

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3689
By: McClendon et al. (Hinojosa)
Government Organization
5/22/2009
Committee Report (Substituted)

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

The Sunset 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.

C.S.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 Office of the Independent Ombudsman for the Texas Youth Commission (TYC) in SECTION 2.002 (Section 64.058, Human Resources Code) of this bill.

Rulemaking authority is expressly granted to TYC in SECTION 2.002 (Section 64.058, Human Resources Code) of this bill.

Rulemaking authority is expressly granted to the Texas Juvenile Probation Commission (TJPC) in SECTION 3.008 (Section 141.042, Human Resources Code), SECTION 3.015 (Section 141.0612, Human Resources Code), and SECTION 3.017 (Section 141.081, Human Resources Code).

Rulemaking authority previously granted to TJPC is modified in SECTION 3.008 (Section 141.042, Human Resources Code) of this bill.

Rulemaking authority previously granted to TJPC is rescinded in SECTION 3.008 (Section 141.042, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. TEXAS YOUTH COMMISSION

SECTION 1.001. Amends the heading to Chapter 61, Human Resources Code, to read as follows:

CHAPTER 61. TEXAS YOUTH COMMISSION

SECTION 1.002. Amends Section 61.001, Human Resources Code, by adding Subdivision (3), to define "board."

SECTION 1.003. Amends Section 61.020, Human Resources Code, as follows:

Sec. 61.020. SUNSET PROVISION. (a) Provides that the Texas Youth Commission (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, 2011, rather than 2009.

(b) Requires the Sunset Advisory Commission (sunset commission) in the review of TYC by the sunset commission, as required by this section, to focus its review on:

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

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

(3) initiatives of TYC and the Texas Juvenile Probation Commission (TJPC) in coordinating activities and services to better integrate TYC, TJPC, and county juvenile justice functions, including joint strategic planning, the sharing of youth data across youth-serving agencies, assessments and classification of youth, and collection of data on probation outcomes.

(c) Authorizes the sunset commission, in its report to the 82nd Legislature, to include any recommendations it considers appropriate. Provides that this subsection and Subsection (b) expire September 1, 2011.

SECTION 1.004. 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 1.005. 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 1.006. 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 1.007. 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) Creates 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) Creates 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 1.008. 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 1.009. 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 1.010. 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 1.011. Amends Section 61.0911, Human Resources Code, as follows:

Sec. 61.0911. COORDINATED STRATEGIC PLAN. Requires TYC to biennially develop with TJPC a coordinated strategic plan in the manner described by Sections 141.0471 and 141.0472, rather than as required by Section 141.0471.

SECTION 1.012. 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 2. OFFICE OF INDEPENDENT OMBUDSMAN FOR THE TEXAS YOUTH COMMISSION

SECTION 2.001. Amends Section 64.054, Human Resources Code, as follows:

Sec. 64.054. SUNSET PROVISION. (a) Creates this subsection from existing text. 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.

(b) Requires the sunset commission, notwithstanding Subsection (a), to focus its review of the office on compliance with requirements placed on the office by legislation enacted by the 81st Legislature, Regular Session, 2009, that becomes law. Provides that this subsection expires September 1, 2011.

SECTION 2.002. 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 2.003. 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 2.004. 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 3. TEXAS JUVENILE PROBATION COMMISSION

SECTION 3.001. Amends Section 141.011(a), Human Resources Code, as follows:

(a) Provides that TJPC consists of two district court judges who sit as juvenile court judges, two county judges or commissioners, one chief juvenile probation officer of a juvenile probation department that serves a county with a small population, one chief juvenile probation officer of a juvenile probation department that serves a county with a medium population, one chief juvenile probation officer or a juvenile probation department that serves a county with a large population, and two, rather than five, members of the public who are not employees in the criminal or juvenile justice system.

SECTION 3.002. Amends Section 141.012, Human Resources Code, as follows:

Sec. 141.012. SUNSET PROVISION. (a) Creates this subsection from existing text. 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, 2011, rather than September 1, 2009.

(b) Requires the Sunset Advisory Commission (sunset commission) in the review of TJPC by the sunset commission, as required by this section, to focus its review on:

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

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

(3) initiatives of TJPC and TYC in coordinating activities and services to better integrate TJPC, TYC, and county juvenile justice functions, including joint strategic planning, the sharing of youth data across youth-serving agencies, assessment and classification of youth, and collection of data on probation outcomes.

(c) Authorizes the sunset commission, in its report to the 82nd Legislature, to include any recommendations it considers appropriate. Provides that this subsection and Subsection (b) expire September 1, 2011.

SECTION 3.003. 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 3.004. 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 3.005. Amends Sections 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 3.006. Amends Section 141.022(b), Human Resources Code, to require 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 members of TJPC appointed under Section 141.011, rather than to the director.

SECTION 3.007. 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 by 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 3.008. Amends Section 141.042, Human Resources Code, by amending Subsections (a) and (h) and adding Subsection (i), 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.

(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.

SECTION 3.009. Amends Subchapter C, Chapter 41, Human Resources Code, by amending Section 141.0471 and adding Section 141.0472, as follows:

Sec. 141.0471. New heading: COORDINATED STRATEGIC PLANNING COMMITTEE. (a) Requires the director, rather than TJPC, and the executive director of TYC to jointly appoint a strategic planning committee to biennially develop a coordinated strategic plan which is required to guide, but not substitute for, the strategic plans developed individually by the agencies. Provides that the director and the executive director of TYC are co-presiding officers of the strategic planning committee.

(b) Requires the director to appoint four members to the strategic planning committee. Requires the director to appoint at least one committee member who represents the interests of families of juvenile offenders, one committee member who represents the interests of local juvenile probation departments, and one committee member who is a mental health treatment professional licensed under Subtitle B (Physicians) or I (Regulation of Psychology and Counseling), Title 3 (Health Professions), Occupations Code.

(c) Requires the executive director of TYC to appoint four members to the strategic planning committee. Requires the executive director to appoint at least one committee member who represents the interests of juvenile offenders, one committee member who represents the interests of the victims of delinquent or criminal conduct, and one committee member who is an educator as defined by Section 5.001 (Definitions), Education Code.

Sec. 141.0472. COORDINATED STRATEGIC PLAN; ADOPTION OF PLAN. (a) Requires that the coordinated strategic plan developed by the strategic planning committee under Section 141.0471 include, among other items, a plan of implementation for the development of common data sources and data sharing among TJPC, juvenile probation departments, TYC, the Department of Family and Protective Services, the Department of State Health Services, the Health and Human Services Commission, the Texas Education Agency, and other state agencies that serve youth in the juvenile justice system; include the development of new, or the improvement of existing, validated risk assessment instruments; include strategies to determine which programs are most

effective in rehabilitating youth in the juvenile justice system; include planning for effective aftercare programs and services, including ensuring that youth in the juvenile justice system have personal identification and appropriate referrals to service providers; and track performance measures to illustrate the costs of different levels of treatment and to identify the most cost-effective programs in each component of the juvenile justice system in this state. Makes nonsubstantive changes.

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

(c) Requires the governing boards of TJPC and TYC, rather than the governing board of TJPC and the executive commissioner of TYC, to review and adopt the coordinated strategic plan on or before December 1st of each odd-numbered year, or before the adoption of the agency's individual strategic plan, whichever is earlier.

SECTION 3.010. 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 3.011. 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 3.012. 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 3.013. 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 3.014. 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 3.015. 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 3.016. 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 3.017. 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.

ARTICLE 4. MISCELLANEOUS PROVISIONS

SECTION 4.001. 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 4.002. Amends Section 51.02, Family Code, by adding Subdivision (8-a) to define "nonsecure correctional facility."

SECTION 4.003. 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 4.004. 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 4.005. 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 4.006. Amends Section 614.017 (c), Health and Safety Code, by amending Subdivision (l) to redefine "agency" and to define "juvenile with a mental impairment."

SECTION 4.007. 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 5. TRANSITION AND EFFECTIVE DATE

SECTION 5.001. 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 5.002. 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 5.003. (a) Makes application of Section 141.011(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 5.004. 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 5.005. Effective date: upon passage or September 1, 2009.