between juvenile justice agencies in
16 proportion to each juvenile justice agency's operating budget; and

17 (2) included in the amounts described by Subdivision
18 (1) in the budget of each juvenile justice agency.

19 (c) For purposes of Subsection (b)(1), the operating budget
20 of the Texas Juvenile Probation Commission does not include amounts
21 distributed by the commission to local juvenile probation
22 departments as state aid or grants.

23 Sec. 2.007. SUNSET PROVISION. The Juvenile Justice Policy
24 Coordinating Council is subject to Chapter 325, Government Code
25 (Texas Sunset Act). Unless continued in existence as provided by
26 that chapter, the council is abolished September 1, 2021.

27 [Sections 2.008-2.050 reserved for expansion]

1 SUBCHAPTER B. GENERAL POWERS AND DUTIES OF COUNCIL

2 Sec. 2.051. EVALUATION OF JUVENILE JUSTICE AGENCIES;
3 RECOMMENDATIONS AND FUNCTION. (a) The council shall evaluate the
4 operations of juvenile justice agencies and make recommendations to
5 those agencies concerning any manner in which:

6 (1) an agency could improve the provision of services
7 to or operations of programs for juveniles who are placed on
8 juvenile probation or committed to the Texas Youth Commission; and

9 (2) those agencies could improve coordination of
10 services provided by or programs operated by those agencies.

11 (b) The council exists only in an advisory capacity and does
12 not govern, and is not responsible for, the operations of the Texas
13 Juvenile Probation Commission or the Texas Youth Commission.

14 Sec. 2.052. JUVENILE JUSTICE IMPROVEMENT PLAN; ANNUAL
15 REPORT. (a) Beginning in 2011, not later than June 1 of each year
16 or as soon as possible after that date, the council shall:

17 (1) review, revise, and update the juvenile justice
18 improvement plan adopted by the council in the previous fiscal
19 year; and

20 (2) submit the juvenile justice improvement plan to
21 the juvenile justice agencies for review and comment.

22 (b) Not later than September 1 of each year or as soon as
23 possible after that date, the council:

24 (1) may make any changes necessary in the juvenile
25 justice improvement plan as a result of receiving review and
26 comment from the juvenile justice agencies; and

27 (2) shall readopt the juvenile justice improvement

1 plan.

2 (c) In reviewing, revising, updating, and adopting the
3 juvenile justice improvement plan under Subsection (a), the council
4 shall have the following goals:

5 (1) to the maximum extent possible, reserving
6 facilities operated by or under contract with the state for higher
7 risk juveniles;

8 (2) increasing reliance on alternatives to secure
9 placement, except when secure placement is necessary to address
10 adequately a juvenile offender's treatment needs or prevent the
11 juvenile offender from reoffending;

12 (3) serving juveniles in settings that are as close to
13 the juveniles' homes as possible;

14 (4) using facility and program designs proven to be
15 most effective in rehabilitating juveniles;

16 (5) locating facilities as geographically close as
17 possible to necessary workforce and other services; and

18 (6) developing county centers or consortiums that
19 enhance county collaboration.

20 (d) The council shall prepare an annual implementation
21 report to the governor, the lieutenant governor, the speaker of the
22 house of representatives, and the Criminal Justice Legislative
23 Oversight Committee concerning:

24 (1) the progress of each juvenile justice agency in
25 implementing the juvenile justice improvement plan; and

26 (2) using the comprehensive system under Section 2.106
27 to measure performance incorporated into the juvenile justice

1 improvement plan and the overall performance of each juvenile
2 justice agency and the juvenile justice system in this state.

3 (e) The council shall submit the annual implementation
4 report described by Subsection (d) in December of each year for the
5 period of September 1 of the previous year through August 31 of the
6 year in which the report is submitted.

7 [Sections 2.053-2.100 reserved for expansion]

8 SUBCHAPTER C. JUVENILE JUSTICE IMPROVEMENT PLAN

9 Sec. 2.101. DEFINITION. In this subchapter, "plan" means
10 the comprehensive juvenile justice improvement plan developed by
11 the council under Section 2.102(a).

12 Sec. 2.102. DEVELOPMENT OF PLAN. (a) Not later than June
13 1, 2010, and every fifth year after that date, the council shall:

14 (1) develop a comprehensive juvenile justice
15 improvement plan for the five fiscal years that follow that date,
16 the first of which begins on the September 1 immediately following
17 that date; and

18 (2) deliver a copy of the plan to and accept comments
19 and review of the plan from:

20 (A) the governor;

21 (B) the lieutenant governor;

22 (C) the speaker of the house of representatives;

23 (D) the Criminal Justice Legislative Oversight
24 Committee; and

25 (E) the juvenile justice agencies.

26 (b) The committee is not obligated to make, but may make,
27 changes to the plan as a result of receiving review and comments

1 under Subsection (a)(2).

2 (c) Not later than September 1, 2010, and every fifth year
3 after that date, or as soon as possible after that date, the council
4 shall adopt the plan.

5 Sec. 2.103. PLAN COMPONENT: JUVENILE JUSTICE FACILITIES.

6 (a) The comprehensive juvenile justice improvement plan must
7 include a master plan for the operation of secure correctional
8 facilities by the Texas Youth Commission. The council shall
9 evaluate state and county infrastructure to determine the number of
10 beds needed in secure correctional facilities.

11 (b) The master plan developed under Subsection (a), taking
12 into consideration the timing and cost of relocating or closing any
13 facilities operated on September 1, 2009, by the Texas Youth
14 Commission, must identify:

15 (1) which facilities, if any, operated by the Texas
16 Youth Commission should be closed; and

17 (2) which areas of the state, if any, lack a sufficient
18 number of locally operated secure or nonsecure correctional
19 facilities.

20 (c) The council shall develop the master plan to achieve the
21 following goals:

22 (1) to the maximum extent possible, reserving
23 facilities operated by or under contract with the state for higher
24 risk juveniles;

25 (2) increasing reliance on alternatives to secure
26 placement, except when secure placement is necessary to address
27 adequately a juvenile offender's treatment needs or prevent the

1 juvenile offender from reoffending;

2 (3) serving juveniles in settings that are as close to
3 the juveniles' homes as possible;

4 (4) using facility and program designs proven to be
5 most effective in rehabilitating juveniles;

6 (5) locating facilities as geographically close as
7 possible to necessary workforce and other services; and

8 (6) developing county centers or consortiums that
9 enhance county collaboration.

10 Sec. 2.104. PLAN COMPONENT: DATA SHARING. The
11 comprehensive juvenile justice improvement plan must include a
12 specific process and procedures for:

13 (1) developing common data systems among:

14 (A) the Texas Youth Commission;

15 (B) the Texas Juvenile Probation Commission;

16 (C) local probation departments; and

17 (D) other agencies of this state that serve
18 youth, including the Department of Family and Protective Services,
19 the Department of State Health Services, the Health and Human
20 Services Commission, and the Texas Education Agency; and

21 (2) to the maximum extent allowed by state and federal
22 law, improving access to educational and mental health records for
23 juveniles who are placed on probation or committed to the custody of
24 the state.

25 Sec. 2.105. PLAN COMPONENT: PROGRAMS, SERVICES, AND
26 REENTRY PLANNING. The comprehensive juvenile justice improvement
27 plan must include a specific process and procedures and, if

1 appropriate, a policy for:

2 (1) routinely assessing the risk and needs of
3 juveniles in this state who are placed on juvenile probation or
4 committed to the custody of the state;

5 (2) developing or improving validated risks and needs
6 assessments and policies to assess juveniles at crucial points in
7 the juvenile justice system, including:

8 (A) before adjudication of a juvenile's case;

9 (B) on commitment of a juvenile to the custody of
10 the state; and

11 (C) at release from a correctional facility or on
12 the termination of control by the state;

13 (3) ensuring that a juvenile's minimum length of stay
14 and placement in a particular facility directly address the
15 identified needs of the juvenile;

16 (4) establishing timelines to identify and implement
17 state and local programs for community supervision, local
18 placement, and state commitment that have proven to be effective;

19 (5) providing training concerning the programs
20 described by Subdivision (4) to state and local personnel;

21 (6) improving reentry into the community for juveniles
22 exiting the juvenile justice system at the state or local level;

23 (7) increasing the use of the Texas Correctional
24 Office on Offenders with Medical or Mental Impairments, community
25 resource coordination groups, and other community resources for
26 juveniles on parole or probation;

27 (8) ensuring that juveniles exiting state commitment

1 or extended probation placements have the appropriate personal
2 identification and service referrals to ensure the delivery of
3 essential services, including mental health treatment, to them
4 without delay on their return to the community; and

5 (9) ensuring that all applicable funding resources,
6 including but not limited to Medicaid and Title IV(e) funds, are
7 identified and accessed to the greatest extent possible within the
8 juvenile justice system at both the state and local levels.

9 Sec. 2.106. PLAN COMPONENT: PERFORMANCE MEASUREMENT. (a)
10 The comprehensive juvenile justice improvement plan must include
11 the development of a comprehensive system to measure the
12 performance of the entire juvenile justice system in this state.
13 The system must include performance measures that show the costs of
14 different levels of supervision and treatment to enable
15 identification of the most cost-effective programs.

16 (b) The council shall consult with the Legislative Budget
17 Board and the budget, planning, and policy division of the
18 governor's office in developing the comprehensive system to measure
19 performance under Subsection (a).

20 ARTICLE 2. TEXAS YOUTH COMMISSION

21 SECTION 2.001. The heading to Chapter 61, Human Resources
22 Code, is amended to read as follows:

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

24 SECTION 2.002. Section 61.001, Human Resources Code, is
25 amended by adding Subdivision (3) to read as follows:

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

1 SECTION 2.003. Section 61.020, Human Resources Code, is
2 amended to read as follows:

3 Sec. 61.020. SUNSET PROVISION. (a) The Texas Youth
4 Commission is subject to Chapter 325, Government Code (Texas Sunset
5 Act). Unless continued in existence as provided by that chapter,
6 the commission is abolished and this chapter expires September 1,
7 2021 [2009].

8 (b) The Sunset Advisory Commission shall evaluate the
9 commission's compliance with Chapter 263 (S.B. 103), Acts of the
10 80th Legislature, Regular Session, 2007, and present to the 82nd
11 Legislature a report on its evaluation and recommendations in
12 relation to the commission's compliance. The commission shall
13 perform all duties for the evaluation that a state agency subject to
14 review under Chapter 325, Government Code (Texas Sunset Act), would
15 perform for a review. This subsection expires September 1, 2011.

16 SECTION 2.004. Section 61.024(a), Human Resources Code, is
17 amended to read as follows:

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

26 SECTION 2.005. Subchapter B, Chapter 61, Human Resources
27 Code, is amended by adding Sections 61.025 through 61.029 to read as

1 follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (5) is absent from more than half of the regularly
26 scheduled board meetings that the member is eligible to attend
27 during a calendar year without an excuse approved by a majority vote

1 of the board.

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

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

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

19 (b) The training program must provide the person with
20 information regarding:

21 (1) the legislation that created the commission;

22 (2) the programs, functions, rules, and budget of the
23 commission;

24 (3) the results of the most recent formal audit of the
25 commission;

26 (4) the requirements of laws relating to open
27 meetings, public information, administrative procedure, and

1 conflicts of interest; and

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

4 (c) A person appointed to the board is entitled to
5 reimbursement, as provided by the General Appropriations Act, for
6 the 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.

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

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

17 (1) negotiated rulemaking procedures under Chapter
18 2008, Government Code, for the adoption of commission rules; and

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

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

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

2 (1) coordinate the implementation of the policy
3 adopted under Subsection (a);

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

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

9 SECTION 2.006. Section 61.0352, Human Resources Code, is
10 amended to read as follows:

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

16 SECTION 2.007. Section 61.0422, Human Resources Code, is
17 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

24 [~~(e)~~] The commission shall keep information about each
25 written complaint filed with the commission by a child receiving
26 services from the commission or the child's parent or guardian. The
27 information must include:

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

6 SECTION 2.008. Section 61.0423, Human Resources Code, is
7 amended to read as follows:

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

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

18 SECTION 2.009. Subchapter D, Chapter 61, Human Resources
19 Code, is amended by adding Section 61.067 to read as follows:

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

26 (b) A report provided under Subsection (a) may include any
27 information the commission determines to be relevant in evaluating

1 the child's progress, including, as applicable, information
2 concerning the child's treatment, education, and health.

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

6 SECTION 2.010. Subchapter F, Chapter 61, Human Resources
7 Code, is amended by adding Section 61.08131 to read as follows:

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

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

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

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

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

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

1 reintegration plan; and

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

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

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

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

17 (2) provide children with:

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

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

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

24 (D) employment training;

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

27 (F) parenting and relationship-building classes;

1 and

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

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

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

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

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

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

1 (g) The commission shall ensure that each reentry and
2 reintegration plan developed for a child under Section 61.0814 is
3 coordinated with the comprehensive reentry and reintegration plan
4 developed under this section.

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

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

14 SECTION 2.011. Subchapter F, Chapter 61, Human Resources
15 Code, is amended by adding Section 61.08141 to read as follows:

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

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

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

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

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

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

10 SECTION 2.012. Section 61.098(b), Human Resources Code, is
11 amended to read as follows:

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

20 ARTICLE 3. OFFICE OF INDEPENDENT OMBUDSMAN FOR THE TEXAS YOUTH
21 COMMISSION

22 SECTION 3.001. Section 64.054, Human Resources Code, is
23 amended to read as follows:

24 Sec. 64.054. SUNSET PROVISION. The office is subject to
25 review under Chapter 325, Government Code (Texas Sunset Act), but
26 is not abolished under that chapter. The office shall be reviewed
27 during the periods in which the Texas Youth Commission is [state

1 ~~agencies abolished in 2009 and every 12th year after 2009 are]~~
2 reviewed.

3 SECTION 3.002. Section 64.058, Human Resources Code, is
4 amended to read as follows:

5 Sec. 64.058. RULEMAKING AUTHORITY. (a) The office by rule
6 shall establish policies and procedures for the operations of the
7 office of independent ombudsman.

8 (b) The office and the commission shall adopt rules
9 necessary to implement Section 64.060, including rules that
10 establish procedures for the commission to review and comment on
11 reports of the office and for the commission to expedite or
12 eliminate review of and comment on a report due to an emergency or a
13 serious or flagrant circumstance described by Section 64.055(b).

14 SECTION 3.003. Subchapter B, Chapter 64, Human Resources
15 Code, is amended by adding Sections 64.060 and 64.061 to read as
16 follows:

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

21 (1) the office's quarterly report under Section
22 64.055(a);

23 (2) reports concerning serious or flagrant
24 circumstances under Section 64.055(b); and

25 (3) any other formal reports containing findings and
26 making recommendations concerning systemic issues that affect the
27 commission.

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

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

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

10 Sec. 64.061. COMPLAINTS. (a) The office shall maintain a
11 system to promptly and efficiently act on complaints filed with the
12 office that relate to the operations or staff of the office. The
13 office shall maintain information about parties to the complaint,
14 the subject matter of the complaint, a summary of the results of the
15 review or investigation of the complaint, and the disposition of
16 the complaint.

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

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

21 SECTION 3.004. Subchapter C, Chapter 64, Human Resources
22 Code, is amended by adding Section 64.104 to read as follows:

23 Sec. 64.104. MEMORANDUM OF UNDERSTANDING. (a) The office
24 and the commission shall enter into a memorandum of understanding
25 concerning:

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

1 (2) the procedures for handling overlapping
2 monitoring duties and activities performed by the office and the
3 commission.

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

6 (1) address the interaction of the office with that
7 portion of the commission that conducts an internal audit under
8 Section 61.0331;

9 (2) address communication between the office and the
10 commission concerning individual situations involving children
11 committed to the commission and how those situations will be
12 documented and handled;

13 (3) contain guidelines on the office's role in
14 relevant working groups and policy development decisions at the
15 commission;

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

19 (5) preserve the independence of the office by
20 authorizing the office to withhold information concerning matters
21 under active investigation by the office from the commission and
22 commission staff and to report the information to the governor.

23 ARTICLE 4. TEXAS JUVENILE PROBATION COMMISSION

24 SECTION 4.001. Section 141.011(a), Human Resources Code, is
25 amended to read as follows:

26 (a) The commission consists of:

27 (1) two district court judges;

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

2 (3) one prosecutor in juvenile court who regularly
3 prosecutes children alleged to have engaged in delinquent conduct
4 or conduct indicating a need for supervision;

5 (4) one defense attorney who regularly represents
6 children alleged to have engaged in delinquent conduct or conduct
7 indicating a need for supervision;

8 (5) one member who represents an organization that
9 advocates on behalf of juvenile offenders or victims of delinquent
10 or criminal conduct; and

11 (6) two ~~[five]~~ members of the public who are not
12 employees in the criminal or juvenile justice system.

13 SECTION 4.002. Section 141.012, Human Resources Code, is
14 amended to read as follows:

15 Sec. 141.012. SUNSET PROVISION. The Texas Juvenile
16 Probation Commission is subject to Chapter 325, Government Code
17 (Texas Sunset Act). Unless continued in existence as provided by
18 that chapter, the commission is abolished and this chapter expires
19 September 1, 2021 ~~[2009]~~.

20 SECTION 4.003. Section 141.014, Human Resources Code, is
21 amended to read as follows:

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

26 (1) owns or controls, directly or indirectly, more
27 than a 10 percent interest in a business entity or other

1 organization regulated by or receiving money from the commission
2 [~~or receiving funds from the commission~~]; [~~or~~]

3 (2) uses or receives a substantial amount of tangible
4 goods, services, or funds from the commission, other than
5 compensation or reimbursement authorized by law for commission
6 membership, attendance, or expenses;

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

9 (4) is employed by or participates in the management
10 of a business entity or other organization regulated by or
11 receiving money from the commission.

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

18 (1) the person is an officer, employee, or paid
19 consultant of a Texas trade association in the field of criminal or
20 juvenile justice; or

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

26 (c) [~~A person who is the spouse of an officer, employee, or~~
27 ~~paid consultant of a trade association in the field of criminal or~~

1 ~~juvenile justice may not be a commission member or a commission~~
2 ~~employee, including exempt employees, compensated at grade 17 or~~
3 ~~over according to the position classification schedule under the~~
4 ~~General Appropriations Act.~~

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

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

16 SECTION 4.004. Section 141.0145, Human Resources Code, is
17 amended to read as follows:

18 Sec. 141.0145. TRAINING FOR COMMISSION MEMBERS. (a) A ~~(To~~
19 ~~be eligible to take office as a member of the commission, a]~~ person
20 who is appointed to and qualifies for office as a member of the
21 commission may not vote, deliberate, or be counted as a member in
22 attendance at a meeting of the commission until the person
23 completes ~~[must complete at least one course of]~~ a training program
24 that complies with this section.

25 (b) The training program must provide information to the
26 person regarding:

27 (1) the ~~enabling~~ legislation that created the

1 commission [~~and its policymaking body to which the person is~~
2 ~~appointed to serve~~];

3 (2) the programs operated by the commission;

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

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

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

8 (5) [~~(6)~~] the results of the most recent formal audit
9 of the commission;

10 (6) [~~(7)~~] the requirements of law relating to open
11 meetings, public information, administrative procedure, and
12 conflicts of interest [~~the~~;

13 [~~(A) open meetings law, Chapter 551, Government~~
14 ~~Code,~~

15 [~~(B) open records law, Chapter 552, Government~~
16 ~~Code, and~~

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

19 (7) [~~(8) the requirements of the conflict of~~
20 ~~interests laws and other laws relating to public officials, and~~

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

23 (c) A person appointed to the commission is entitled to
24 reimbursement, as provided in the General Appropriations Act, for
25 travel expenses incurred in attending the training program,
26 regardless of whether the attendance at the program occurs before
27 or after the person qualifies for office [~~as provided by the General~~

1 ~~Appropriations Act and as if the person were a member of the~~
2 ~~commission].~~

3 SECTION 4.005. Sections 141.017(a) and (c), Human Resources
4 Code, are amended to read as follows:

5 (a) It is a ground for removal from the commission if a
6 member:

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

9 (2) does not maintain during service on the commission
10 the qualifications required by Section 141.011 ~~[is not eligible for~~
11 ~~appointment to or service on the commission as provided by Section~~
12 ~~141.014(a)]~~;

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

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

20 (5) is absent from more than half of the regularly
21 scheduled commission meetings that the member is eligible to attend
22 during a calendar year unless the absence is excused by majority
23 vote of the commission.

24 (c) If the director has knowledge that a potential ground
25 for removal exists, the director shall notify the presiding officer
26 ~~[chairman]~~ of the commission of the potential ground. The
27 presiding officer ~~[chairman]~~ shall then notify the governor and the

1 attorney general that a potential ground for removal exists. If the
2 potential ground for removal involves the presiding officer
3 ~~[chairman]~~, the director shall notify the next highest officer of
4 the commission, who shall notify the governor and the attorney
5 general that a potential ground for removal exists.

6 SECTION 4.006. Sections 141.022(a) and (b), Human Resources
7 Code, are amended to read as follows:

8 (a) The advisory council on juvenile services consists of
9 the following chief juvenile probation officers appointed by the
10 commission:

11 (1) three chief ~~[two]~~ juvenile probation officers of
12 juvenile probation departments serving counties with populations
13 of less than 10,000 ~~[court judges, appointed by the commission];~~

14 (2) four chief ~~[three]~~ juvenile probation officers of
15 juvenile probation departments serving counties with populations
16 of 10,000 or more but less than 50,001 ~~[, appointed by the~~
17 ~~commission];~~

18 (3) three chief juvenile probation officers of
19 juvenile probation departments serving counties with populations
20 of 50,001 or more but less than 200,001 ~~[two citizens who are~~
21 ~~knowledgeable of juvenile services, appointed by the commission];~~
22 and

23 (4) three chief juvenile probation officers of
24 juvenile probation departments serving counties with populations
25 of 200,001 or more ~~[the executive commissioner of the Texas Youth~~
26 ~~Commission or the commissioner's designee,~~

27 ~~[(5) the commissioner of education or the~~

1 ~~commissioner's designee, and~~

2 ~~[(6) the commissioner of human services or the~~
3 ~~commissioner's designee].~~

4 (b) The advisory council shall report any determinations
5 made under Subsection (c) to the director and the members of the
6 commission appointed under Section 141.011.

7 SECTION 4.007. Subchapter B, Chapter 141, Human Resources
8 Code, is amended by adding Sections 141.027 through 141.029 to read
9 as follows:

10 Sec. 141.027. COMPLAINTS. (a) The commission shall
11 maintain a system to promptly and efficiently act on complaints
12 filed with the commission, other than complaints received under
13 Section 141.049. The commission shall maintain information about
14 parties to the complaint, the subject matter of the complaint, a
15 summary of the results of the review or investigation of the
16 complaint, and its disposition.

17 (b) The commission shall make information available
18 describing its procedures for complaint investigation and
19 resolution.

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

22 Sec. 141.028. USE OF TECHNOLOGY. The commission shall
23 implement a policy requiring the commission to use appropriate
24 technological solutions to improve the commission's ability to
25 perform its functions. The policy must ensure that the public is
26 able to interact with the commission on the Internet.

27 Sec. 141.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE

1 RESOLUTION. (a) The commission shall develop and implement a
2 policy to encourage the use of:

3 (1) negotiated rulemaking procedures under Chapter
4 2008, Government Code, for the adoption of commission rules; and

5 (2) appropriate alternative dispute resolution
6 procedures under Chapter 2009, Government Code, to assist in the
7 resolution of internal and external disputes under the commission's
8 jurisdiction.

9 (b) The commission's procedures relating to alternative
10 dispute resolution must conform, to the extent possible, to any
11 model guidelines issued by the State Office of Administrative
12 Hearings for the use of alternative dispute resolution by state
13 agencies.

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

15 (1) coordinate the implementation of the policy
16 adopted under Subsection (a);

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

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

22 SECTION 4.008. Section 141.042, Human Resources Code, is
23 amended by amending Subsections (a), (e), and (h) and adding
24 Subsections (d), (f), (i), and (j) to read as follows:

25 (a) The commission shall adopt reasonable rules that
26 provide:

27 (1) minimum standards for personnel, staffing, case

1 loads, programs, facilities, record keeping, equipment, and other
2 aspects of the operation of a juvenile board that are necessary to
3 provide adequate and effective probation services;

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

6 (3) appropriate educational, preservice and
7 in-service training, and certification standards for probation and
8 detention officers or court-supervised community-based program
9 personnel;

10 (4) subject to Subsection (d), minimum standards for
11 public and private juvenile pre-adjudication secure detention
12 facilities, public juvenile post-adjudication secure correctional
13 facilities that are operated under the authority of a juvenile
14 board or governmental unit, [~~and~~] private juvenile
15 post-adjudication secure correctional facilities operated under a
16 contract with a governmental unit, except those facilities exempt
17 from certification by Section 42.052(g), and nonsecure
18 correctional facilities operated by or under contract with a
19 governmental unit; and

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

24 (d) In adopting rules under Subsection (a)(4), the
25 commission shall ensure that the minimum standards for facilities
26 described by Subsection (a)(4) are designed to ensure that
27 juveniles confined in those facilities are provided the rights,

1 benefits, responsibilities, and privileges to which a juvenile is
2 entitled under the United States Constitution, federal law, and the
3 constitution and laws of this state. The minimum standards must
4 include a humane physical and psychological environment, safe
5 conditions of confinement, protection from harm, adequate
6 rehabilitation and education, adequate medical and mental health
7 treatment, and due process of law.

8 (e) Juvenile probation departments shall use the mental
9 health screening instrument selected by the commission for the
10 initial screening of children under the jurisdiction of probation
11 departments who have been formally referred to the department. The
12 commission shall give priority to training in the use of this
13 instrument in any preservice or in-service training that the
14 commission provides for probation officers. A clinical assessment
15 by a licensed mental health professional may be substituted for the
16 mental health screening instrument selected by the commission if
17 the clinical assessment is performed in the time prescribed by the
18 commission[~~. Juvenile probation departments shall report data from~~
19 ~~the use of the screening instrument or the clinical assessment to~~
20 ~~the commission in a format and in the time prescribed by the~~
21 ~~commission].~~

22 (f) A juvenile probation department must, before the
23 disposition of a child's case and using a validated risk and needs
24 assessment instrument or process provided or approved by the
25 commission, complete a risk and needs assessment for each child
26 under the jurisdiction of the juvenile probation department.

27 (h) A juvenile board that does not accept state aid funding

1 from the commission under Section 141.081 shall report to the
2 commission each month on a form provided by the commission the same
3 data as that required of counties accepting state aid funding
4 regarding juvenile justice activities under the jurisdiction of the
5 juvenile board. If the commission makes available free software to
6 the juvenile board for the automation and tracking of juveniles
7 under the jurisdiction of the juvenile board, the commission may
8 require the monthly report to be provided in an electronic format
9 adopted by [~~rule by~~] the commission.

10 (i) A juvenile probation department shall report data from
11 the use of the screening instrument or clinical assessment under
12 Subsection (e) and the risk and needs assessment under Subsection
13 (f) to the commission in the format and at the time prescribed by
14 the commission.

15 (j) The commission shall adopt rules to ensure that youth in
16 the juvenile justice system are assessed using the screening
17 instrument or clinical assessment under Subsection (e) and the risk
18 and needs assessment under Subsection (f).

19 SECTION 4.009. Section 141.0471, Human Resources Code, is
20 amended by amending Subsection (a) and adding Subsection (b-1) to
21 read as follows:

22 (a) The commission and the Texas Youth Commission shall
23 biennially develop a coordinated strategic plan which shall guide,
24 but not substitute for, the strategic plans developed individually
25 by the agencies or the juvenile justice improvement plan adopted by
26 the Juvenile Justice Policy Coordinating Council under Chapter 2.

27 (b-1) In addition to the information described by

1 Subsection (b), the plan must include specific processes and
2 procedures for routinely communicating juvenile justice system
3 information between the agencies and determining opportunities to
4 coordinate practices for improving outcomes for youth.

5 SECTION 4.010. Section 141.049, Human Resources Code, is
6 amended to read as follows:

7 Sec. 141.049. COMPLAINTS RELATING TO JUVENILE BOARDS. (a)

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

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

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

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

1 disposition, unless notice would jeopardize an undercover
2 investigation.

3 SECTION 4.011. Section 141.050, Human Resources Code, is
4 amended by adding Subsection (c) to read as follows:

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

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

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

17 SECTION 4.012. Subchapter C, Chapter 141, Human Resources
18 Code, is amended by adding Sections 141.057 and 141.058 to read as
19 follows:

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

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

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

1 (3) have either:

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

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

7 (i) in a social service, community,
8 corrections, or juvenile agency that deals with offenders or
9 disadvantaged persons; and

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

12 (4) have satisfactorily completed the course of
13 preservice training or instruction and any continuing education
14 required by the commission;

15 (5) have passed the tests or examinations required by
16 the commission; and

17 (6) possess the level of certification required by the
18 commission.

19 SECTION 4.015. Subchapter D, Chapter 141, Human Resources
20 Code, is amended by adding Section 141.0612 to read as follows:

21 Sec. 141.0612. MINIMUM STANDARDS FOR CERTAIN EMPLOYEES OF
22 NONSECURE CORRECTIONAL FACILITIES. (a) The commission by rule
23 shall adopt certification standards for persons who are employed in
24 nonsecure correctional facilities that accept only juveniles who
25 are on probation and that are operated by or under contract with a
26 governmental unit, as defined by Section 101.001, Civil Practice
27 and Remedies Code.

1 (b) The certification standards adopted under Subsection
2 (a) must be substantially similar to the certification requirements
3 for detention officers under Section 141.0611.

4 SECTION 4.016. Section 141.064, Human Resources Code, is
5 amended to read as follows:

6 Sec. 141.064. REVOCATION OR SUSPENSION OF CERTIFICATION.

7 (a) The commission may revoke or suspend a certification, or
8 reprimand a certified officer:

9 (1) [7] for a violation of this chapter or a commission
10 rule; or

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

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

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

19 (2) continue or review professional education until
20 the person attains a degree of skill satisfactory to the commission
21 in those areas that are the basis of the probation.

22 (c) The director may convene, in person or telephonically, a
23 panel of three commission members to determine if a person's
24 continued certification threatens juveniles in the juvenile
25 justice system. If the panel determines that the person's
26 continued certification threatens juveniles in the juvenile
27 justice system, the person's license is temporarily suspended until

1 an administrative hearing is held as soon as possible under
2 Subsection (d). The director may convene a panel under this
3 subsection only if the danger posed by the person's continued
4 certification is imminent. The panel may hold a telephonic meeting
5 only if immediate action is required and convening the panel at one
6 location is inconvenient for any member of the panel.

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

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

17 SECTION 4.017. Section 141.081, Human Resources Code, is
18 amended by adding Subsection (d) to read as follows:

19 (d) The commission by rule shall, not later than September
20 1, 2010, establish one or more basic probation services funding
21 formulas and one or more community corrections funding formulas.
22 The funding formulas established under this subsection must include
23 each grant for which the commission, on or before September 1, 2009,
24 established an allocation formula.

25 SECTION 4.018. Chapter 141, Human Resources Code, is
26 amended by adding Subchapter F to read as follows:

1 SUBCHAPTER F. COMMUNITY CORRECTIONS PILOT PROGRAMS

2 Sec. 141.101. ESTABLISHMENT OF COMMUNITY CORRECTIONS PILOT
3 PROGRAMS. (a) The commission, in coordination with the Texas Youth
4 Commission, shall establish guidelines for the implementation of
5 community corrections pilot programs to provide an array of
6 rehabilitation services for juvenile offenders, including juvenile
7 delinquency prevention services and substance abuse and mental
8 health treatment services. Instead of ordering commitment to the
9 Texas Youth Commission under Section 54.04(d)(2), Family Code, a
10 juvenile court of a county that has established a community
11 corrections pilot program under this subchapter may require a child
12 to participate in a community corrections pilot program if the
13 child was found to have engaged in delinquent conduct that:

14 (1) violates a penal law of the grade of felony under
15 Title 7, Penal Code, or Chapter 481, Health and Safety Code; and

16 (2) did not involve the use of force or the threat of
17 force against another person, including the use or exhibition of a
18 deadly weapon.

19 (b) The commission must implement this subchapter only to
20 the extent that the legislature specifically appropriates money to
21 the commission for that purpose.

22 Sec. 141.102. GRANTS. (a) A juvenile board or a group of
23 juvenile boards serving counties that are in the same service
24 region established by the commission may apply to the commission
25 for a grant to implement a community corrections pilot program in
26 the county served by the board or group of boards, as applicable.

27 (b) The commission shall adopt rules that:

1 (1) govern the administration and operation of a
2 community corrections pilot program by a juvenile board or group of
3 juvenile boards; and

4 (2) establish a competitive process through which
5 juvenile boards may apply to the commission for a grant under this
6 section.

7 (c) The rules adopted under Subsection (b)(1) must:

8 (1) require a juvenile board or group of juvenile
9 boards that applies for a grant under this section to detail the
10 manner in which the juvenile board or group of juvenile boards
11 intends to use the grant money;

12 (2) establish conditions that a juvenile board or
13 group of juvenile boards must meet in order to receive a grant under
14 this section, including conditions related to:

15 (A) reduced commitment targets for the county or
16 counties that the juvenile board or group of juvenile boards
17 serves;

18 (B) specific performance measures by which a
19 community corrections pilot program will be evaluated;

20 (C) restrictions on the use of grant money; and

21 (D) any other standard condition the commission
22 requires; and

23 (3) require a juvenile board or group of juvenile
24 boards that receives a grant under this section and chooses to use
25 the grant to contract for services to be provided under the
26 community corrections pilot program to use a contracting process
27 that is open to nonprofit, for-profit, or faith-based organizations

1 that:

2 (A) demonstrate experience in effectively
3 implementing juvenile delinquency prevention and juvenile
4 treatment programs;

5 (B) demonstrate the ability to quantify the
6 effectiveness of the programs; and

7 (C) provide innovative or specialized juvenile
8 justice or family programs.

9 Sec. 141.103. FUNDING TO JUVENILE BOARDS. (a) The
10 commission by rule shall establish a funding formula for juvenile
11 boards implementing a community corrections pilot program. The
12 formula must take into account:

13 (1) the average daily cost to the state of committing a
14 juvenile to a facility operated by or under contract with the Texas
15 Youth Commission;

16 (2) the average length of stay for a juvenile
17 committed to a facility operated by or under contract with the Texas
18 Youth Commission; and

19 (3) the projected yearly number of commitments for
20 each county or counties the juvenile board or group of juvenile
21 boards receiving the grant serves, as applicable.

22 (b) The funding formula established under Subsection (a)
23 may take into account any factor not described by Subsection (a)
24 that the commission determines is relevant, including the historic
25 average annual number of referrals for the county or counties and
26 the population of the county or counties.

27 (c) Except as otherwise provided by this subsection, the

1 commission shall make available money for distribution for
2 community corrections pilot programs under this section in the same
3 manner as other state aid is distributed under this chapter. Costs
4 associated with a juvenile who is participating in the pilot
5 program and who is committed to the Texas Youth Commission shall be
6 subtracted from the juvenile board's or boards' pilot program grant
7 allotment, as applicable, and transferred to an account in the
8 general revenue fund for the operation of secure facilities by or
9 under contract with the Texas Youth Commission.

10 (d) The amount of money to be subtracted from a juvenile
11 board's or boards' allotment under Subsection (c):

12 (1) is computed on the average daily cost of
13 committing a juvenile to a facility operated by or under contract
14 with the Texas Youth Commission as provided by Subsection (a)(1);
15 and

16 (2) may not exceed the amount the juvenile board or
17 group of juvenile boards initially received from the commission for
18 the juvenile.

19 Sec. 141.104. JUVENILE BOARD OBLIGATIONS. A juvenile board
20 or group of juvenile boards that receives a grant under this
21 subchapter:

22 (1) may not use the funds to supplant existing
23 expenditures associated with programs, services, and residential
24 placement of youth in the local juvenile probation departments;

25 (2) shall comply with all applicable commission rules;
26 and

27 (3) shall report on the use of and evaluate the

1 effectiveness of the program.

2 Sec. 141.105. REPORTS. (a) A juvenile board or group of
3 juvenile boards that receives a grant under this subchapter shall
4 annually, and at the request of the commission, report to the
5 commission concerning the implementation, cost-effectiveness, and
6 success rate of a community corrections pilot program implemented
7 under this subchapter.

8 (b) The commission shall, not later than January 1 of each
9 odd-numbered year, submit a report concerning the implementation,
10 cost-effectiveness, and success rates of community corrections
11 pilot programs implemented by juvenile boards under this subchapter
12 to:

13 (1) the governor;

14 (2) the lieutenant governor;

15 (3) the speaker of the house of representatives; and

16 (4) the standing committees in the senate and the
17 house of representatives that have primary jurisdiction over the
18 commission.

19 (c) The report submitted under Subsection (b) must contain
20 recommendations as to whether any of the community corrections
21 pilot programs implemented by juvenile boards under this subchapter
22 should be implemented on a statewide basis.

23 ARTICLE 5. MISCELLANEOUS PROVISIONS

24 SECTION 5.001. Chapter 13, Code of Criminal Procedure, is
25 amended by adding Article 13.34 to read as follows:

26 Art. 13.34. CERTAIN OFFENSES COMMITTED AGAINST CHILD
27 COMMITTED TO TEXAS YOUTH COMMISSION. An offense described by

1 Article 104.003(a) committed by an employee or officer of the Texas
2 Youth Commission or a person providing services under a contract
3 with the commission against a child committed to the commission may
4 be prosecuted in:

5 (1) any county in which an element of the offense
6 occurred; or

7 (2) Travis County.

8 SECTION 5.002. Section 51.02, Family Code, is amended by
9 adding Subdivision (8-a) to read as follows:

10 (8-a) "Nonsecure correctional facility" means a
11 facility, other than a secure correctional facility, that accepts
12 only juveniles who are on probation and that is operated by or under
13 contract with a governmental unit, as defined by Section 101.001,
14 Civil Practice and Remedies Code.

15 SECTION 5.003. Chapter 51, Family Code, is amended by
16 adding Section 51.126 to read as follows:

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

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

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

24 (b) In each county, each judge of the juvenile court and a
25 majority of the members of the juvenile board shall personally
26 inspect, at least annually, all nonsecure correctional facilities
27 that are located in the county and shall certify in writing to the

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

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

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

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

25 (d) A governmental unit or private entity that operates or
26 contracts for the operation of a juvenile nonsecure correctional
27 facility in this state under Subsection (a), except for a facility

1 operated by or under contract with the Texas Youth Commission,
2 shall:

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

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

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

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

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

14 SECTION 5.004. Section 54.04, Family Code, is amended by
15 amending Subsection (l) and adding Subsection (y) to read as
16 follows:

17 (l) Except as provided by Subsections [~~Subsection~~] (q) and
18 (y), a court or jury may place a child on probation under Subsection
19 (d)(1) for any period, except that probation may not continue on or
20 after the child's 18th birthday. Except as provided by Subsection
21 (q), the court may, before the period of probation ends, extend the
22 probation for any period, except that the probation may not extend
23 to or after the child's 18th birthday.

24 (y) A court or jury may divert the child from commitment to
25 the Texas Youth Commission by placing the child on probation under
26 Subsection (d)(1) in a community corrections program operated in
27 accordance with Subchapter F, Chapter 141, Human Resources Code.

1 The period of probation under this subsection may not continue on or
2 after the child's 19th birthday. The court may, before the period
3 of probation ends, extend the probation for any period, except that
4 the probation may not extend to or after the child's 19th birthday.

5 SECTION 5.005. Section 54.0405(i), Family Code, is amended
6 to read as follows:

7 (i) A court that requires as a condition of probation that a
8 child attend psychological counseling under Subsection (a) may,
9 before the date the probation period ends, extend the probation for
10 any additional period necessary to complete the required counseling
11 as determined by the treatment provider, except that the probation
12 may not be extended to a date after the date of the child's 18th
13 birthday, unless the child is placed on probation under Section
14 54.04(y).

15 SECTION 5.006. Section 54.041(b), Family Code, is amended
16 to read as follows:

17 (b) If a child is found to have engaged in delinquent
18 conduct or conduct indicating a need for supervision arising from
19 the commission of an offense in which property damage or loss or
20 personal injury occurred, the juvenile court, on notice to all
21 persons affected and on hearing, may order the child or a parent to
22 make full or partial restitution to the victim of the offense. The
23 program of restitution must promote the rehabilitation of the
24 child, be appropriate to the age and physical, emotional, and
25 mental abilities of the child, and not conflict with the child's
26 schooling. When practicable and subject to court supervision, the
27 court may approve a restitution program based on a settlement

1 between the child and the victim of the offense. An order under
2 this subsection may provide for periodic payments by the child or a
3 parent of the child for the period specified in the order but except
4 as provided by Subsection (h) and unless the child is placed on
5 probation under Section 54.04(y), that period may not extend past
6 the date of the 18th birthday of the child or past the date the child
7 is no longer enrolled in an accredited secondary school in a program
8 leading toward a high school diploma, whichever date is later.

9 SECTION 5.007. Section 54.05(b), Family Code, is amended to
10 read as follows:

11 (b) Except for a commitment to the Texas Youth Commission or
12 a grant of juvenile probation under Section 54.04(y), all
13 dispositions automatically terminate when the child reaches the
14 child's [~~his~~] 18th birthday.

15 SECTION 5.008. Section 59.006(b), Family Code, is amended
16 to read as follows:

17 (b) The juvenile court shall discharge the child from the
18 custody of the probation department on the earlier of:

19 (1) the date the provisions of this section are met; or
20 (2) [~~on~~] the child's 18th birthday or 19th birthday, if
21 the child is placed on probation under Section 54.04(y), as
22 applicable [~~, whichever is earlier~~].

23 SECTION 5.009. Section 59.007(b), Family Code, is amended
24 to read as follows:

25 (b) The juvenile court shall discharge the child from the
26 custody of the probation department on the earlier of:

27 (1) the date the provisions of this section are met; or

1 (2) ~~[on]~~ the child's 18th birthday or 19th birthday, if
2 the child is placed on probation under Section 54.04(y), as
3 applicable [~~whichever is earlier~~].

4 SECTION 5.010. Section 59.008(b), Family Code, is amended
5 to read as follows:

6 (b) The juvenile court shall discharge the child from the
7 custody of the probation department on the earlier of:

8 (1) the date the provisions of this section are met; or

9 (2) ~~[on]~~ the child's 18th birthday or 19th birthday, if
10 the child is placed on probation under Section 54.04(y), as
11 applicable [~~whichever is earlier~~].

12 SECTION 5.011. Chapter 614, Health and Safety Code, is
13 amended by adding Section 614.018 to read as follows:

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

27 (b) The memorandum of understanding must establish methods

1 for:

2 (1) identifying juveniles with mental impairments in
3 the juvenile justice system and collecting and reporting relevant
4 data to the office;

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

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

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

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

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

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

1 SECTION 5.012. Sections 614.017(a) and (b), Health and
2 Safety Code, are amended to read as follows:

3 (a) An agency shall:

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

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

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

19 SECTION 5.013. Section 614.017(c), Health and Safety Code,
20 is amended by amending Subdivision (1) and adding Subdivision (3)
21 to read as follows:

22 (1) "Agency" includes any of the following entities
23 and individuals, a person with an agency relationship with one of
24 the following entities or individuals, and a person who contracts
25 with one or more of the following entities or individuals:

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

- 1 (B) the Board of Pardons and Paroles;
- 2 (C) the Department of State Health Services;
- 3 (D) the Texas Juvenile Probation Commission;
- 4 (E) the Texas Youth Commission;
- 5 (F) the Department of Assistive and
6 Rehabilitative Services;
- 7 (G) the Texas Education Agency;
- 8 (H) the Commission on Jail Standards;
- 9 (I) the Department of Aging and Disability
10 Services;
- 11 (J) the Texas School for the Blind and Visually
12 Impaired;
- 13 (K) community supervision and corrections
14 departments and local juvenile probation departments;
- 15 (L) personal bond pretrial release offices
16 established under Article 17.42, Code of Criminal Procedure;
- 17 (M) local jails regulated by the Commission on
18 Jail Standards;
- 19 (N) a municipal or county health department;
- 20 (O) a hospital district;
- 21 (P) a judge of this state with jurisdiction over
22 juvenile or criminal cases;
- 23 (Q) an attorney who is appointed or retained to
24 represent a special needs offender or a juvenile with a mental
25 impairment;
- 26 (R) the Health and Human Services Commission;
- 27 (S) the Department of Information Resources;

1 [~~and~~]

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

6 (U) the Department of Family and Protective
7 Services.

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

10 SECTION 5.014. Section 614.009, Health and Safety Code, is
11 amended to read as follows:

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

18 (1) an evaluation of any demonstration project
19 undertaken by the office;

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

23 (3) recommendations of the office made in accordance
24 with Section 614.007(5);

25 (4) an evaluation of the development and
26 implementation of the continuity of care and service programs
27 established under Sections 614.013, 614.014, 614.015, [~~and~~]

1 614.016, and 614.018, changes in rules, policies, or procedures
2 relating to the programs, future plans for the programs, and any
3 recommendations for legislation; and

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

6 ARTICLE 6. TRANSITION AND EFFECTIVE DATE

7 SECTION 6.001. (a) As soon as possible after the effective
8 date of this Act, the governor shall appoint the initial members of
9 the Juvenile Justice Policy Coordinating Council.

10 (b) In appointing the initial members of the Juvenile
11 Justice Policy Coordinating Council, the governor shall appoint:

12 (1) three members for a term expiring February 1,
13 2011;

14 (2) three members for a term expiring February 1,
15 2013; and

16 (3) three members for a term expiring February 1,
17 2015.

18 (c) The Juvenile Justice Policy Coordinating Council may
19 not hold its first meeting or take any other action until a quorum
20 of the members of the council have taken office.

21 SECTION 6.002. Sections 61.025 and 61.027, Human Resources
22 Code, as added by this Act, and Sections 141.014 and 141.0145, Human
23 Resources Code, as amended by this Act, apply only to a person who
24 is appointed or reappointed as a member of the governing board of
25 the Texas Youth Commission or the Texas Juvenile Probation
26 Commission on or after the effective date of this Act. A person
27 appointed or reappointed as a member of the board or commission

1 before the effective date of this Act is governed by the law in
2 effect immediately before that date, and the former law is
3 continued in effect for that purpose.

4 SECTION 6.003. Section 61.026, Human Resources Code, as
5 added by this Act, and Section 141.017, Human Resources Code, as
6 amended by this Act, apply only to a ground for removal that occurs
7 on or after the effective date of this Act. A ground for removal
8 that occurs before the effective date of this Act is governed by the
9 law in effect immediately before that date, and the former law is
10 continued in effect for that purpose.

11 SECTION 6.004. (a) Section 141.011(a), Human Resources
12 Code, as amended by this Act, applies only to a person appointed to
13 the Texas Juvenile Probation Commission on or after the effective
14 date of this Act. A person appointed to the Texas Juvenile
15 Probation Commission before the effective date of this Act is
16 governed by the law in effect on the date the person was appointed,
17 and that law is continued in effect for that purpose.

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

24 SECTION 6.005. Persons serving on the advisory council on
25 juvenile services under Section 141.022, Human Resources Code, on
26 the effective date of this Act continue to serve in those capacities
27 until the Texas Juvenile Probation Commission reappoints members or

1 appoints new members in those capacities.

2 SECTION 6.006. Article 13.34, Code of Criminal Procedure,
3 as added by this Act, applies only to an offense committed on or
4 after the effective date of this Act. An offense committed before
5 the effective date of this Act is covered by the law in effect when
6 the offense was committed, and the former law is continued in effect
7 for that purpose. For purposes of this section, an offense was
8 committed before the effective date of this Act if any element of
9 the offense occurred before that date.

10 SECTION 6.007. Except as otherwise provided by this Act,
11 the changes in law made by this Act in amending a provision of Title
12 3, Family Code, apply only to conduct that violates a penal law and
13 that occurs on or after the effective date of this Act. Conduct
14 that violates a penal law and that occurs before the effective date
15 of this Act is covered by the law in effect at the time the conduct
16 occurred, and the former law is continued in effect for that
17 purpose. For the purposes of this section, conduct violating a
18 penal law occurs before the effective date of this Act if every
19 element of the violation occurred before that date.

20 SECTION 6.008. This Act takes effect immediately if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for immediate
24 effect, this Act takes effect September 1, 2009.

ADOPTED

MAY 27 2009

Atay Spaw
Secretary of the Senate

By: _____

H.B. No. 3089

Substitute the following for H.B. No. 3089 :

By:  _____

C.S. H.B. No. 3089

A BILL TO BE ENTITLED

1

AN ACT

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

6

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

7

ARTICLE 1. TEXAS YOUTH COMMISSION

8

SECTION 1.001. The heading to Chapter 61, Human Resources

9

Code, is amended to read as follows:

10

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

11

SECTION 1.002. Section 61.001, Human Resources Code, is

12

amended by adding Subdivision (3) to read as follows:

13

(3) "Board" means the board of the commission

14

appointed under Section 61.024.

15

SECTION 1.003. Section 61.020, Human Resources Code, is

16

amended to read as follows:

17

Sec. 61.020. SUNSET PROVISION. (a) The Texas Youth

18

Commission is subject to Chapter 325, Government Code (Texas Sunset

19

Act). Unless continued in existence as provided by that chapter,

20

the commission is abolished and this chapter expires September 1,

21

2011 [~~2009~~].

22

(b) In the review of the Texas Youth Commission by the

23

Sunset Advisory Commission, as required by this section, the sunset

24

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

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

1 (b) A report provided under Subsection (a) may include any
2 information the commission determines to be relevant in evaluating
3 the child's progress, including, as applicable, information
4 concerning the child's treatment, education, and health.

5 (c) A report provided under this section may not include
6 information that is protected from disclosure under state or
7 federal law.

8 SECTION 1.010. Subchapter F, Chapter 61, Human Resources
9 Code, is amended by adding Section 61.08141 to read as follows:

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

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

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

20 (b) If, on release, the commission places a child in a
21 county other than the county served by the court that committed the
22 child to the commission, the commission shall provide the
23 information described by Subsection (a) to both the committing
24 court and the juvenile court in the county where the child is placed
25 after release.

26 (c) If, on release, a child's residence is located in
27 another state, the commission shall provide the information

1 described by Subsection (a) to both the committing court and a
2 juvenile court of the other state that has jurisdiction over the
3 area in which the child's residence is located.

4 SECTION 1.011. Section 61.0911, Human Resources Code, is
5 amended to read as follows:

6 Sec. 61.0911. COORDINATED STRATEGIC PLAN. The Texas Youth
7 Commission shall biennially develop with the Texas Juvenile
8 Probation Commission a coordinated strategic plan in the manner
9 described by Sections [as required by Section] 141.0471 and
10 141.0472.

11 SECTION 1.012. Section 61.098(b), Human Resources Code, is
12 amended to read as follows:

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

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

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

25 Sec. 64.054. SUNSET PROVISION. (a) The office is subject
26 to review under Chapter 325, Government Code (Texas Sunset Act),
27 but is not abolished under that chapter. The office shall be

1 reviewed during the periods in which the Texas Youth Commission is
2 ~~[state agencies abolished in 2009 and every 12th year after 2009~~
3 ~~are]~~ reviewed.

4 (b) Notwithstanding Subsection (a), the Sunset Advisory
5 Commission shall focus its review of the office on compliance with
6 requirements placed on the office by legislation enacted by the
7 81st Legislature, Regular Session, 2009, that becomes law. This
8 subsection expires September 1, 2011.

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

11 Sec. 64.058. RULEMAKING AUTHORITY. (a) The office by
12 rule shall establish policies and procedures for the operations of
13 the office of independent ombudsman.

14 (b) The office and the commission shall adopt rules
15 necessary to implement Section 64.060, including rules that
16 establish procedures for the commission to review and comment on
17 reports of the office and for the commission to expedite or
18 eliminate review of and comment on a report due to an emergency or a
19 serious or flagrant circumstance described by Section 64.055(b).

20 SECTION 2.003. Subchapter B, Chapter 64, Human Resources
21 Code, is amended by adding Sections 64.060 and 64.061 to read as
22 follows:

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

27 (1) the office's quarterly report under Section

1 64.055(a);

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

4 (3) any other formal reports containing findings and
5 making recommendations concerning systemic issues that affect the
6 commission.

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

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

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

16 Sec. 64.061. COMPLAINTS. (a) The office shall maintain a
17 system to promptly and efficiently act on complaints filed with the
18 office that relate to the operations or staff of the office. The
19 office shall maintain information about parties to the complaint,
20 the subject matter of the complaint, a summary of the results of the
21 review or investigation of the complaint, and the disposition of
22 the complaint.

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

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

27 SECTION 2.004. Subchapter C, Chapter 64, Human Resources

1 Code, is amended by adding Section 64.104 to read as follows:

2 Sec. 64.104. MEMORANDUM OF UNDERSTANDING. (a) The office
3 and the commission shall enter into a memorandum of understanding
4 concerning:

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

7 (2) the procedures for handling overlapping
8 monitoring duties and activities performed by the office and the
9 commission.

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

12 (1) address the interaction of the office with that
13 portion of the commission that conducts an internal audit under
14 Section 61.0331;

15 (2) address communication between the office and the
16 commission concerning individual situations involving children
17 committed to the commission and how those situations will be
18 documented and handled;

19 (3) contain guidelines on the office's role in
20 relevant working groups and policy development decisions at the
21 commission;

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

25 (5) preserve the independence of the office by
26 authorizing the office to withhold information concerning matters
27 under active investigation by the office from the commission and

1 commission staff and to report the information to the governor.

2 ARTICLE 3. TEXAS JUVENILE PROBATION COMMISSION

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

5 (a) The commission consists of:

6 (1) two district court judges who sit as juvenile
7 court judges;

8 (2) two county judges or commissioners; [~~and~~]

9 (3) one chief juvenile probation officer of a juvenile
10 probation department that serves a county with a small population;

11 (4) one chief juvenile probation officer of a juvenile
12 probation department that serves a county with a medium population;

13 (5) one chief juvenile probation officer of a juvenile
14 probation department that serves a county with a large population;
15 and

16 (6) two [~~five~~] members of the public who are not
17 employees in the criminal or juvenile justice system.

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

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

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

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 Texas Youth Commission; and

7 (3) initiatives of the commission and the Texas Youth
8 Commission in coordinating activities and services to better
9 integrate Texas Juvenile Probation Commission, Texas Youth
10 Commission, and county juvenile justice functions, including joint
11 strategic planning, the sharing of youth data across youth-serving
12 agencies, assessment and classification of youth, and collection of
13 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 1,
17 2011.

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

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

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

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

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

7 (4) is employed by or participates in the management
8 of a business entity or other organization regulated by or
9 receiving money from the commission.

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

16 (1) the person is an officer, employee, or paid
17 consultant of a Texas trade association in the field of criminal or
18 juvenile justice; or

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

24 (c) [~~A person who is the spouse of an officer, employee, or~~
25 ~~paid consultant of a trade association in the field of criminal or~~
26 ~~juvenile justice may not be a commission member or a commission~~
27 ~~employee, including exempt employees, compensated at grade 17 or~~

1 ~~over according to the position classification schedule under the~~
2 ~~General Appropriations Act.~~

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

8 (d) ~~[(e)]~~ In this section, "Texas trade association" means
9 a ~~[nonprofit]~~ cooperative and ~~[7]~~ voluntarily joined statewide
10 association of business or professional competitors in this state
11 designed to assist its members and its industry or profession in
12 dealing with mutual or professional problems and in promoting their
13 common interest.

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

16 Sec. 141.0145. TRAINING FOR COMMISSION MEMBERS. (a) A ~~[To~~
17 ~~be eligible to take office as a member of the commission, a]~~ person
18 who is appointed to and qualifies for office as a member of the
19 commission may not vote, deliberate, or be counted as a member in
20 attendance at a meeting of the commission until the person
21 completes ~~[must complete at least one course of]~~ a training program
22 that complies with this section.

23 (b) The training program must provide information to the
24 person regarding:

25 (1) the ~~[enabling]~~ legislation that created the
26 commission ~~[and its policymaking body to which the person is~~
27 ~~appointed to serve];~~

1 (2) the programs operated by the commission;
2 (3) the roles [~~role~~] and functions of the commission;
3 (4) [~~the rules of the commission with an emphasis on~~
4 ~~the rules that relate to disciplinary and investigatory authority,~~
5 (5) [~~the~~] the [~~current~~] budget of [~~for~~] the commission;
6 (5) [~~the~~] the results of the most recent formal audit
7 of the commission;
8 (6) [~~the~~] the requirements of law relating to open
9 meetings, public information, administrative procedure, and
10 conflicts of interest [~~the~~];
11 [~~(A) open meetings law, Chapter 551, Government~~
12 ~~Code,~~
13 [~~(B) open records law, Chapter 552, Government~~
14 ~~Code, and~~
15 [~~(C) administrative procedure law, Chapter 2001,~~
16 ~~Government Code~~]; and
17 (7) [~~the~~] the requirements of the conflict of
18 interests laws and other laws relating to public officials, and
19 (8) any applicable ethics policies adopted by the
20 commission or the Texas Ethics Commission.
21 (c) A person appointed to the commission is entitled to
22 reimbursement, as provided in the General Appropriations Act, for
23 travel expenses incurred in attending the training program,
24 regardless of whether the attendance at the program occurs before
25 or after the person qualifies for office [~~as provided by the General~~
26 ~~Appropriations Act and as if the person were a member of the~~
27 ~~commission)].~~

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

3 (a) It is a ground for removal from the commission if a
4 member:

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

7 (2) does not maintain during service on the commission
8 the qualifications required by Section 141.011 [~~is not eligible for~~
9 ~~appointment to or service on the commission as provided by Section~~
10 ~~141.014(a)~~];

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

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

18 (5) is absent from more than half of the regularly
19 scheduled commission meetings that the member is eligible to attend
20 during a calendar year unless the absence is excused by majority
21 vote of the commission.

22 (c) If the director has knowledge that a potential ground
23 for removal exists, the director shall notify the presiding officer
24 [~~chairman~~] of the commission of the potential ground. The
25 presiding officer [~~chairman~~] shall then notify the governor and the
26 attorney general that a potential ground for removal exists. If the
27 potential ground for removal involves the presiding officer

1 ~~chairman~~, the director shall notify the next highest officer of
2 the commission, who shall notify the governor and the attorney
3 general that a potential ground for removal exists.

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

6 (b) The advisory council shall report any determinations
7 made under Subsection (c) to the members of the commission
8 appointed under Section 141.011 ~~the director~~.

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

12 Sec. 141.027. COMPLAINTS. (a) The commission shall
13 maintain a system to promptly and efficiently act on complaints
14 filed with the commission, other than complaints received under
15 Section 141.049. The commission shall maintain information about
16 parties to the complaint, the subject matter of the complaint, a
17 summary of the results of the review or investigation of the
18 complaint, and its disposition.

19 (b) The commission shall make information available
20 describing its procedures for complaint investigation and
21 resolution.

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

24 Sec. 141.028. USE OF TECHNOLOGY. The commission shall
25 implement a policy requiring the commission to use appropriate
26 technological solutions to improve the commission's ability to
27 perform its functions. The policy must ensure that the public is

1 able to interact with the commission on the Internet.

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

5 (1) negotiated rulemaking procedures under Chapter
6 2008, Government Code, for the adoption of commission rules; and

7 (2) appropriate alternative dispute resolution
8 procedures under Chapter 2009, Government Code, to assist in the
9 resolution of internal and external disputes under the commission's
10 jurisdiction.

11 (b) The commission's procedures relating to alternative
12 dispute resolution must conform, to the extent possible, to any
13 model guidelines issued by the State Office of Administrative
14 Hearings for the use of alternative dispute resolution by state
15 agencies.

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

17 (1) coordinate the implementation of the policy
18 adopted under Subsection (a);

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

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

24 SECTION 3.008. Section 141.042, Human Resources Code, is
25 amended by amending Subsections (a) and (h) and adding Subsection
26 (i) to read as follows:

27 (a) The commission shall adopt reasonable rules that

1 provide:

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

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

8 (3) appropriate educational, preservice and
9 in-service training, and certification standards for probation and
10 detention officers or court-supervised community-based program
11 personnel;

12 (4) minimum standards for public and private juvenile
13 pre-adjudication secure detention facilities, public juvenile
14 post-adjudication secure correctional facilities that are operated
15 under the authority of a juvenile board or governmental unit, ~~and~~
16 private juvenile post-adjudication secure correctional facilities
17 operated under a contract with a governmental unit, except those
18 facilities exempt from certification by Section 42.052(g), and
19 nonsecure correctional facilities operated by or under contract
20 with a governmental unit; and

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

25 (h) A juvenile board that does not accept state aid funding
26 from the commission under Section 141.081 shall report to the
27 commission each month on a form provided by the commission the same

1 data as that required of counties accepting state aid funding
2 regarding juvenile justice activities under the jurisdiction of the
3 juvenile board. If the commission makes available free software to
4 the juvenile board for the automation and tracking of juveniles
5 under the jurisdiction of the juvenile board, the commission may
6 require the monthly report to be provided in an electronic format
7 adopted by ~~[rule by]~~ the commission.

8 (i) The commission shall adopt rules to ensure that youth in
9 the juvenile justice system are assessed using the screening
10 instrument or clinical assessment under Subsection (e).

11 SECTION 3.009. Subchapter C, Chapter 141, Human Resources
12 Code, is amended by amending Section 141.0471 and adding Section
13 141.0472 to read as follows:

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

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

25 (1) one committee member who represents the interests
26 of families of juvenile offenders;

27 (2) one committee member who represents the interests

1 of local juvenile probation departments; and

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

5 (c) The executive director of the Texas Youth Commission
6 shall appoint four members to the strategic planning committee.
7 The executive director shall appoint at least:

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

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

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

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

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

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

20 (3) estimate population projections, including
21 projections of population characteristics;

22 (4) estimate short-term and long-term capacity,
23 programmatic, and funding needs;

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

26 (6) include an evaluation of aftercare services
27 emphasizing concrete outcome measures, including recidivism and

1 educational progress;

2 (7) identify objective criteria for the various
3 decision points throughout the continuum of juvenile justice
4 services and sanctions to guard against disparate treatment of
5 minority youth; ~~and~~

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

8 (9) include a plan of implementation for the
9 development of common data sources and data sharing among the
10 commission, juvenile probation departments, the Texas Youth
11 Commission, the Department of Family and Protective Services, the
12 Department of State Health Services, the Health and Human Services
13 Commission, the Texas Education Agency, and other state agencies
14 that serve youth in the juvenile justice system;

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

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

20 (12) include planning for effective aftercare
21 programs and services, including ensuring that youth in the
22 juvenile justice system have personal identification and
23 appropriate referrals to service providers; and

24 (13) track performance measures to illustrate the
25 costs of different levels of treatment and to identify the most
26 cost-effective programs in each component of the juvenile justice
27 system in this state.

1 (b) In addition to the information described by Subsection
2 (a), the coordinated strategic plan must include specific processes
3 and procedures for routinely communicating juvenile justice system
4 information between the commission and the Texas Youth Commission
5 and determining opportunities to coordinate practices for
6 improving outcomes for youth.

7 (c) The governing boards [~~board~~] of the commission [~~Texas~~
8 ~~Juvenile Probation Commission~~] and the [~~executive commissioner of~~
9 ~~the~~] Texas Youth Commission shall review and adopt the coordinated
10 strategic plan on or before December 1st of each odd-numbered year,
11 or before the adoption of the agency's individual strategic plan,
12 whichever is earlier.

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

15 Sec. 141.049. COMPLAINTS RELATING TO JUVENILE BOARDS. (a)
16 The commission shall maintain a system to promptly and efficiently
17 act on a [~~keep an information file about each~~] complaint filed with
18 the commission relating to a juvenile board funded by the
19 commission. The commission shall maintain information about
20 parties to the complaint, a summary of the results of the review or
21 investigation of the complaint, and the disposition of the
22 complaint.

23 (b) The commission shall make information available
24 describing the commission's procedures for the investigation and
25 resolution of a complaint filed with the commission relating to a
26 juvenile board funded by the commission.

27 (c) The commission shall investigate the allegations in the

1 complaint and make a determination of whether there has been a
2 violation of the commission's rules relating to juvenile probation
3 programs, services, or facilities.

4 (d) [~~(b)~~] If a written complaint is filed with the
5 commission relating to a juvenile board funded by the commission,
6 the commission[~~, at least quarterly and until final disposition of~~
7 ~~the complaint,~~] shall periodically notify the complainant and the
8 juvenile board of the status of the complaint until final
9 disposition, unless notice would jeopardize an undercover
10 investigation.

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

13 (c) The commission shall consider the past performance of a
14 juvenile board when contracting with the juvenile board for local
15 probation services other than basic probation services. In
16 addition to the contract standards described by Subsection (a), a
17 contract with a juvenile board for probation services other than
18 basic probation services must:

19 (1) include specific performance targets for the
20 juvenile board based on the juvenile board's historic performance
21 of the services; and

22 (2) require a juvenile board to report on the juvenile
23 board's success in meeting the performance targets described by
24 Subdivision (1).

25 SECTION 3.012. Subchapter C, Chapter 141, Human Resources
26 Code, is amended by adding Sections 141.057 and 141.058 to read as
27 follows:

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 51.02, Family Code, is amended by
19 adding Subdivision (8-a) to read as follows:

20 (8-a) "Nonsecure correctional facility" means a
21 facility, other than a secure correctional facility, that accepts
22 only juveniles who are on probation and that is operated by or under
23 contract with a governmental unit, as defined by Section 101.001,
24 Civil Practice and Remedies Code.

25 SECTION 4.003. Chapter 51, Family Code, is amended by
26 adding Section 51.126 to read as follows:

27 Sec. 51.126. NONSECURE CORRECTIONAL FACILITIES. (a) A

1 nonsecure correctional facility for juvenile offenders may be
2 operated only by:

3 (1) a governmental unit, as defined by Section
4 101.001, Civil Practice and Remedies Code; or

5 (2) a private entity under a contract with a
6 governmental unit in this state.

7 (b) In each county, each judge of the juvenile court and a
8 majority of the members of the juvenile board shall personally
9 inspect, at least annually, all nonsecure correctional facilities
10 that are located in the county and shall certify in writing to the
11 authorities responsible for operating and giving financial support
12 to the facilities and to the Texas Juvenile Probation Commission
13 that the facility or facilities are suitable or unsuitable for the
14 confinement of children. In determining whether a facility is
15 suitable or unsuitable for the confinement of children, the
16 juvenile court judges and juvenile board members shall consider:

17 (1) current monitoring and inspection reports and any
18 noncompliance citation reports issued by the Texas Juvenile
19 Probation Commission, including the report provided under
20 Subsection (c), and the status of any required corrective actions;
21 and

22 (2) the other factors described under Sections
23 51.12(c)(2)-(7).

24 (c) The Texas Juvenile Probation Commission shall annually
25 inspect each nonsecure correctional facility. The Texas Juvenile
26 Probation Commission shall provide a report to each juvenile court
27 judge presiding in the same county as an inspected facility

1 indicating whether the facility is suitable or unsuitable for the
2 confinement of children in accordance with minimum professional
3 standards for the confinement of children in nonsecure confinement
4 promulgated by the Texas Juvenile Probation Commission or, at the
5 election of the juvenile board of the county in which the facility
6 is located, the current standards promulgated by the American
7 Correctional Association.

8 (d) A governmental unit or private entity that operates or
9 contracts for the operation of a juvenile nonsecure correctional
10 facility in this state under Subsection (a), except for a facility
11 operated by or under contract with the Texas Youth Commission,
12 shall:

13 (1) register the facility annually with the Texas
14 Juvenile Probation Commission; and

15 (2) adhere to all applicable minimum standards for the
16 facility.

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

20 (1) adhere to all applicable minimum standards for the
21 facility; or

22 (2) timely correct any notice of noncompliance with
23 minimum standards.

24 SECTION 4.004. Chapter 614, Health and Safety Code, is
25 amended by adding Section 614.018 to read as follows:

26 Sec. 614.018. CONTINUITY OF CARE FOR JUVENILES WITH MENTAL
27 IMPAIRMENTS. (a) The Texas Juvenile Probation Commission, the

1 Texas Youth Commission, the Department of Public Safety, the
2 Department of State Health Services, the Department of Aging and
3 Disability Services, the Department of Family and Protective
4 Services, the Texas Education Agency, and local juvenile probation
5 departments shall adopt a memorandum of understanding that
6 establishes their respective responsibilities to institute a
7 continuity of care and service program for juveniles with mental
8 impairments in the juvenile justice system. The Texas Correctional
9 Office on Offenders with Medical and Mental Impairments shall
10 coordinate and monitor the development and implementation of the
11 memorandum of understanding.

12 (b) The memorandum of understanding must establish methods
13 for:

14 (1) identifying juveniles with mental impairments in
15 the juvenile justice system and collecting and reporting relevant
16 data to the office;

17 (2) developing interagency rules, policies, and
18 procedures for the coordination of care of and the exchange of
19 information on juveniles with mental impairments who are committed
20 to or treated, served, or supervised by the Texas Youth Commission,
21 the Texas Juvenile Probation Commission, the Department of Public
22 Safety, the Department of State Health Services, the Department of
23 Family and Protective Services, the Department of Aging and
24 Disability Services, the Texas Education Agency, local juvenile
25 probation departments, local mental health or mental retardation
26 authorities, and independent school districts; and

27 (3) identifying the services needed by juveniles with

1 mental impairments in the juvenile justice system.

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

4 (1) identifying the medical, psychiatric, or
5 psychological care or treatment needs and educational or
6 rehabilitative service needs of a juvenile with mental impairments
7 in the juvenile justice system;

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

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

13 SECTION 4.005. Sections 614.017(a) and (b), Health and
14 Safety Code, are amended to read as follows:

15 (a) An agency shall:

16 (1) accept information relating to a special needs
17 offender or a juvenile with a mental impairment that is sent to the
18 agency to serve the purposes of continuity of care and services
19 regardless of whether other state law makes that information
20 confidential; and

21 (2) disclose information relating to a special needs
22 offender or a juvenile with a mental impairment, including
23 information about the offender's or juvenile's identity, needs,
24 treatment, social, criminal, and vocational history, supervision
25 status and compliance with conditions of supervision, and medical
26 and mental health history, if the disclosure serves the purposes of
27 continuity of care and services.

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

4 SECTION 4.006. Section 614.017(c), Health and Safety Code,
5 is amended by amending Subdivision (1) and adding Subdivision (3)
6 to read as follows:

7 (1) "Agency" includes any of the following entities
8 and individuals, a person with an agency relationship with one of
9 the following entities or individuals, and a person who contracts
10 with one or more of the following entities or individuals:

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

13 (B) the Board of Pardons and Paroles;

14 (C) the Department of State Health Services;

15 (D) the Texas Juvenile Probation Commission;

16 (E) the Texas Youth Commission;

17 (F) the Department of Assistive and
18 Rehabilitative Services;

19 (G) the Texas Education Agency;

20 (H) the Commission on Jail Standards;

21 (I) the Department of Aging and Disability
22 Services;

23 (J) the Texas School for the Blind and Visually
24 Impaired;

25 (K) community supervision and corrections
26 departments and local juvenile probation departments;

27 (L) personal bond pretrial release offices

1 established under Article 17.42, Code of Criminal Procedure;

2 (M) local jails regulated by the Commission on
3 Jail Standards;

4 (N) a municipal or county health department;

5 (O) a hospital district;

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

8 (Q) an attorney who is appointed or retained to
9 represent a special needs offender or a juvenile with a mental
10 impairment;

11 (R) the Health and Human Services Commission;

12 (S) the Department of Information Resources;

13 [~~and~~]

14 (T) the bureau of identification and records of
15 the Department of Public Safety, for the sole purpose of providing
16 real-time, contemporaneous identification of individuals in the
17 Department of State Health Services client data base; and

18 (U) the Department of Family and Protective
19 Services.

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

22 SECTION 4.007. Section 614.009, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 614.009. BIENNIAL REPORT. Not later than February 1 of
25 each odd-numbered year, the office shall present to the board and
26 file with the governor, lieutenant governor, and speaker of the
27 house of representatives a report giving the details of the

1 office's activities during the preceding biennium. The report must
2 include:

3 (1) an evaluation of any demonstration project
4 undertaken by the office;

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

8 (3) recommendations of the office made in accordance
9 with Section 614.007(5);

10 (4) an evaluation of the development and
11 implementation of the continuity of care and service programs
12 established under Sections 614.013, 614.014, 614.015, [~~and~~]
13 614.016, and 614.018, changes in rules, policies, or procedures
14 relating to the programs, future plans for the programs, and any
15 recommendations for legislation; and

16 (5) any other recommendations that the office
17 considers appropriate.

18 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

19 SECTION 5.001. Sections 61.025 and 61.027, Human Resources
20 Code, as added by this Act, and Sections 141.014 and 141.0145, Human
21 Resources Code, as amended by this Act, apply only to a person who
22 is appointed or reappointed as a member of the governing board of
23 the Texas Youth Commission or the Texas Juvenile Probation
24 Commission on or after the effective date of this Act. A person
25 appointed or reappointed as a member of the board or commission
26 before the effective date of this Act is governed by the law in
27 effect immediately before that date, and the former law is

1 continued in effect for that purpose.

2 SECTION 5.002. Section 61.026, Human Resources Code, as
3 added by this Act, and Section 141.017, Human Resources Code, as
4 amended by this Act, apply only to a ground for removal that occurs
5 on or after the effective date of this Act. A ground for removal
6 that occurs before the effective date of this Act is governed by the
7 law in effect immediately before that date, and the former law is
8 continued in effect for that purpose.

9 SECTION 5.003. (a) Section 141.011(a), Human Resources
10 Code, as amended by this Act, applies only to a person appointed to
11 the Texas Juvenile Probation Commission on or after the effective
12 date of this Act. A person appointed to the Texas Juvenile
13 Probation Commission before the effective date of this Act is
14 governed by the law in effect on the date the person was appointed,
15 and that law is continued in effect for that purpose.

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

22 SECTION 5.004. Article 13.34, Code of Criminal Procedure,
23 as added by this Act, applies only to an offense committed on or
24 after the effective date of this Act. An offense committed before
25 the effective date of this Act is covered by the law in effect when
26 the offense was committed, and the former law is continued in effect
27 for that purpose. For purposes of this section, an offense was

1 committed before the effective date of this Act if any element of
2 the offense occurred before that date.

3 SECTION 5.005. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 house, as provided by Section 39, Article III, Texas Constitution.
6 If this Act does not receive the vote necessary for immediate
7 effect, this Act takes effect September 1, 2009.

ADOPTED

MAY 27 2009

Atty Gen
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *J-J. Aung*

1 Amend C.S.H.B. No. 3689 (senate committee printing) as
2 follows:

3 (1) In the recital to SECTION 3.012 of the bill (page 12,
4 line 7), strike "Sections 141.057 and 141.058" and substitute
5 "Sections 141.057, 141.058, and 141.059".

6 (2) In SECTION 3.012 of the bill (page 12, between lines 30
7 and 31), insert:

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

20 (b) A residential treatment facility established under this
21 section must provide juveniles receiving treatment at the facility:

22 (1) a short-term program of mental health
23 stabilization that does not exceed 150 days in duration; and

24 (2) all educational opportunities and services,
25 including special education instruction and related services, that
26 a school district is required under state or federal law to provide
27 for students residing in the district through a charter school
28 operated in accordance with and subject to Subchapter D, Chapter
29 12, Education Code.

1 (c) If a residential treatment facility established under
2 this section is unable to provide adequate and sufficient
3 educational opportunities and services to juveniles residing at the
4 facility, the facility may not continue to operate beyond the end of
5 the school year in which the opportunities or services provided by
6 the facility are determined to be inadequate or insufficient.

7 (d) Notwithstanding any other law and in addition to the
8 number of charters allowed under Subchapter D, Chapter 12,
9 Education Code, the State Board of Education shall grant a charter
10 on the application of a residential treatment facility established
11 under this section for a school chartered for the purposes of this
12 section.

13 (3) Add the following appropriately numbered SECTION to
14 ARTICLE 4 of the bill and renumber subsequent SECTIONS of that
15 ARTICLE accordingly:

16 SECTION 4.____. Section 29.012, Education Code, is amended
17 by adding Subsection (e) to read as follows:

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

21 (4) Add the following appropriately numbered SECTION to
22 ARTICLE 5 of the bill and renumber subsequent SECTIONS of that
23 ARTICLE accordingly:

24 SECTION 5.____. Section 141.059, Human Resources Code, as
25 added by this Act, and Section 29.012, Education Code, as amended by
26 this Act, apply beginning with the 2009-2010 school year.

ADOPTED

MAY 27 2009

FLOOR AMENDMENT NO. 2

Antony Spaw
Secretary of the Senate

BY:

J. J. King

1 Amend C.S.H.B. No. 3689 (senate committee printing), in
2 ARTICLE 3 of the bill, by striking SECTION 3.001 of the bill (page
3 6, lines 47 through 61) and substituting the following:

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

6 (a) The commission consists of:

7 (1) two district court judges who sit as juvenile
8 court judges;

9 (2) one county judge or commissioner [~~two county~~
10 ~~judges or commissioners~~]; [and]

11 (3) one chief juvenile probation officer of a juvenile
12 probation department that serves a county with a small population;

13 (4) one chief juvenile probation officer of a juvenile
14 probation department that serves a county with a medium population;

15 (5) one chief juvenile probation officer of a juvenile
16 probation department that serves a county with a large population;

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

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

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

ADOPTED

MAY 27 2009

Atty Gen
Secretary of the Senate

FLOOR AMENDMENT NO. 3

BY: *J. J. King*

1 Amend C.S.H.B. No. 3689 (senate committee printing), in
2 ARTICLE 1 of the bill, by adding the following appropriately
3 numbered SECTION to that ARTICLE and renumbering subsequent
4 SECTIONS of that ARTICLE accordingly:

5 SECTION 1.____. Sections 61.0451(a) and (i), Human Resources
6 Code, are amended to read as follows:

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

9 (1) crimes committed by commission employees,
10 including parole officers employed by or under a contract with the
11 commission; and

12 (2) crimes and delinquent conduct committed at a
13 facility operated by the commission, ~~or at~~ a residential facility
14 operated by another entity under a contract with the commission, or
15 any facility in which a child committed to the custody of the
16 commission is housed or receives medical or mental health
17 treatment.

18 (i) The office of inspector general shall immediately
19 report to the executive director ~~commissioner~~, the ~~advisory~~
20 board, the governor's general counsel, and the state auditor:

21 (1) any particularly serious or flagrant problem
22 concerning the administration of a commission program or operation;
23 or

24 (2) any interference by the executive director,
25 ~~commissioner or~~ an employee of the commission, a facility
26 described by Subsection (a)(2), or an officer or employee of a
27 facility described by Subsection (a)(2) with an investigation
28 conducted by the office.

ADOPTED

MAY 27 2009

Patricia Spaw
Secretary of the Senate

COMMITTEE AMENDMENT NO. 4

BY: *Thomas Brazier*

1 Amend C.S.H.B. No. 3689 (senate committee printing) by
2 adding the following appropriately numbered SECTIONS to the bill
3 and renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Subchapter E, Chapter 30, Education Code, is
5 amended by adding Section 30.106 to read as follows:

6 Sec. 30.106. READING AND BEHAVIOR PLAN. (a) Because
7 learning and behavior are inextricably linked and learning and
8 improved behavior correlate with decreased recidivism rates, the
9 Texas Youth Commission shall not only fulfill the commission's
10 duties under state and federal law to provide general and
11 special educational services to students in commission
12 educational programs but also shall implement a comprehensive
13 plan to improve the reading skills and behavior of those
14 students.

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

17 (1) adopt a reliable battery of reading assessments
18 that:

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

21 (B) are designed to be administered on an
22 individual basis; and

1 (C) allow school employees to:

2 (i) evaluate performance in each essential

3 component of effective reading instruction, including phonemic

4 awareness, phonics, fluency, vocabulary, and comprehension;

5 (ii) monitor progress in areas of

6 deficiency specific to an individual student; and

7 (iii) provide reading performance data;

8 (2) administer the assessments adopted under

9 Subdivision (1):

10 (A) at periodic intervals not to exceed 12

11 months, to each student in a commission educational program; and

12 (B) at least 15 days and not more than 30 days

13 before a student is released from the commission;

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

15 individualized reading instruction to each student in a

16 commission educational program who exhibits deficits in reading

17 on the assessments adopted under Subdivision (1):

18 (A) by trained educators with expertise in

19 teaching reading to struggling adolescent readers; and

20 (B) through the use of scientifically based,

21 peer-reviewed reading curricula that:

22 (i) have proven effective in improving the

23 reading performance of struggling adolescent readers;

24 (ii) address individualized and

1 differentiated reading goals; and

2 (iii) include each of the essential
3 components of effective reading instruction, including phonemic
4 awareness, phonics, fluency, vocabulary, and comprehension;

5 (4) require each teacher in a commission regular or
6 special educational program who teaches English language arts,
7 reading, mathematics, science, social studies, or career and
8 technology education to be trained in incorporating content area
9 reading instruction using empirically validated instructional
10 methods that are appropriate for struggling adolescent readers;
11 and

12 (5) evaluate the effectiveness of the commission's
13 plan to increase reading skills according to the following
14 criteria:

15 (A) an adequate rate of improvement in reading
16 performance, as measured by monthly progress monitoring using
17 curricular-based assessments in each of the essential components
18 of effective reading instruction, including phonemic awareness,
19 phonics, fluency, vocabulary, and comprehension;

20 (B) a significant annual rate of improvement in
21 reading performance, disaggregated by subgroups designated under
22 commission rule, as measured using the battery of reading
23 assessments adopted under Subdivision (1); and

24 (C) student ratings of the quality and impact of

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1 the reading plan under this subsection, as measured on a student
2 self-reporting instrument.

3 (c) To increase the positive social behaviors of students
4 in Texas Youth Commission educational programs and to create an
5 educational environment that facilitates learning, the
6 commission shall:

7 (1) adopt system-wide classroom and individual
8 positive behavior supports that incorporate a continuum of
9 prevention and intervention strategies that:

10 (A) are based on current behavioral research;
11 and

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

14 (2) require each teacher and other educational staff
15 member in a commission educational program to be trained in
16 implementing the positive behavior support system adopted under
17 Subdivision (1); and

18 (3) adopt valid assessment techniques to evaluate the
19 effectiveness of the positive behavior support system according
20 to the following criteria:

21 (A) documentation of school-related disciplinary
22 referrals, disaggregated by the type, location, and time of
23 infraction and by subgroups designated under commission rule;

24 (B) documentation of school-related disciplinary

1 actions, including time-out, placement in security, and use of
2 restraints and other aversive control measures, disaggregated by
3 subgroups designated under commission rule;

4 (C) validated measurement of systemic positive
5 behavioral support interventions; and

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

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

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

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

24 (1) the effectiveness of the commission's reading

1 plan based on the criteria specified by Subsection (b)(5); and
2 (2) the implementation of the positive behavior
3 support system plan under Subsection (c).

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

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

10 SECTION _____. (a) Not later than November 1, 2009, the
11 Texas Youth Commission shall adopt the battery of reading
12 assessments as required by Subsection (b), Section 30.106,
13 Education Code, as added by this Act.

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

18 SECTION _____. Subsection (e), Section 30.106, Education
19 Code, as added by this Act, applies to release on parole from
20 the Texas Youth Commission beginning September 1, 2010.

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3689 by McClendon (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.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3689, As Passed 2nd House: a negative impact of (\$1,486,330) through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$818,165)
2011	(\$668,165)
2012	(\$668,165)
2013	(\$668,165)
2014	(\$668,165)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	(\$818,165)	8.0
2011	(\$668,165)	8.0
2012	(\$668,165)	8.0
2013	(\$668,165)	8.0
2014	(\$668,165)	8.0

Fiscal Analysis

The Youth Commission (TYC) and the Juvenile Probation Commission (JPC) are subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the Legislature. The Office of the Independent Ombudsman (OIO) is subject to review, but not abolishment. The bill contains the following Sunset Commission key recommendations on these three agencies.

- Maintain TYC and JPC as separate agencies. TYC would be governed by a seven-member board. JPC would be governed by a nine-member commission composed of judges, chief juvenile probation officers, and public members.
- Continue TYC and JPC until 2011, and require the Sunset Commission to evaluate both agencies' compliance with the provisions of S.B. 103 (Eightieth Legislative Session); requirements placed on the agencies by legislation enacted by the Eighty-first Legislature; initiatives of TYC and JPC in coordinating activities and services including joint strategic planning, sharing of youth data across youth agencies, assessments and classification of youth, and the collection of data on probation outcomes.
- Require TYC to provide information regarding a youth's progress to the committing court upon request.

TYC would be required to provide the committing court with notice of a youth's release no later than the 30th day before the release date. TYC would also be required to provide the committing court or the county or state to which the youth is being released with the youth's reentry and reintegration plan and a report on the youth's progress.

- Continue the Office of Independent Ombudsman until 2010, and require the Sunset Commission to evaluate the OIO's compliance with requirements of legislation enacted by the Eighty-first legislature.
- Require OIO and TYC to enter into a memorandum of understanding concerning the development of formal procedures to help ensure timely and informative communication between the two agencies on OIO reports and areas of overlapping responsibility. Authorize the OIO to withhold information concerning matters under active investigation from TYC and to report the information to the Governor.
- Require OIO and TYC to enter into a memorandum of understanding concerning the development of formal procedures to help ensure timely and informative communication between the two agencies on OIO reports and areas of overlapping responsibility. Authorize the OIO to withhold information concerning matters under active investigation from TYC and to report the information to the Governor.
- Specify that the Office of Inspector General has jurisdiction over facilities where youths who are committed to TYC are housed or receive medical or mental health treatment.
- Require TYC to assess youth at least every 12 months, and at least 15 days but not more than 30 days before a youth is released from TYC. Require TYC to provide at least 60 minutes per day of individualized reading instruction by trained educators with expertise in teaching reading to struggling adolescent readers to youth who exhibit deficits in reading on the assessments. Prohibit TYC from releasing youth with deficits in reading on parole unless the youth participated in reading instruction to the extent required by the bill and TYC rules.
- Require JPC to regulate, and local juvenile boards to inspect and certify, all non-secure correctional facilities that accept only youth on probation.
- Authorize JPC to contract with an unutilized or underutilized local mental health and mental retardation authority to provide mental health residential treatment services for a period that does not exceed 150 days.
- Creates the Coordinated Strategic Planning Committee with members appointed by the directors of TYC and JPC for the purpose of agency collaboration on a variety of initiatives, including implementation of a common data source and data sharing among TYC, JPC, and various other state agencies that serve youth in the juvenile justice system.
- Require TYC, JPC, and various other state agencies to adopt a memorandum of understanding with the Texas Correctional Office on Offenders with Medical or Mental Impairments (TOOMMI) for continuity of care for juvenile offenders with mental impairments. Require TCOOMMI, in coordination with TYC, JPC, and other participating state and local agencies, to collect data and report on the outcomes of the MOU.
- Conform key elements of JPC's officer certification program to commonly applied licensing practices.

The bill would take effect immediately if it receives a two-thirds vote of all members. Otherwise, the effective date of this bill would be September 1, 2009.

Methodology

This analysis assumes that the provisions of the bill could be met with existing resources, except for the provision requiring reading assessments and instruction. TYC estimates the need for eight Master Certified Teachers at a salary of \$60,100 plus benefits per year. TYC's Rider 12 requires that TYC teachers be paid at the same rate as those working in the school district in which the TYC facility is located. The rate of pay for the Master Certified Teachers would be dependent upon the pay rate of similar highly skilled teachers in individual school districts. Since those individual salaries cannot be calculated without input from each school district where a TYC facility is located, we honored TYC's salary estimates for the Master Certified Teachers for the purpose of this analysis, with the understanding that those figures could vary dependent on the pay rates of individual school districts. TYC estimates costs for salaries and wages for 8 teachers (\$961,600); benefits (\$274,730); training (\$100,000); and professional fees for higher education consultants (\$150,000) for the 2010-11 biennium, with ongoing costs of \$668,165 per year.

Local Government Impact

The bill would require local juvenile boards to annually inspect any non-secure correctional facility in its jurisdiction used only for youth on probation, and certify the facility's suitability with the JPC. Local juvenile boards are already required to inspect over 80 secure facilities throughout the state. The six non-secure facilities impacted by this provision are located in five jurisdictions, requiring each local juvenile board to inspect one or two additional facilities only. The Sunset Commission estimates that additional inspections could be accomplished within existing resources.

Source Agencies:

LBB Staff: JOB, KK, GG, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 24, 2009

TO: Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3689** by McClendon (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.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The Youth Commission (TYC) and the Juvenile Probation Commission (JPC) are subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the Legislature. The Office of the Independent Ombudsman (OIO) is subject to review, but not abolishment. The bill contains the following Sunset Commission key recommendations on these three agencies.

- Maintain TYC and JPC as separate agencies. TYC would be governed by a seven-member board. JPC would be governed by a nine-member commission composed of judges, chief juvenile probation officers, and public members.
- Continue TYC and the JPC until 2011, and require the Sunset Commission to evaluate both agencies' compliance with the provisions of S.B. 103 (Eightieth Legislative Session); requirements placed on the agencies by legislation enacted by the Eighty-first Legislature; initiatives of TYC and JPC in coordinating activities and services including joint strategic planning, sharing of youth data across youth agencies, assessments and classification of youth, and the collection of data on probation outcomes.
- Require TYC to provide information regarding a youth's progress to the committing court upon request. TYC would be required to provide the committing court with notice of a youth's release no later than the 30th day before the release date. TYC would also be required to provide the committing court or the county or state to which the youth is being released with the youth's reentry and reintegration plan and a report on the youth's progress.
- Continue the Office of Independent Ombudsman until 2010, and require the Sunset Commission to evaluate the OIO's compliance with requirements of legislation enacted by the Eighty-first legislature.
- Require OIO and TYC to enter into a memorandum of understanding concerning the development of formal procedures to help ensure timely and informative communication between the two agencies on OIO reports and areas of overlapping responsibility. Authorize the OIO to withhold information concerning matters under active investigation from TYC and to report the information to the Governor.
- Require JPC to regulate, and local juvenile boards to inspect and certify, all non-secure correctional facilities that accept only youth on probation.
- Creates the Coordinated Strategic Planning Committee with members appointed by the directors of TYC and JPC for the purpose of agency collaboration on a variety of initiatives, including implementation of a common data source and data sharing among TYC, JPC, and various other state agencies that serve youth in the juvenile justice system.
- Require TYC, JPC, and various other state agencies to adopt a memorandum of understanding with the Texas Correctional Office on Offenders with Medical or Mental Impairments (TOOMMI) for continuity of care for juvenile offenders with mental impairments. Require TCOOMMI, in coordination with TYC, JPC, and other participating state and local agencies, to collect data and report on the outcomes of the MOU.

· Conform key elements of JPC's officer certification program to commonly applied licensing practices.

The bill takes effect immediately if it receives a two-thirds vote of all members. Otherwise, the effective date of this bill is September 1, 2009.

This analysis assumes that cost/savings estimates provided by the Sunset Advisory Commission, TYC, and JPC could be met with existing resources. Any costs estimated by JPC could be offset by savings from TYC. This analysis assumes no significant fiscal impact to the State.

Local Government Impact

The bill would require local juvenile boards to annually inspect any non-secure correctional facility in its jurisdiction used only for youth on probation, and certify the facility's suitability with the JPC. Local juvenile boards are already required to inspect over 80 secure facilities throughout the state. The six non-secure facilities impacted by this provision are located in five jurisdictions, requiring each local juvenile board to inspect one or two additional facilities only. The Sunset Commission estimates that additional inspections could be accomplished within existing resources.

Source Agencies: 116 Sunset Advisory Commission, 665 Juvenile Probation Commission, 694 Youth Commission

LBB Staff: JOB, KK, GG, AI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 18, 2009

TO: Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3689 by McClendon (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.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The Youth Commission (TYC) and the Juvenile Probation Commission (JPC) are subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the Legislature. The Office of the Independent Ombudsman (OIO) is subject to review, but not abolishment. The bill contains the following Sunset Commission key recommendations on these three agencies.

- Maintain TYC and JPC as separate agencies, and create the new 18-member Juvenile Justice Policy Coordinating Council (Council) to evaluate the operations of JPC and TYC and make recommendations to those agencies concerning the provision and coordination of services and operations.
- Require the Council to oversee the development of a comprehensive five-year plan to better integrate juvenile justice functions and ensure implementation of state-level reforms. The Council would exist only in an advisory capacity and would not govern or be responsible for the operations of JPC or TYC.
- Continue the Juvenile Justice Policy Coordinating Council and JPC until 2021, to provide for the standard 12-year Sunset review. Continue TYC until 2011, and require the Sunset Commission to evaluate TYC's compliance with the provisions of S.B. 103 (Eightieth Legislative Session) and present a report to the Eighty-second Legislature.
- Provide funding incentives for counties to keep more youth in their home communities.
- Require TYC to develop a comprehensive plan to reduce recidivism and ensure successful reentry of juveniles into the community upon release from state facilities.
- Require TYC and JPC to adopt a memorandum of understanding with the Texas Correctional Office on Offenders with Medical or Mental Impairments (TOOMMI) for continuity of care for juvenile offenders with mental impairments. Require TCOOMMI, in coordination with TYC, JPC, and other participating state and local agencies, to collect data and report on the outcomes of the MOU.
- Require OIO and TYC to enter into a memorandum of understanding concerning the development of formal procedures to help ensure timely and informative communication between the two agencies on OIO reports and areas of overlapping responsibility. Authorize the OIO to withhold information concerning matters under active investigation from TYC and to report the information to the Governor.
- Require JPC to regulate, and local juvenile boards to inspect and certify, all non-secure correctional facilities that accept only youth on probation.
- Conform key elements of JPC's officer certification program to commonly applied licensing practices.
- Apply standard Sunset Commission across-the-board recommendations or updates language already in statute.

The bill takes effect immediately if it receives a two-thirds vote of all members. Otherwise, the effective date of this bill is September 1, 2009.

This analysis assumes that cost/savings estimates provided by the Sunset Advisory Commission, TYC, and JPC could be met with existing resources. Any costs estimated by JPC could be offset by savings from TYC. This analysis assumes no significant fiscal impact to the State.

Local Government Impact

The bill would require local juvenile boards to annually inspect any non-secure correctional facility in its jurisdiction used only for youth on probation, and certify the facility's suitability with the JPC. Local juvenile boards are already required to inspect over 80 secure facilities throughout the state. The six non-secure facilities impacted by this provision are located in five jurisdictions, requiring each local juvenile board to inspect one or two additional facilities only. The Sunset Commission estimates that additional inspections could be accomplished within existing resources.

Source Agencies:

LBB Staff: JOB, KK, GG, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 20, 2009

TO: Honorable Jim McReynolds, Chair, House Committee on Corrections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3689** by McClendon (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.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The Youth Commission (TYC) and the Juvenile Probation Commission (JPC) are subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the Legislature. The Office of the Independent Ombudsman (OIO) is subject to review, but not abolishment. The bill contains the following Sunset Commission key recommendations on these three agencies.

- Maintain TYC and JPC as separate agencies, and create the new 18-member Juvenile Justice Policy Coordinating Council (Council) to evaluate the operations of JPC and TYC and make recommendations to those agencies concerning the provision and coordination of services and operations.
- Require the Council to oversee the development of a comprehensive five-year plan to better integrate juvenile justice functions and ensure implementation of state-level reforms.
- Continue the Juvenile Justice Policy Coordinating Council and JPC until 2021, to provide for the standard 12-year Sunset review. Continue TYC until 2011, and require the Sunset Commission to limit its next review to TYC's compliance with the provisions of S.B. 103 (80th Session).
- Provide funding incentives for counties to keep more youth in their home communities.
- Require TYC to develop a comprehensive plan to reduce recidivism and ensure successful reentry of juveniles into the community upon release from state facilities.
- Require TYC and JPC to adopt a memorandum of understanding with the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) for continuity of care for juvenile offenders with mental impairments. Require TCOOMMI, in coordination with TYC, JPC, and other participating state and local agencies, to collect data and report on the outcomes of the MOU.
- Require OIO and TYC to develop formal procedures to help ensure timely and informative communication between the two agencies on OIO reports and areas of overlapping responsibility.
- Require JPC to regulate, and local juvenile boards to inspect and certify, all nonsecure correctional facilities that accept only youth on probation.
- Conform key elements of JPC's officer certification program to commonly applied licensing practices.
- Apply standard Sunset Commission across-the-board recommendations or updates language already in statute.

The bill takes effect immediately if it receives a two-thirds vote of all members. Otherwise, the effective date of this bill is September 1, 2009.

This analysis assumes that cost/savings estimates provided by the Sunset Advisory Commission, TYC, and JPC could be met with existing resources. Any costs estimated by JPC could be offset by savings from TYC. This analysis assumes no significant fiscal impact to the State.

Local Government Impact

The bill would require local juvenile boards to annually inspect any nonsecure correctional facility in its jurisdiction used only for youth on probation, and certify the facility's suitability with the JPC. Local juvenile boards are already required to inspect over 80 secure facilities throughout the state. The six nonsecure facilities impacted by this provision are located in five jurisdictions, requiring each local juvenile board to inspect one or two additional facilities only. The Sunset Commission estimates that additional inspections could be accomplished within existing resources.

Source Agencies: 116 Sunset Advisory Commission, 665 Juvenile Probation Commission, 694 Youth Commission

LBB Staff: JOB, ESi, GG, AI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 1, 2009

TO: Honorable Jim McReynolds, Chair, House Committee on Corrections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3689 by McClendon (Relating to abolishing the Texas Youth Commission and the Texas Juvenile Probation Commission and transferring the powers and duties of those agencies to the newly created Texas Juvenile Justice Department and to the functions of the independent ombudsman for the Texas Youth Commission.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The Youth Commission (TYC) and Juvenile Probation Commission (JPC) are subject to the Sunset Act and would be abolished on September 1, 2009, unless continued by the Legislature. The Office of Independent Ombudsman (OIO) is subject to review, but not abolishment. The bill contains the following Sunset Advisory Commission (Sunset) recommendations regarding TYC, JPC, and OIO, among others.

- Consolidates the functions of TYC and JPC into a new Texas Juvenile Justice Department (TJJD) effective September 1, 2010 and subject to Sunset in 2015; provides funding incentives for counties to keep more youth in their home communities; and requires a comprehensive five-year plan to better integrate juvenile justice functions and ensure implementation of state-level reforms.
- The plan would require TJJD to develop processes and procedures for sharing information with juvenile probation departments and other state agencies that serve youth. JPC, TYC, the Texas Education Agency, and the Department of State Health Services estimate costs for development of a data sharing system. However, Sunset did not anticipate significant costs to implement the data sharing component of the bill. It is likely that the agency estimates include overlap of costs that could be accomplished with existing resources if all agencies involved worked together to develop a data sharing system. No specific system of data sharing is endorsed or required by the bill.
- The bill would establish juvenile pilot programs through local juvenile boards for the purpose of reducing commitments and providing community-based programming to delinquent youth. Costs for the pilot programs would be offset by savings from a reduction in the number of youth committed.
- Requires OIO and the new TJJD to develop formal procedures to help ensure timely and informative communication between the two agencies on OIO reports and areas of overlapping responsibility.
- Requires the TJJD to regulate, and local juvenile boards to inspect and certify, all non-secure correctional facilities that accept only youth on probation.
- Conforms key elements of JPC's officer certification program to commonly applied licensing practices. Shifts officer certification related hearings to the Office of Administrative Hearings.
- Applies standard Sunset Advisory Commission across-the-board recommendations or updates language already in statute.

During the one-year phase-in period before TJJD's creation on September 1, 2010, TYC and JPC would be responsible for various duties assigned in these recommendations to TJJD. The bill would be effective September 1, 2009.

The Facilities Commission, the Department of Public Safety, the State Auditor's Office, the Office of Court Administration, the Department of Aging and Disability Services, the Department of Family and Protective Services, the Health and Human Services Commission, the Department of Information Resources and the Office of Administrative Hearings anticipate no significant fiscal impact. The Department of Criminal Justice cannot determine the fiscal impact of the increased use of services for juvenile offenders provided by the Texas Correctional Office on Offenders with Medical or Mental Impairments. This analysis assumes that cost estimates provided by the Sunset Advisory Commission, the Youth Commission, the Juvenile Probation Commission, and the Office of Attorney General could be met with existing resources. This analysis assumes

no significant fiscal impact to the State.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 302 Office of the Attorney General, 303 Facilities Commission, 304 Comptroller of Public Accounts, 308 State Auditor's Office, 313 Department of Information Resources, 360 State Office of Administrative Hearings, 405 Department of Public Safety, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 537 State Health Services, Department of, 539 Aging and Disability Services, Department of, 665 Juvenile Probation Commission, 694 Youth Commission, 696 Department of Criminal Justice, 701 Central Education Agency

LBB Staff: JOB, ESi, GG, AI

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

April 14, 2009

TO: Honorable Jim McReynolds, Chair, House Committee on Corrections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3689 by McClendon (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.), **Committee Report 1st House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes, or to juveniles who have been adjudicated for misdemeanor or felony conduct.

Source Agencies:

LBB Staff: JOB, GG, LM.

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LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

April 1, 2009

TO: Honorable Jim McReynolds, Chair, House Committee on Corrections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3689 by McClendon (Relating to abolishing the Texas Youth Commission and the Texas Juvenile Probation Commission and transferring the powers and duties of those agencies to the newly created Texas Juvenile Justice Department and to the functions of the independent ombudsman for the Texas Youth Commission.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes, or to juveniles who have been adjudicated for misdemeanor or felony conduct.

Source Agencies:

LBB Staff: JOB, GG, LM

