

BILL ANALYSIS

Senate Research Center

H.B. 3689
By: McClendon et al. (Hinojosa)
Government Organization
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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

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

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

H.B. 3689 amends current law relating to the functions and continuation of TYC and TPJC and to the functions of the Office of Independent Ombudsman for the Texas Youth Commission.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Juvenile Justice Policy Coordinating Council in SECTION 1.001 (Section 2.005, Human Resources Code) of this bill.

Rulemaking authority is expressly granted to the Office of the Independent Ombudsman for the Texas Youth Commission (TYC) in SECTION 3.002 (Section 64.058, Human Resources Code) of this bill.

Rulemaking authority is expressly granted to TYC in SECTION 3.002 (Section 64.058, Human Resources Code) of this bill.

Rulemaking authority is expressly granted to the Texas Juvenile Probation Commission (TJPC) in SECTION 4.008 (Section 141.042, Human Resources Code), SECTION 4.015 (Section 141.0612, Human Resources Code), SECTION 4.017 (Section 141.081, Human Resources Code), and SECTION 4.018 (Sections 141.102 and 141.103, Human Resources Code) of this bill.

Rulemaking authority previously granted to TYC is modified in SECTION 2.005 (Section 61.029, Human Resources Code) of this bill.

Rulemaking authority previously granted to TJPC is modified in SECTION 4.008 (Section 141.042, Human Resources Code) of this bill.

Rulemaking authority previously granted to TJPC is rescinded in SECTION 4.008 (Section 141.042, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1.001. Amends Title 1, Human Resources Code, by adding Chapter 2, as follows:

CHAPTER 2. JUVENILE JUSTICE POLICY COORDINATING COUNCIL

SUBCHAPTER A. GENERAL AND ADMINISTRATIVE PROVISIONS

Sec. 2.001. DEFINITIONS. (a) Provides that the definitions provided by Sections 61.001 and 141.002 apply to this chapter.

(b) Defines "council" and "juvenile justice agency."

Sec. 2.002. COMPOSITION OF COUNCIL; PRESIDING OFFICER. (a) Provides that the Juvenile Justice Policy Coordinating Council (council) is composed of 18 members.

(b) Provides that the executive head of each of the following agencies, or that person's designee, serves as a nonvoting member of the council: the Texas Education Agency (TEA); the Health and Human Services Commission (HHSC); the Department of Family and Protective Services (DFPS); the Department of State Health Services (DSHS); the Department of Aging and Disability Services (DADS); the Texas Workforce Commission (TWC); and the Texas Department of Criminal Justice (TDCJ).

(c) Provides that the presiding officer of the Texas Juvenile Probation Commission (TJPC) and the presiding officer of the board of Texas Youth Commission (TYC) serve as voting members of the council.

(d) Requires the governor to appoint, with the advice and consent of the senate, nine certain voting members.

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

(f) Requires the governor to make appointments to the council under Subsection (d) with regard to the geographical region of this state in which each appointee resides, and without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(g) Requires the governor to designate a member of the council as the presiding officer of the council to serve in that capacity at the pleasure of the governor.

Sec. 2.003. RESTRICTIONS ON AND QUALIFICATIONS FOR COUNCIL MEMBERSHIP. (a) Prohibits a person from being a member of the council if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of a juvenile justice agency.

(b) Requires a person, to be a member of the council, to have, as appropriate, documented expertise or educational training in the person's professional field.

Sec. 2.004. REIMBURSEMENT. Provides that a council member is not entitled to compensation for service on the council but is entitled to reimbursement for actual and necessary expenses incurred in performing official duties as a council member.

Sec. 2.005. MEETINGS; PUBLIC PARTICIPATION. (a) Requires the council to hold regular quarterly meetings on dates set by the council and special meetings at the call of the presiding officer.

(b) Requires the council to adopt rules regulating the council's proceedings.

(c) Requires the council to keep a public record of the council's decisions at the council's general office.

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

(b) Requires that an interagency agreement provide that the cost of staff used by the council is to be shared between juvenile justice agencies in proportion to each juvenile justice agency's operating budget and included in the amounts described by Subdivision (1) in the budget of each juvenile justice agency.

(c) Provides that for purposes of Subsection (b)(1) (relating to a cost shared between juvenile justice agencies), the operating budget of TJPC does not include amounts distributed by TJPC to local juvenile probation departments as state aid or grants.

Sec. 2.007. SUNSET PROVISION. Provides that the council is subject to Chapter 325 (Texas Sunset Act), Government Code. Provides that unless continued in existence as provided by that chapter, the council is abolished September 1, 2021.

[Reserves Sections 2.008-2.050 for expansion.]

SUBCHAPTER B. GENERAL POWERS AND DUTIES OF COUNCIL

Sec. 2.051. EVALUATION OF JUVENILE JUSTICE AGENCIES; RECOMMENDATIONS AND FUNCTION. (a) Requires the council to evaluate the operations of juvenile justice agencies and make recommendations to those agencies concerning any manner in which an agency could improve the provision of services to or operations of programs for juveniles who are placed on juvenile probation or committed to TYC, and those agencies could improve coordination of services provided by or programs operated by those agencies.

(b) Provides that the council exists only in an advisory capacity and does not govern, and is not responsible for, the operations of TJPC or TYC.

Sec. 2.052. JUVENILE JUSTICE IMPROVEMENT PLAN; ANNUAL REPORT. (a) Requires the council, beginning in 2011, not later than June 1 of each year or as soon as possible after that date, to review, revise, and update the juvenile justice improvement plan adopted by the council in the previous fiscal year, and submit the juvenile justice improvement plan to the juvenile justice agencies for review and comment.

(b) Provides that the council, not later than September 1 of each year or as soon as possible after that date, is authorized to make any changes necessary in the juvenile justice improvement plan as a result of receiving review and comment from the juvenile justice agencies, and is required to readopt the juvenile justice improvement plan.

(c) Requires the council, in reviewing, revising, updating, and adopting the juvenile justice improvement plan under Subsection (a), to have the following goals: to the maximum extent possible, reserving facilities operated by or under contract with the state for higher risk juveniles; increasing reliance on alternatives to secure placement, except when secure placement is necessary to address adequately a juvenile offender's treatment needs or prevent the juvenile offender from reoffending; serving juveniles in settings that are as close to the juveniles'

homes as possible; using facility and program designs proven to be most effective in rehabilitating juveniles; locating facilities as geographically close as possible to necessary workforce and other services; and developing county centers or consortiums that enhance county collaboration.

(d) Requires the council to prepare an annual implementation report to the governor, the lieutenant governor, the speaker of the house of representatives, and the Criminal Justice Legislative Oversight Committee (committee) concerning the progress of each juvenile justice agency in implementing the juvenile justice improvement plan, and using the comprehensive system under Section 2.106 to measure performance incorporated into the juvenile justice improvement plan and the overall performance of each juvenile justice agency and the juvenile justice system in this state.

(e) Requires the council to submit the annual implementation report described by Subsection (d) in December of each year for the period of September 1 of the previous year through August 31 of the year in which the report is submitted.

[Reserves Sections 2.053-2.100 for expansion.]

SUBCHAPTER C. JUVENILE JUSTICE IMPROVEMENT PLAN

Sec. 2.101. DEFINITION. Defines "plan."

Sec. 2.102. DEVELOPMENT OF PLAN. (a) Requires the council, not later than June 1, 2010, and every fifth year after that date, to develop a comprehensive juvenile justice improvement plan (plan) for the five fiscal years that follow that date, the first of which begins on the September 1 immediately following that date, and deliver a copy of the plan to and accept comments and review of the plan from certain persons and entities.

(b) Provides that the committee is not obligated to make, but is authorized to make, changes to the plan as a result of receiving review and comments under Subsection (a)(2) (relating to developing a comprehensive juvenile justice improvement plan).

(c) Requires the council, not later than September 1, 2010, and every fifth year after that date, or as soon as possible after that date, to adopt the plan.

Sec. 2.103. PLAN COMPONENT: JUVENILE JUSTICE FACILITIES. (a) Requires that the plan include a master plan for the operation of secure correctional facilities by TYC. Requires the council to evaluate state and county infrastructure to determine the number of beds needed in secure correctional facilities.

(b) Requires that the master plan developed under Subsection (a), taking into consideration the timing and cost of relocating or closing any facilities operated on September 1, 2009, by TYC, to identify which facilities, if any, operated by TYC should be closed, and which areas of the state, if any, lack a sufficient number of locally operated secure or nonsecure correctional facilities.

(c) Requires the council to develop the master plan to achieve the following goals to the maximum extent possible, reserving facilities operated by or under contract with the state for higher risk juveniles; increasing reliance on alternatives to secure placement, except when secure placement is necessary to address adequately a juvenile offender's treatment needs or prevent the juvenile offender from reoffending; serving juveniles in settings that are as close to the juveniles' homes as possible; using facility and program designs proven to be most effective in rehabilitating juveniles; locating facilities as geographically close as possible to necessary workforce and other services; and developing county centers or consortiums that enhance county collaboration.

Sec. 2.104. PLAN COMPONENT: DATA SHARING. Requires that the comprehensive juvenile justice improvement plan include a specific process and procedures for developing common data systems among TYC; TJPC; local probation departments; and other agencies of this state that serve youth, including DFPS, DSHS, HHSC, and TEA; and to the maximum extent allowed by state and federal law, improving access to educational and mental health records for juveniles who are placed on probation or committed to the custody of the state.

Sec. 2.105. PLAN COMPONENT: PROGRAMS, SERVICES, AND REENTRY PLANNING. Requires the plan to include a specific process and procedures and, if appropriate, a policy for:

- (1) routinely assessing the risk and needs of juveniles in this state who are placed on juvenile probation or committed to the custody of the state;
- (2) developing or improving validated risks and needs assessments and policies to assess juveniles at crucial points in the juvenile justice system, including before adjudication of a juvenile's case, on commitment of a juvenile to the custody of the state, and at release from a correctional facility or on the termination of control by the state;
- (3) ensuring that a juvenile's minimum length of stay and placement in a particular facility directly address the identified needs of the juvenile;
- (4) establishing timelines to identify and implement state and local programs for community supervision, local placement, and state commitment that have proven to be effective;
- (5) providing training concerning the programs described by Subdivision (4) to state and local personnel;
- (6) improving reentry into the community for juveniles exiting the juvenile justice system at the state or local level;
- (7) increasing the use of the Texas Correctional Office on Offenders with Medical or Mental Impairments, community resource coordination groups, and other community resources for juveniles on parole or probation;
- (8) ensuring that juveniles exiting state commitment or extended probation placements have the appropriate personal identification and service referrals to ensure the delivery of essential services, including mental health treatment, to them without delay on their return to the community; and
- (9) ensuring that all applicable funding resources, including but not limited to Medicaid and Title IV(e) funds, are identified and accessed to the greatest extent possible within the juvenile justice system at both the state and local levels.

Sec. 2.106. PLAN COMPONENT: PERFORMANCE MEASUREMENT. (a) Requires the plan to include the development of a comprehensive system to measure the performance of the entire juvenile justice system in this state. Requires the system to include performance measures that show the costs of different levels of supervision and treatment to enable identification of the most cost-effective programs.

- (b) Requires the council to consult with the Legislative Budget Board (LBB) and the budget, planning, and policy division of the governor's office in developing the comprehensive system to measure performance under Subsection (a).

ARTICLE 2. TEXAS YOUTH COMMISSION

SECTION 2.001. Amends the heading to Chapter 61, Human Resources Code, to read as follows:

CHAPTER 61. TEXAS YOUTH COMMISSION

SECTION 2.002. Amends Section 61.001, Human Resources Code, by adding Subdivision (3), to define "board."

SECTION 2.003. Amends Section 61.020, Human Resources Code, as follows:

Sec. 61.020. SUNSET PROVISION. (a) Provides that TYC is subject to Chapter 325, Government Code. Provides that unless continued in existence as provided by that chapter, TYC is abolished and this chapter expires September 1, 2021, rather than 2009.

(b) Requires the Sunset Advisory Commission to evaluate TYC's compliance with Chapter 263 (relating to TYC and the prosecution of certain offenses and delinquent conduct in TYC and certain other criminal justice agencies; providing penalties) (S.B. 103), Acts of the 80th Legislature, Regular Session, 2007, and present to the 82nd Legislature a report on its evaluation and recommendations in relation to TYC's compliance. Requires TYC to perform all duties for the evaluation that a state agency subject to review under Chapter 325, Government Code, would perform for a review. Provides that this subsection expires September 1, 2011.

SECTION 2.004. Amends Section 61.024(a), Human Resources Code, as follows:

(a) Requires the governor to designate a member of the TYC board (board) as the presiding officer of the board to serve in that capacity at the pleasure of the governor.

SECTION 2.005. Amends Subchapter B, Chapter 61, Human Resources Code, by adding Sections 61.025-61.029, as follows:

Sec. 61.025. RESTRICTIONS ON BOARD MEMBERSHIP AND EMPLOYMENT. (a) Prohibits a person from being a member of the board or employed by the board as the executive director of the board (executive director) if the person or the person's spouse is registered, certified, or licensed by a regulatory agency in the field of criminal or juvenile justice; is employed by or participates in the management of a business entity or other organization regulated by or receiving money from TYC; owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from TYC; or uses or receives a substantial amount of tangible goods, services, or money from TYC, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) Prohibits a person from being a board member or a commission employee who is employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if the person is an officer, employee, or paid consultant of a Texas trade association in the field of criminal or juvenile justice; or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of criminal or juvenile justice.

(c) Prohibits a person from being a member of the board or acting as the general counsel to the board or TYC if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of TYC.

(d) Defines "Texas trade association."

Sec. 61.026. REMOVAL OF BOARD MEMBERS. (a) Provides that it is a ground for removal from the board that a member does not have at the time of taking office the qualifications required by Section 61.024(b) (relating to members of the board being citizens who are recognized within their communities for their interest in youth); does not

maintain during service on the board the qualifications required by Section 61.024(b); is ineligible for membership under Section 61.025; cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

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

(c) Requires the executive director, if the executive director has knowledge that a potential ground for removal exists, to notify the presiding officer of the board of the potential ground. Requires the presiding officer to then notify the governor and the attorney general that a potential ground for removal exists. Requires the executive director, if the potential ground for removal involves the presiding officer, to notify the next highest ranking officer of the board, who is required then to notify the governor and the attorney general that a potential ground for removal exists.

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

(b) Requires that the training program provide the person with information regarding the legislation that created TYC; the programs, functions, rules, and budget of TYC; the results of the most recent formal audit of TYC; the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and any applicable ethics policies adopted by TYC or the Texas Ethics Commission.

(c) Entitles a person appointed to the board to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 61.028. USE OF TECHNOLOGY. Requires the board to implement a policy requiring TYC to use appropriate technological solutions to improve TYC's ability to perform its functions. Requires that the policy ensure that the public is able to interact with TYC on the Internet.

Sec. 61.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) Requires the board to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of TYC rules; and appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under TYC's jurisdiction.

(b) Requires that TYC's procedures relating to alternative dispute resolution conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings (SOAH) for the use of alternative dispute resolution by state agencies.

(c) Requires the board to designate a trained person to coordinate the implementation of the policy adopted under Subsection (a); serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and collect data concerning the effectiveness of those procedures, as implemented by TYC.

SECTION 2.006. Amends Section 61.0352, Human Resources Code, as follows:

Sec. 61.0352. DIVISION OF RESPONSIBILITY. Requires the board, rather than the executive commissioner, to develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the staff of TYC. Makes a conforming change.

SECTION 2.007. Amends Section 61.0422, Human Resources Code, as follows:

Sec. 61.0422. COMPLAINTS REGARDING SERVICES. (a) Requires TYC to maintain a system to promptly and efficiently act on a complaint filed with TYC, rather than keep a file about each written complaint filed with TYC, by a person, other than a child receiving services from TYC or the child's parent or guardian, that TYC has authority to resolve. Requires TYC to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.

(b) Create this subsection from existing text. Requires TYC to make information available describing TYC's procedures for complaint investigation and resolution. Deletes existing text requiring TYC to provide to the person filing the complaint and the persons or entities complained about TYC's policies and procedures pertaining to complaint investigation and resolution.

(c) Create this subsection from existing text. Requires TYC to periodically notify the complaint parties of the status of the complaint until final disposition, unless the notice would jeopardize and undercover investigation. Deletes existing text requiring TYC, at least quarterly and until final disposition of the complaint, to notify the person filing the complaint and the persons or entities complained about of the status of the complaint unless the notice would jeopardize an undercover investigation. Deletes existing Subsection (b) requiring TYC to keep information about each file required by Subsection (a). Deletes existing text requiring the information to include certain data.

(d) Redesignates existing Subsection (c) as Subsection (d). Makes no further changes to this subsection.

SECTION 2.008. Amends Section 61.0423, Human Resources Code, as follows:

Sec. 61.0423. PUBLIC HEARINGS. (a) Requires the board, rather than executive commissioner, to develop and implement policies that provide the public with a reasonable opportunity to appear before the board, rather than the executive commissioner or the executive commissioner's designee, and to speak on any issue under the jurisdiction of TYC.

(b) Makes a conforming change.

SECTION 2.009. Amends Subchapter D, Chapter 61, Human Resources Code, by adding Section 61.067, as follows:

Sec. 61.067. INFORMATION PROVIDED TO COMMITTING COURT. (a) Requires TYC, if a court that commits a child to TYC requests, in the commitment order, that TYC keep the court informed of the progress the child is making while committed to TYC, to provide the court with periodic updates on the child's progress.

(b) Authorizes a report provided under Subsection (a) to include any information TYC determines to be relevant in evaluating the child's progress, including, as applicable, information concerning the child's treatment, education, and health.

(c) Prohibits a report provided under this section from including information that is protected from disclosure under state or federal law.

SECTION 2.010. Amends Subchapter F, Chapter 61, Human Resources Code, by adding Section 61.08131, as follows:

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

(b) Requires that the comprehensive reentry and reintegration plan developed under this section provide for:

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

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

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

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

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

(c) Authorizes a child's personal health information to be disclosed under Subsection (b)(5) only in the manner authorized by Section 61.0731 (Information Available to Children, Parents, and Others) or other state or federal law, provided that the disclosure does not violate the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191).

(d) Requires that the programs provided under Subsections (b)(2) and (3) be implemented by highly skilled staff who are experienced in working with reentry and reintegration programs for children; provide children with certain services training, education, and treatment; and be designed to build for children post-release and post-discharge support from the community into which the child is released under supervision or finally discharged, including support from agencies and organizations within that community.

(e) Authorizes TYC to contract and coordinate with private vendors, units of local government, or other entities to implement the comprehensive reentry and reintegration plan developed under this section, including contracting to coordinate the supervision and services provided to children during the time children are in the custody of TYC with any supervision or services provided children who have been released under supervision or finally discharged from TYC; provide children awaiting release under supervision or final discharge with documents that are necessary after release or discharge, including identification papers, medical prescriptions, job training certificates, and referrals to services; and provide housing and structured programs, including programs for recovering substance abusers, through which children are provided services immediately following release under supervision or final discharge.

(f) Requires that any contract entered into under this section, to ensure accountability, contain specific performance measures that TYC is required to use to evaluate compliance with the terms of the contract.

(g) Requires TYC to ensure that each reentry and reintegration plan developed for a child under Section 61.0814 (Reentry and Reintegration Plan) is coordinated with the comprehensive reentry and reintegration plan developed under this section.

(h) Requires TYC to conduct and coordinate research to determine whether the comprehensive reentry and reintegration plan developed under this section reduces recidivism rates.

(i) Requires TYC, not later than December 1 of each even-numbered year, to deliver a report of the results of research conducted or coordinated under Subsection (h) to the lieutenant governor, the speaker of the house of representatives, and the standing committees of each house of the legislature with primary jurisdiction over juvenile justice and corrections.

SECTION 2.011. Amends Subchapter F, Chapter 61, Human Resources Code, by adding Section 61.08141, as follows:

Sec. 61.08141. INFORMATION PROVIDED TO COURT BEFORE RELEASE. (a) Requires TYC, in addition to providing the court with notice of release of a child under Section 61.081(e) (relating to TYC notice of the release to the juvenile court and the office of the prosecuting attorney), as soon as possible but not later than the 30th day before the date TYC releases the child, to provide the court that committed the child to TYC a copy of the child's reentry and reintegration plan developed under Section 61.0814, and a report concerning the progress the child has made while committed to TYC.

(b) Requires TYC, if, on release, TYC places a child in a county other than the county served by the court that committed the child to TYC, to provide the information described by Subsection (a) to both the committing court and the juvenile court in the county where the child is placed after release.

(c) Requires TYC, if, on release, a child's residence is located in another state, to provide the information described by Subsection (a) to both the committing court and a juvenile court of the other state that has jurisdiction over the area in which the child's residence is located.

SECTION 2.012. Amends Section 61.098(b), Human Resources Code, as follows:

(b) Authorizes the district attorney, criminal district attorney, or county attorney representing the state in criminal matters before the district or inferior courts of the county who would otherwise represent the state in the prosecution of an offense or delinquent conduct concerning TYC and described by Article 104.003(a) (relating to the state reimbursing the county for expenses incurred by the county), Code of Criminal Procedure, as appropriate, to request that the special prosecution unit prosecute, or assist in the prosecution of, the offense or delinquent conduct.

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

SECTION 3.001. Amends Section 64.054, Human Resources Code, as follows:

Sec. 64.054. SUNSET PROVISION. Requires the office of independent ombudsman for TYC (office) to be reviewed during the periods in which TYC is reviewed, rather than periods in which state agencies abolished in 2009, and every 12th year after 2009, are reviewed.

SECTION 3.002. Amends Section 64.058, Human Resources Code, as follows:

Sec. 64.058. RULEMAKING AUTHORITY. (a) Creates this subsection from existing text.

(b) Requires the office and TYC to adopt rules necessary to implement Section 64.060, including rules that establish procedures for TYC to review and comment on reports of the office and for TYC to expedite or eliminate review of and comment on a report due to an emergency or a serious or flagrant circumstance described by Section 64.055(b) (relating to the independent ombudsman immediately reporting to certain people).

SECTION 3.003. Amends Subchapter B, Chapter 64, Human Resources Code, by adding Sections 64.060 and 64.061, as follows:

Sec. 64.060. REVIEW AND FORMAT OF REPORTS. (a) Requires the office to accept, both before and after publication, comments from TYC concerning the following types of reports published by the office under this chapter: the office's quarterly report under Section 64.055(a) (relating to the independent ombudsman submitting on a quarterly basis to certain people), reports concerning serious or flagrant circumstances under Section 64.055(b), and any other formal reports containing findings and making recommendations concerning systemic issues that affect TYC.

(b) Prohibits TYC from submitting comments under Subsection (a) after the 30th day after the date the report on which TYC is commenting is published.

(c) Requires the office to ensure that reports described by Subsection (a) are in a format to which TYC can easily respond.

(d) Provides that after receipt of comments under this section, the office is not obligated to change any report or change the manner in which the office performs the duties of the office.

Sec. 64.061. COMPLAINTS. (a) Requires the office to maintain a system to promptly and efficiently act on complaints filed with the office that relate to the operations or staff of the office. Requires the office to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.

(b) Requires the office to make information available describing its procedures for complaint investigation and resolution.

(c) Requires the office to periodically notify the complaint parties of the status of the complaint until final disposition.

SECTION 3.004. Amends Subchapter C, Chapter 64, Human Resources Code, by adding Section 64.104, as follows:

Sec. 64.104. MEMORANDUM OF UNDERSTANDING. (a) Requires the office and TYC to enter into a memorandum of understanding concerning the most efficient manner in which to share information with one another, and the procedures for handling overlapping monitoring duties and activities performed by the office and TYC.

(b) Requires that the memorandum of understanding entered into under Subsection (a), at a minimum, address the interaction of the office with that portion of TYC that conducts an internal audit under Section 61.0331 (Internal Audit; Report); address communication between the office and TYC concerning individual situations involving children committed to TYC and how those situations will be documented and handled; contain guidelines on the office's role in relevant working groups and policy development decisions at TYC; ensure opportunities for sharing information between the office and TYC for the purposes of assuring quality and improving programming within TYC; and preserve the independence of the office by authorizing the office to withhold information concerning matters under active investigation by the office from TYC and TYC staff and to report the information to the governor.

ARTICLE 4. TEXAS JUVENILE PROBATION COMMISSION

SECTION 4.001. Amends Section 141.011(a), Human Resources Code, as follows:

(a) Provides that TJPC consists of two district court judges, two county judges or commissioners, one prosecutor in juvenile court who regularly prosecutes children alleged to have engaged in delinquent conduct or conduct indicating a need for supervision, one defense attorney who regularly represents children alleged to have engaged in delinquent conduct or conduct indicating a need for supervision, one member who represents an organization that advocates on behalf of juvenile offenders or victims of delinquent or criminal conduct, and two, rather than five, members of the public who are not employees in the criminal or juvenile justice system.

SECTION 4.002. Amends Section 141.012, Human Resources Code, as follows:

Sec. 141.012. SUNSET PROVISION. Provides that TJPC is subject to Chapter 325, Government Code. Provides that unless continued in existence as provided by that chapter, TJPC is abolished and this chapter expires September 1, 2021, rather than September 1, 2009.

SECTION 4.003. Amends Section 141.014, Human Resources Code, as follows:

Sec. 141.014 RESTRICTION ON COMMISSION APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) Prohibits a person from being a public member of TJPC if the person or the person's spouse owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from TJPC; is registered, certified, or licensed by a regulatory agency in the field of criminal or juvenile justice; or is employed by or participates in the management of a business entity or other organization regulated by or receiving money from TJPC. Deletes existing text providing that a person is not eligible for appointment or service as a public member of TPJC if the person or the person's spouse owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by TJPC or receiving funds from TJPC. Makes nonsubstantive changes.

(b) Prohibits a person from being a member of TJPC or a TJPC employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if the person is an officer, employee, or paid consultant of a Texas trade association in the field of criminal or juvenile justice; or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of criminal or juvenile justice. Deletes existing text prohibiting an officer, employee, or paid consultant of a trade association in the field of criminal or juvenile justice from being a member or employee of TJPC.

(c) Deletes existing text of Subsection (c) prohibiting a person who is the spouse of an officer, employee, or paid consultant of a trade association in the field of criminal or juvenile justice from being a TJPC member or a TJPC employee, including exempt employees, compensated at grade 17 or over according to the position classification schedule under the General Appropriations Act. Redesignates Subsection (d) as Subsection (c).

(d) Redesignates existing Subsection (e) as Subsection (d). Redefines "Texas trade association."

SECTION 4.004. Amends Section 141.0145, Human Resources Code, as follows:

Sec. 141.0145. TRAINING FOR COMMISSION MEMBERS. (a) Prohibits a person who is appointed to and qualifies for office as a member of TJPC from voting, deliberating, or being counted as a member in attendance at a meeting of TJPC until the

person completes a training program that complies with this section. Deletes existing text requiring a person appointed to TJPC, to be eligible to take office as a member of TJPC, to complete at least one course of a training program that complies with this section.

(b) Requires that the training program provide information to the person regarding the legislation that created TJPC; the programs operated by TJPC; the roles and functions of TJPC; the budget of TJPC; the results of the most recent formal audit of TJPC; the requirements of law relating to open meetings, public information, administrative procedure, and conflicts of interest; and any applicable ethics policies adopted by TJPC of the Texas Ethics Commission. Deletes existing text requiring the training program to provide information to the person regarding the enabling legislation that created TJPC and its policymaking body to which the person is appointed to serve; the programs operated by TJPC; the role and functions of TJPC; the rules of TJPC with an emphasis on the rules that relate to disciplinary and investigatory authority; the current budget for TJPC; the results of the most recent formal audit of TJPC; the requirements the open meetings law, Chapter 551 (Open Meetings), Government Code, open records law, Chapter 552 (Public Information), Government Code, and administrative procedure law, Chapter 2001 (Administrative Procedure), Government Code; and the requirements of the conflict of interests laws and other laws relating to public officials. Makes nonsubstantive changes.

(c) Entitles a person appointed to TJPC to reimbursement, as provided in the General Appropriations Act, for travel expenses incurred in attending the training program, regardless of whether the attendance at the program occurs before or after the person qualifies for office, rather than as provided by the General Appropriations Act and as if the person were a member of TJPC.

SECTION 4.005. Amends Section 141.017(a) and (c), Human Resources Code, as follows:

(a) Provides that it is a ground for removal from TJPC if a member does not have at the time of taking office the qualifications required by Section 141.011 (Composition of Commission); does not maintain during service on TJPC the qualifications required by Section 141.011; is ineligible for membership under Section 141.014; cannot, because of illness or disability, discharge the member's duties for a substantial part of the term for which the member is appointed; or is absent from more than half of the regularly scheduled TJPC meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of TJPC. Deletes existing text providing that it is a ground for removal from TJPC if a member does not have at the time of appointment the qualifications required by Section 141.011; is not eligible for appointment to or service on TJPC as provided by Section 141.014(a); violates a prohibition established by Section 141.014(b), (c), or (d); cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability.

(c) Requires the executive director of TJPC (executive director), if the executive director has knowledge that a potential ground for removal exists, to notify the presiding officer, rather than the chairman, of TJPC of the potential ground. Makes conforming changes.

SECTION 4.006. Amends Section 141.022(a) and (b), Human Resources Code, as follows:

(a) Provides that the advisory council on juvenile services consists of the following chief juvenile probation officers appointed by TJPC:

(1) three chief juvenile probation officers of juvenile probation departments serving counties with populations of less than 10,000, rather than two court judges, appointed by TJPC;

(2) four chief juvenile probation officers of juvenile probation departments serving counties with populations of 10,000 or more but less than 50,001, rather than three juvenile probation officers, appointed by TJPC;

(3) three chief juvenile probation officers of juvenile probation departments serving counties with populations of 50,001 or more but less than 200,001, rather than two citizens who are knowledgeable of juvenile services, appointed by TJPC; and

(4) three chief juvenile probation officers of juvenile probation departments serving counties with populations of 200,001 or more, rather than the executive commissioner of TYC or commissioner's designee. Deletes Subdivision 5 and 6 providing that the commissioner of education or commissioner's designee and commissioner of human services or commissioner's designee serve on the advisory council.

(b) Requires the advisory council to report any determinations made under Subsection (c) (relating to the advisory council determining the needs and problems of county juvenile boards and departments) to the director and the members of TJPC appointed under Section 141.011.

SECTION 4.007. Amends Subchapter B, Chapter 141, Human Resources Code, by adding Sections 141.027 through 141.029, as follows:

Sec. 141.027. COMPLAINTS. (a) Requires TJPC to maintain a system to promptly and efficiently act on complaints filed with TJPC, other than complaints received under Section 141.049 (Complaints Relating to Juvenile Boards). Requires TJPC to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) Requires TJPC to make information available describing its procedures for complaint investigation and resolution.

(c) Requires TJPC to periodically notify the complaint parties of the status of the complaint until final disposition.

Sec. 141.028. USE OF TECHNOLOGY. Requires TJPC to implement a policy requiring TJPC to use appropriate technological solutions to improve TJPC's ability to perform its functions. Requires that the policy ensure that the public is able to interact with TJPC on the Internet.

Sec. 141.029. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) Requires TJPC to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of commission rules; and appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under TJPC's jurisdiction.

(b) Requires that TJPC's procedures relating to alternative dispute resolution conform, to the extent possible, to any model guidelines issued SOAH for the use of alternative dispute resolution by state agencies.

(c) Requires TJPC to designate a trained person to coordinate the implementation of the policy adopted under Subsection (a), serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution, and collect data concerning the effectiveness of those procedures, as implemented by TJPC.

SECTION 4.008. Amends Section 141.042, Human Resources Code, by amending Subsections (a), (e), and (h) and adding Subsections (d), (f), (i), and (j), as follows:

(a) Requires TJPC to adopt reasonable rules that provide, subject to Subsection (d), minimum standards for public and private juvenile pre-adjudication secure detention facilities, public juvenile post-adjudication secure correctional facilities that are operated

under the authority of a juvenile board or governmental unit, private juvenile post-adjudication secure correctional facilities operated under a contract with a governmental unit, except those facilities exempt from certification by Section 42.052(g) (relating to certification requirements of this section not applying to a TYC facility), and nonsecure correctional facilities operated by or under contract with a governmental unit. Makes a nonsubstantive change.

(d) Requires TJPC, in adopting rules under Subsection (a)(4) (relating to minimum standards for public and private juvenile facilities), to ensure that the minimum standards for facilities described by Subsection (a)(4) are designed to ensure that juveniles confined in those facilities are provided the rights, benefits, responsibilities, and privileges to which a juvenile is entitled under the United States Constitution, federal law, and the constitution and laws of this state. Requires that the minimum standards include a humane physical and psychological environment, safe conditions of confinement, protection from harm, adequate rehabilitation and education, adequate medical and mental health treatment, and due process of law.

(e) Deletes existing text requiring juvenile probation departments to report data from the use of the screening instrument or the clinical assessment to TJPC in a format and in the time prescribed by TJPC.

(f) Requires a juvenile probation department to, before the disposition of a child's case and using a validated risk and needs assessment instrument or process provided or approved by TJPC, complete a risk and needs assessment for each child under the jurisdiction of the juvenile probation department.

(h) Requires a juvenile board that does not accept state aid funding from TJPC under Section 141.081 (Determination of Amount of State Aid) to report to TJPC each month on a form provided by TJPC the same data as that required of counties accepting state aid funding regarding juvenile justice activities under the jurisdiction of the juvenile board. Authorizes TJPC, if TJPC makes available free software to the juvenile board for the automation and tracking of juveniles under the jurisdiction of the juvenile board, to require the monthly report to be provided in an electronic format adopted by TJPC, rather than adopted by rule by TJPC.

(i) Requires a juvenile probation department to report data from the use of the screening instrument or clinical assessment under Subsection (e) and the risk and needs assessment under Subsection (f) to TJPC in the format and at the time prescribed by TJPC.

(j) Requires TJPC to adopt rules to ensure that youth in the juvenile justice system are assessed using the screening instrument or clinical assessment under Subsection (e) and the risk and needs assessment under Subsection (f).

SECTION 4.009. Amends Section 141.0471, Human Resources Code, by amending Subsection (a) and adding Subsection (b-1), as follows:

(a) Requires TJPC and TYC to biennially develop a coordinated strategic plan to guide, but not substitute for, the strategic plans developed individually by the agencies or the juvenile justice improvement plan adopted by the council under Chapter 2.

(b-1) Requires that the plan, in addition to the information described by Subsection (b) (relating to requirements of the plan), include specific processes and procedures for routinely communicating juvenile justice system information between the agencies and determining opportunities to coordinate practices for improving outcomes for youth.

SECTION 4.010. Amends Section 141.049, Human Resources Code, as follows:

Sec. 141.049. COMPLAINTS RELATING TO JUVENILE BOARDS. (a) Requires TJPC to maintain information about parties to the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.

Requires TJPC to keep an information file about each complaint filed with TJPC relating to a juvenile board funded by TJPC.

(b) Requires TJPC to make information available describing TJPC's procedures for the investigation and resolution of a complaint filed with TJPC relating to a juvenile board funded by TJPC.

(c) Creates this subsection from existing text. Makes no changes to this subsection.

(d) Requires TJPC, if a written complaint is filed with TJPC relating to a juvenile board funded by TJPC, to periodically, rather than at least quarterly and until final disposition of the complaint, notify the complainant and the juvenile board of the status of the complaint until final disposition, unless notice would jeopardize an undercover investigation. Makes a conforming change.

SECTION 4.011. Amends Section 141.050, Human Resources Code, by adding Subsection (c), as follows:

(c) Requires TJPC to consider the past performance of a juvenile board when contracting with the juvenile board for local probation services other than basic probation services. Requires that a contract with a juvenile board for probation services other than basic probation service, in addition to the contract standards described by Subsection (a) (relating to TJPC requirements in each contract with counties for local probation services), to:

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

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

SECTION 4.012. Amends Subchapter C, Chapter 141, Human Resources Code, by adding Sections 141.057 and 141.058, as follows:

Sec. 141.057. DATA COLLECTION. (a) Requires TJPC to collect comprehensive data concerning the outcomes of local probation programs throughout the state.

(b) Requires that data collected under Subsection (a) include a description of the types of programs and services offered by a juvenile probation department, including a description of the components of each program or service offered; and to the extent possible, the rate at which juveniles who enter or complete juvenile probation are later committed to the custody of the state.

Sec. 141.058. QUARTERLY REPORT ON ABUSE, NEGLECT, AND EXPLOITATION. (a) Requires TJPC, on January 1, 2010, and quarterly after that date, to prepare and deliver a report to the board concerning the final outcome of any complaint received under Section 261.405 (Investigations in Juvenile Justice Programs and Facilities), Family Code, that concerns the abuse, neglect, or exploitation of a juvenile. Requires that the report include a summary of the actions performed by TJPC and any applicable juvenile board or juvenile probation department in resolving the complaint.

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

SECTION 4.013. Amends the heading to Subchapter D, Chapter 141, Human Resources Code, to read as follows:

SUBCHAPTER D. PROVISIONS RELATING TO CERTAIN OFFICERS AND
EMPLOYEES

SECTION 4.014. Amends Section 141.061(a), Human Resources Code, to require a person who was not employed as a probation officer before September 1, 1981, to be eligible for appointment as a probation officer, to have satisfactorily completed the course of preservice training or instruction and any continuing education required by TJPC.

SECTION 4.015. Amends Subchapter D, Chapter 141, Human Resources Code, by adding Section 141.0612, as follows:

Sec. 141.0612. MINIMUM STANDARDS FOR CERTAIN EMPLOYEES OF NONSECURE CORRECTIONAL FACILITIES. (a) Requires TJPC by rule to adopt certification standards for persons who are employed in nonsecure correctional facilities that accept only juveniles who are on probation and that are operated by or under contract with a governmental unit, as defined by Section 101.001 (Definitions), Civil Practice and Remedies Code.

(b) Requires that the certification standards adopted under Subsection (a) be substantially similar to the certification requirements for detention officers under Section 141.0611 (Minimum Standards for Detention Officers).

SECTION 4.016. Amends Section 141.064, Human Resources Code, as follows:

Sec. 141.064. REVOCATION OR SUSPENSION OF CERTIFICATION. (a) Authorizes TJPC to revoke or suspend a certification, or reprimand a certified officer for a violation of this chapter or a commission rule; or if, under Subsection (c), a panel determines that continued certification of the person threatens juveniles in the juvenile justice system. Makes nonsubstantive changes.

(b) Authorizes TJPC to place on probation a person whose certification is suspended. Authorizes TJPC, if the suspension is probated, to require the person to report regularly to TJPC on matters that are the basis of the probation; and continue or review professional education until the person attains a degree of skill satisfactory to TJPC in those areas that are the basis of the probation.

(c) Authorizes the executive director to convene, in person or telephonically, a panel of three TJPC members to determine if a person's continued certification threatens juveniles in the juvenile justice system. Provides that if the panel determines that the person's continued certification threatens juveniles in the juvenile justice system, the person's license is temporarily suspended until an administrative hearing is held as soon as possible under Subsection (d). Authorizes the executive director to convene a panel under this subsection only if the danger posed by the person's continued certification is imminent. Authorizes the panel to hold a telephonic meeting only if immediate action is required and convening the panel at one location is inconvenient for any member of the panel.

(d) Entitles a person to a hearing before SOAH, rather than TJPC or a hearings officer appointed by TJPC, if TJPC proposes to suspend or revoke the person's certification.

(e) Authorizes a person to appeal a ruling or order issued under this section to a district court in the county in which the person resides or in Travis County. Provides that the standard of review is under the substantial evidence rule. Deletes existing text requiring TJPC to prescribe procedures by which each decision to suspend or revoke is made by or is appealable to TJPC.

SECTION 4.017. Amends Section 141.081, Human Resources Code, by adding Subsection (d), as follows:

(d) Requires TJPC by rule to, not later than September 1, 2010, establish one or more basic probation services funding formulas and one or more community corrections funding formulas. Requires that the funding formulas established under this subsection include each grant for which TJPC, on or before September 1, 2009, established an allocation formula.

SECTION 4.018. Amends Chapter 141, Human Resources Code, by adding Subchapter F, as follows:

SUBCHAPTER F. COMMUNITY CORRECTIONS PILOT PROGRAMS

Sec. 141.101. ESTABLISHMENT OF COMMUNITY CORRECTIONS PILOT PROGRAMS. (a) Requires TJPC, in coordination with TYC, to establish guidelines for the implementation of community corrections pilot programs to provide an array of rehabilitation services for juvenile offenders, including juvenile delinquency prevention services and substance abuse and mental health treatment services. Authorizes a juvenile court of a county that has established a community corrections pilot program under this subchapter, instead of ordering commitment to TYC under Section 54.04(d)(2) (relating to the court authorized to commit the child to TYC without a determinate sentence) to require a child to participate in a community corrections pilot program if the child was found to have engaged in delinquent conduct that violates a penal law of the grade of felony under Title 7 (Offenses Against Property), Penal Code, or Chapter 481 (Texas Controlled Substances Act), Health and Safety Code; and did not involve the use of force or the threat of force against another person, including the use or exhibition of a deadly weapon.

(b) Requires TJPC to implement this subchapter only to the extent that the legislature specifically appropriates money to TJPC for that purpose.

Sec. 141.102. GRANTS. (a) Authorizes a juvenile board or a group of juvenile boards serving counties that are in the same service region established by TJPC to apply to TJPC for a grant to implement a community corrections pilot program in the county served by the board or group of boards, as applicable.

(b) Requires TJPC to adopt rules that govern the administration and operation of a community corrections pilot program by a juvenile board or group of juvenile boards and establish a competitive process through which juvenile boards may apply to TJPC for a grant under this section.

(c) Requires that the rules adopted under Subsection (b)(1) (relating to governing the administration and operation of a community corrections pilot program) require and establish certain conditions.

Sec. 141.103. FUNDING TO JUVENILE BOARDS. (a) Requires TJPC by rule to establish a funding formula for juvenile boards implementing a community corrections pilot program. Requires the formula to take into account certain information.

(b) Authorizes the funding formula established under Subsection (a) to take into account any factor not described by Subsection (a) that TJPC determines is relevant, including the historic average annual number of referrals for the county or counties and the population of the county or counties.

(c) Requires TJPC, except as otherwise provided by this subsection, to make available money for distribution for community corrections pilot programs under this section in the same manner as other state aid is distributed under this chapter. Requires that costs associated with a juvenile who is participating in the pilot program and who is committed to TYC be subtracted from the juvenile board's or boards' pilot program grant allotment, as applicable, and transferred to an account in the general revenue fund for the operation of secure facilities by or under contract with TYC.

(d) Provides that the amount of money to be subtracted from a juvenile board's or boards' allotment under Subsection (c) is computed on the average daily cost of committing a juvenile to a facility operated by or under contract with TYC as provided by Subsection (a)(1) (relating to the average daily cost to the state of committing a juvenile to a facility operated by or under contract with TYC) and is prohibited from exceeding the amount the juvenile board or group of juvenile boards initially received from TJPC for the juvenile.

Sec. 141.104. JUVENILE BOARD OBLIGATIONS. Provides that a juvenile board or group of juvenile boards that receives a grant under this subchapter is prohibited from using the funds to supplant existing expenditures associated with programs, services, and residential placement of youth in the local juvenile probation departments; is required to comply with all applicable commission rules; and is required to report on the use of and evaluate the effectiveness of the program.

Sec. 141.105. REPORTS. Requires a juvenile board or group of juvenile boards that receives a grant under this subchapter to annually, and at the request of TJPC, to report to TJPC concerning the implementation, cost-effectiveness, and success rate of a community corrections pilot program implemented under this subchapter.

(b) Requires TJPC, not later than January 1 of each odd numbered year, to submit a report concerning the implementation, cost-effectiveness, and success rates of community corrections pilot programs implemented by juvenile boards under this subchapter to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees in the senate and the house of representatives that have primary jurisdiction over TJPC.

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

ARTICLE 5. MISCELLANEOUS PROVISIONS

SECTION 5.001. Amends Chapter 13, Code of Criminal Procedure, by adding Article 13.34, as follows:

Art. 13.34. CERTAIN OFFENSES COMMITTED AGAINST CHILD COMMITTED TO TEXAS YOUTH COMMISSION. Authorizes an offense described by Article 104.003(a) (relating to a criminal offense or delinquent conduct committed on property owned by or operated or against a person in custody of TDCJ or TYC) committed by an employee or officer of TYC or a person providing services under a contract with TYC against a child committed to TYC to be prosecuted in any county in which an element of the offense occurred or Travis County.

SECTION 5.002. Amends Section 51.02, Family Code, by adding Subdivision (8-a) to define "nonsecure correctional facility."

SECTION 5.003. Amends Chapter 51, Family Code, by adding Section 51.126, as follows:

Sec. 51.126. NONSECURE CORRECTIONAL FACILITIES. (a) Authorizes a nonsecure correctional facility for juvenile offenders to be operated only by a governmental unit, as defined by Section 101.001 (Definitions), Civil Practice and Remedies Code, or a private entity under a contract with a governmental unit in this state.

(b) Requires each judge of the juvenile court and a majority of the members of the juvenile board, in each county, to personally inspect, at least annually, all nonsecure correctional facilities that are located in the county and to certify in writing to the authorities responsible for operating and giving financial support to the facilities and to TJPC that the facility or facilities are suitable or unsuitable for the confinement of children. Requires the juvenile court judges and juvenile

board members, in determining whether a facility is suitable or unsuitable for the confinement of children, to consider certain factors.

(c) Requires TJPC to annually inspect each nonsecure correctional facility. Requires TJPC to provide a report to each juvenile court judge presiding in the same county as an inspected facility indicating whether the facility is suitable or unsuitable for the confinement of children in accordance with minimum professional standards for the confinement of children in nonsecure confinement promulgated by TJPC or, at the election of the juvenile board of the county in which the facility is located, the current standards promulgated by the American Correctional Association.

(d) Requires a governmental unit or private entity that operates or contracts for the operation of a juvenile nonsecure correctional facility in this state under Subsection (a), except for a facility operated by or under contract with TYC to register the facility annually with TJPC and to adhere to all applicable minimum standards for the facility.

(e) Authorizes TJPC to deny, suspend, or revoke the registration of any facility required to register under Subsection (d) if the facility fails to adhere to all applicable minimum standards for the facility or timely correct any notice of noncompliance with minimum standards.

SECTION 5.004. Amends Section 54.04, Family Code, by amending Subsection (l) and adding Subsection (y), as follows:

(l) Authorizes a court or jury, except as provided by Subsections (q) (relating to a court or jury sentences a child to commitment in TYC) and (y), rather than Subsection (q), to place a child on probation under Subsection (d)(1) (relating to a court or jury placing the child on probation on such reasonable and lawful terms) for any period, except that probation is prohibited from continuing on or after the child's 18th birthday.

(y) Authorizes a court or jury to divert the child from commitment to TYC by placing the child on probation under Subsection (d)(1) in a community corrections program operated in accordance with Subchapter F, Chapter 141 (Texas Juvenile Probation Commission), Human Resources Code. Prohibits the period of probation under this subsection from continuing on or after the child's 19th birthday. Authorizes the court, before the period of probation ends, to extend the probation for any period, except that the probation is prohibited from extending to or after the child's 19th birthday.

SECTION 5.005. Amends Section 54.0405(i), Family Code, to authorize a court that requires as a condition of probation that a child attend psychological counseling under Subsection (a), before the date the probation period ends, to extend the probation for any additional period necessary to complete the required counseling as determined by the treatment provider, except that the probation is prohibited from being extended to a date after the date of the child's 18th birthday, unless the child is placed on probation under Section 54.04(y).

SECTION 5.006. Amends Section 54.041(b), Family Code, to authorize an order under this subsection to provide for periodic payments by the child or parent of the child for the period specified in the order but except as provided by Subsection (h) and unless the child is placed on probation under Section 54.04(y), that period is prohibited from extending past the date of the 18th birthday of the child or past the date the child is no longer enrolled in an accredited secondary school in a program leading toward a high school diploma, whichever date is later.

SECTION 5.007. Amends Section 54.05(b), Family Code, to provide that, except for a commitment to TYC, or a grant of juvenile probation under Section 54.04(y), all dispositions automatically terminate when the child reaches the child's, rather than his, 18th birthday.

SECTION 5.008. Amends Section 59.006(b), Family Code, to require the juvenile court to discharge the child from the custody of the probation department on the earlier of the date the

provisions of this section are met, or the child's 18th birthday or 19th birthday, if the child is placed on probation under Section 54.04(y), as applicable. Makes nonsubstantive changes.

SECTION 5.009. Amends Section 59.007(b), Family Code, to make conforming changes.

SECTION 5.010. Amends Section 59.008(b), Family Code, to make conforming changes.

SECTION 5.011. Amends Chapter 614, Health and Safety Code, by adding Section 614.018, as follows:

Sec. 614.018. CONTINUITY OF CARE FOR JUVENILES WITH MENTAL IMPAIRMENTS. (a) Requires TJPC, TYC, the Department of Public Safety of Texas (DPS), DSHS, DFPS, DADS, TEA, and local juvenile probation departments to adopt a memorandum of understanding that establishes their respective responsibilities to institute a continuity of care and service program for juveniles with mental impairments in the juvenile justice system. Requires the Texas Correctional Office on Offenders with Medical and Mental Impairments to coordinate and monitor the development and implementation of the memorandum of understanding.

(b) Requires the memorandum of understanding to establish methods for identifying juveniles with mental impairments in the juvenile justice system and collecting and reporting relevant data to the office; developing interagency rules, policies, and procedures for the coordination of care of and the exchange of information on juveniles with mental impairments who are committed to or treated, served, or supervised by TYC, TJPC, DPS, DFPS, DSHS, DADS, TEA, local juvenile probation departments, local mental health or mental retardation authorities, and independent school districts; and identifying the services needed by juveniles with mental impairments in the juvenile justice system.

(c) Defines "continuity of care and service program."

SECTION 5.012. Amends Sections 614.017(a) and (b), Health and Safety Code, as follows:

(a) Requires an agency to accept information relating to a special needs offender or a juvenile with a mental impairment that is sent to the agency to serve the purposes of the continuity of care and services regardless of whether other state law makes that information confidential and to disclose information relating to a special needs offender or a juvenile with a mental impairment, including information about the offender's or juvenile's identity, needs, treatment, social, criminal, and vocational history, supervision status and compliance with conditions of supervision, and medical and mental history, if the disclosure serves the purposes of continuity of care and services.

(b) Prohibits information obtained under this section from being used as evidence in any juvenile or criminal proceeding, unless obtained and introduced by other lawful evidentiary means.

SECTION 5.013. Amends Section 614.017 (c), Health and Safety Code, by amending Subdivision (1) to redefine "agency" and to define "juvenile with a mental impairment."

SECTION 5.014. Amends Section 614.009, Health and Safety Code, to require that the report presented to the board and filed with the governor, lieutenant governor, and speaker of the house of representatives giving details of the office's activities during the preceding biennium, include an evaluation of the development and implementation of the continuity of care and service programs established under Sections 614.013, 614.014, 614.015, 614.016, and 614.018, changes in rules, policies, or procedures relating to the programs, future plans for the programs, and any recommendations for legislation.

ARTICLE 6. TRANSITION AND EFFECTIVE DATE

SECTION 6.001 (a) Requires the governor to appoint the initial members of the council as soon as possible after the effective date of this Act.

(b) Requires the governor, in appointing the initial members of the council, to appoint three members for a term expiring February 1, 2011, three members for a term expiring February 1, 2013, and three members for a term expiring February 1, 2015.

(c) Prohibits the council from holding its first meeting or taking any other action until a quorum of the members of the council have taken office.

SECTION 6.002. Makes application of Sections 61.025 and 61.027, Human Resources Code, as added by this Act, and Sections 141.014 and 141.0145, Human Resources Code, as amended by this Act, prospective.

SECTION 6.003. Makes application of Section 61.026, Human Resources Code, as added by this Act, and Section 141.017, Human Resources Code, as amended by this Act, prospective.

SECTION 6.004. (a) Makes application of Section 141.001(a), Human Resources Code, as amended by this Act, prospective.

(b) Provides that a person serving on TJPC on the effective date of this Act continues to serve on TJPC until the person's term expires. Requires the governor to make appointments in accordance with Section 141.011(a), Human Resources Code, as amended by this Act, when a term expires or a vacancy on the commission occurs.

SECTION 6.005. Provides that persons serving on the advisory council on juvenile services under Section 141.022, Human Resources Code, on the effective date of this Act continue to serve in those capacities until TJPC reappoints members or appoints new members in those capacities.

SECTION 6.006. Makes application of Article 13.34, Code of Criminal Procedure, as added by this Act, prospective. Provides that, for the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6.007. Makes application of changes in law made by this Act, except as otherwise provided by this Act, prospective. Provides that, for purposes of this section, conduct violating a penal law occurs before the effective date of this Act if every element of the violation occurred before the date.

SECTION 6.008. Effective date: upon passage or September 1, 2009.