

## **BILL ANALYSIS**

Senate Research Center  
82R18296 AJZ-D

C.S.S.B. 653  
By: Whitmire et al.  
Government Organization  
4/5/2011  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Youth Commission (TYC) is the state's juvenile corrections agency, supervising youth committed to state confinement by local courts. The Texas Juvenile Probation Commission (TJPC) supports and oversees 165 juvenile probation departments serving all 254 Texas counties. The Office of Independent Ombudsman (OIO) is responsible for investigating, evaluating, and securing the rights of children committed to TYC.

TYC and TJPC are subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the legislature. OIO is subject to Sunset review, but is not subject to abolishment. The Sunset Advisory Commission considered these three agencies through a special purpose review, as required by H.B. 3689, 81st Legislature, Regular Session, 2009, and evaluated reforms initiated through S.B. 103, 80th Legislature, Regular Session, 2007.

The Sunset re-examination found that TYC, TJPC, and OIO have implemented the majority of required reforms, but that significant problems persist in the juvenile justice system. After several years of study, the Sunset Advisory Commission concluded that the time had come to consolidate the juvenile justice agencies into a single, fiscally responsible agency to serve youthful offenders. Creating a single agency will enhance reforms underway at TYC, and continue the success of initiatives to divert youth from TYC and serve them in their communities.

C.S.S.B. 653 has several major provisions. First, it creates a new agency, the Texas Juvenile Justice Department (TJJD), by merging the functions of TYC and TJPC under a single, 13-member governor-appointed board. The substitute specifies the creation of the new agency is intended to establish a unified state juvenile justice agency that works in partnership with local county government, the courts, and communities to promote public safety and to create a system that produces positive outcomes for youth, families, and communities.

It reduces the transition period for the new agency from one year, as recommended by the Sunset Advisory Commission, to 90 days after the effective date of the Act (September 1, 2011) and makes the new agency effective December 1, 2011. The transition team will be composed of the following:

- representative of the governor, lieutenant governor, and the speaker of the house;
- representatives of TYC and TJPC, appointed by the respective boards of each agency;
- small, medium, and large probation departments (appointed by the governor); and
- youth, family, and victim advocacy groups (appointed by the governor).

The transition team is to be appointed by the governor as soon as possible after September 1, 2011, and no later than October 1, 2011. The team will coordinate and oversee the transition for the first 90 days, then assist the newly established agency and its newly appointed board until August 31, 2012.

The governor-appointed TJJD board (board) will be composed of the following:

- one district court judge who sits as a juvenile court judge;
- two county judges or commissioners;
- one juvenile court prosecutor;

- three chief juvenile probation officers representing small, medium, and large counties;
- one adolescent mental health treatment professional licensed under Subtitle B (Physicians) or I (Regulation of Psychology and Counseling), Title 3 (Health Professions), Occupations Code;
- one educational professional, as defined by Section 5.001 (Definitions), Education Code; and
- two public members, with no employment ties to related fields.

OIO is maintained, however, as an office within the new agency to oversee the rights of youth committed to state facilities. The bill allows the state to transfer closed TYC facilities, in counties with populations less than 100,000, to the county or city where the facility is located. The new agency is continued for six years.

Other provisions in the substitute include: changes to the composition of the Advisory Council on Juvenile Services (advisory council), as well as expanding the duties of the advisory council; clarification that criminal complaints will be referred to the Office of Inspector General, while civil complaints will be referred to OIO; clarification that probation departments can appeal decisions of the executive director of TJJD (executive director) relating to juvenile probation programs, services, or facilities to the board; clarification that annual financial report and internal audit requirements apply to the entire TJJD; a requirement that the board produce a report on the merger; establishment of a single hotline for possible violations of youth rights; clarification that the board, not TJJD or the executive director, is responsible for rulemaking; removal of language related to coordinated, interagency, and joint strategic planning; clarification that annual report on probation services applies only to probation services; removal of language specifying a single facility or TJJD to contract with for mental health services; reinstatement of the requirement that the agency develop a clear mission statement; a requirement that the inspector general report to, and be appointed by, the board; clarification of agency names in agreements between TJJD and DFPS; and consolidation of Comprehensive Reentry and Reintegration Plan provisions and requires youth under supervision to sign their conditions of release.

C.S.S.B. 653 amends current law relating to abolishing the Texas Youth Commission and the Texas Juvenile Probation Commission and transferring the powers and duties of those agencies to the newly created Texas Juvenile Justice Department and to the functions of the independent ombudsman for the Texas Youth Commission.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Juvenile Justice Board throughout this bill.

Rulemaking authority previously granted to the Texas Juvenile Probation Commission is transferred to the Texas Juvenile Justice Board throughout this bill.

Rulemaking authority previously granted to the Texas Youth Commission is transferred to the Texas Juvenile Justice Board throughout this bill.

Rulemaking authority previously granted to the Texas Juvenile Probation Commission is rescinded in SECTION 1.004 (Section 141.081, Human Resources Code, renumbered as Section 223.001 in this bill) of this bill.

Rulemaking authority previously granted to the Texas Youth Commission is rescinded in SECTION 1.007 (Sections 61.048 and 61.081, Human Resources Code, renumbered as Sections 242.068 and 245.081 in this bill) of this bill.

Rulemaking authority previously granted, jointly, to the Office of the Independent Ombudsman and Texas Youth Commission is transferred to the Texas Juvenile Justice Board in SECTION 1.010 (Section 261.058, Human Resources Code) of this bill.

## **SECTION BY SECTION ANALYSIS**

### **ARTICLE 1. TEXAS JUVENILE JUSTICE DEPARTMENT; TEXAS YOUTH COMMISSION AND TEXAS JUVENILE PROBATION COMMISSION**

SECTION 1.001. Amends the Human Resources Code by adding Title 12, with a heading to read as follows:

#### **TITLE 12. JUVENILE JUSTICE SERVICES AND FACILITIES**

SECTION 1.002. Amends Title 12, Human Resources Code, as added by this Act, by adding Subtitle A, as follows:

#### **SUBTITLE A. TEXAS JUVENILE JUSTICE BOARD AND TEXAS JUVENILE JUSTICE DEPARTMENT**

##### **CHAPTER 201. GENERAL PROVISIONS**

Sec. 201.001. DEFINITIONS. (a) Defines "board," "child," "court," "department," "executive director," "juvenile board," and "state aid" in this title.

(a-1) Provides that a reference to the department:

- (1) in Subtitle B means the Texas Juvenile Probation Commission (TJPC);
- (2) in Subtitle C means the Texas Youth Commission (TYC); and
- (3) in any law other than Subtitle B or C means TJPC or TYC, as applicable in context.

(a-2) Provides that this subsection and Subsection (a-1) expire December 1, 2011.

(b) Provides that, effective December 1, 2011, a reference in other law to:

- (1) TJPC means the Texas Juvenile Justice Department (TJJD); or
- (2) TYC means TJJD.

Sec. 201.002. PURPOSES. Requires that this title be construed to effectuate the following public purposes:

- (1) the creation of a unified state juvenile justice agency that operates in partnership with local county governments, courts, and communities to promote public safety by providing a full continuum of effective support and service to youth from initial contact through termination of supervision; and
- (2) the creation of a juvenile justice system that produces positive outcomes for youth, families, and communities.

##### **CHAPTER 201A. TEMPORARY PROVISIONS**

###### **SUBCHAPTER A. TRANSITION TEAM**

Sec. 201A.001. COMPOSITION OF TRANSITION TEAM; PRESIDING OFFICER. (a) Provides that the juvenile justice services and facilities transition team is composed of the following 11 members:

- (1) a representative of TJPC, appointed by the board of TJPC;
- (2) a representative of TYC, appointed by the board of TYC;

- (3) a representative of the governor;
- (4) a representative of the lieutenant governor, chosen from a list submitted to the governor by the lieutenant governor;
- (5) a representative of the speaker of the house of representatives, chosen from a list submitted to the governor by the speaker;
- (6) one member who represents the interests of a juvenile probation department that serves a county with a small population;
- (7) one member who represents the interests of a juvenile probation department that serves a county with a medium population;
- (8) one member who represents the interests of a juvenile probation department that serves a county with a large population;
- (9) one member who represents the interests of juvenile offenders or the families of juvenile offenders;
- (10) one member who represents an organization that advocates on behalf of juvenile offenders or the families of juvenile offenders; and
- (11) one member who represents an organization that advocates on behalf of the victims of delinquent or criminal conduct.

(b) Requires the governor to appoint the members of the transition team listed in Sections 201A.001(a)(3)-(11).

(c) Requires the members of the transition team to be appointed as provided by Subsections (a) and (b) as soon as possible after September 1, 2011, and not later than October 1, 2011.

(d) Provides that the transition team member who is appointed under Subsection (a)(3) serves as the presiding officer of the transition team.

(e) Provides that the transition team members appointed under Subsections (a)(1) and (2) remain on the transition team after November 30, 2011, regardless of the abolition of the agencies named in those subdivisions.

**Sec. 201A.002. POWERS AND DUTIES.** (a) Requires the transition team to coordinate and oversee the transition of services and facilities from TJPC and TYC to TJJD after September 1, 2011, and before December 1, 2011.

(b) Requires the transition team, after November 30, 2011, and before August 31, 2012, to assist TJJD and advise the TJJD board in implementing the transition of services and facilities from TJPC and TYC to TJJD.

**Sec. 201A.003. ASSISTANCE.** Requires the following state agencies to, on request, assist the transition team with the following matters:

- (1) the Legislative Budget Board and the budget, planning, and policy division of the governor's office, with preparation of a suggested budget for TJJD;
- (2) the Department of Information Resources, with the technological needs of TJJD;
- (3) the office of the attorney general, with legal matters concerning the transition of services and facilities from TJPC and TYC to TJJD;

(4) the comptroller of public accounts, with suggested accounting practices for TJJD; and

(5) the Texas Facilities Commission, with assistance in efficiently using the office space in which the administrative offices of TJPC and TYC are located and, if necessary, locating additional office space for the administrative offices of TJJD.

[Reserves Sections 201A.004-201A.050 for expansion.]

## SUBCHAPTER B. EXPIRATION

Sec. 201A.051. EXPIRATION. Provides that this chapter expires August 31, 2012.

## CHAPTER 202. ADMINISTRATIVE PROVISIONS

Sec. 202.001. COMPOSITION OF BOARD; PRESIDING OFFICER. (a) Provides that the Texas Juvenile Justice Board (board) is composed of the following 11 members appointed by the governor with the advice and consent of the senate:

(1) one member who is a district court judge of a court designated as a juvenile court;

(2) two members who are county court judges or county commissioners;

(3) one prosecutor in juvenile court;

(4) one chief juvenile probation officer of a juvenile probation department serving a county with a small population;

(5) one chief juvenile probation officer of a juvenile probation department serving a county with a medium population;

(6) one chief juvenile probation officer of a juvenile probation department serving a county with a large population;

(7) one adolescent mental health treatment professional licensed under Subtitle B (Physicians) or I (Regulation of Psychology and Counseling), Title 3 (Health Professions), Occupations Code;

(8) one educator, as that term is defined by Section 5.001 (Definitions), Education Code; and

(9) two members of the general public.

(b) Provides that members serve staggered six-year terms, with the terms of three or four members expiring on February 1 of each odd-numbered year.

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

(d) Requires the governor to make appointments to the board without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Sec. 202.002. RESTRICTIONS ON BOARD MEMBERSHIP AND DEPARTMENT EMPLOYMENT. (a) Prohibits a person from being a public member of the board if the person or the person's spouse:

(1) is employed in the field of criminal or juvenile justice;

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

(3) 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 TJJD; or

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

(b) Prohibits a person from being a board member and from being a TJJD 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:

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

(2) 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 board member or acting as the general counsel to the board or TJJD 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 TJJD.

(d) Defines "Texas trade association" in this section.

Sec. 202.003. PROVISIONS APPLICABLE TO JUDICIAL MEMBERS. (a) Provides that a judge's place on the board becomes vacant when the judge ceases to hold a judicial office.

(b) Provides that a judge's service on the board is an additional duty of office.

(c) Require a judge, at the time of appointment to the board, to be a judge of:

(1) a court designated as a juvenile court; or

(2) a court that is one of several courts that rotate being the juvenile court.

Sec. 202.004. REMOVAL OF BOARD MEMBERS. (a) Provides that it is a ground for removal from the board if a member:

(1) does not have at the time of taking office the qualifications required by Sections 202.001 and 202.003;

(2) does not maintain during service on the board the qualifications required by Sections 202.001 and 202.003;

(3) is ineligible for membership under Section 202.002;

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

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

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

(c) Requires the executive director of TJJD (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 shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 202.005. BOARD MEMBER RECUSAL. (a) Requires a chief juvenile probation officer who is a board member to avoid the appearance of a conflict of interest by not voting or participating in any decision by the board that directly benefits or penalizes or otherwise directly impacts the juvenile probation department over which the chief juvenile probation officer has authority.

(b) Authorizes the board to adopt recusal requirements in addition to those described by Subsection (a), including requirements that are more restrictive than those described by Subsection (a).

Sec. 202.006. TRAINING FOR BOARD MEMBERS. (a) Prohibits a person who is appointed to and qualifies for office as a member of the board from voting, deliberating, or being 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:

(1) the legislation that created TJJD;

(2) the programs, functions, rules, and budget of TJJD;

(3) the results of the most recent formal audit of TJJD;

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

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

(c) Provides that a person appointed to the board is entitled 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. 202.007. REIMBURSEMENT. Provides that a board member is not entitled to compensation for service on the board but is entitled to reimbursement for actual and necessary expenses incurred in performing official duties as a board member.

Sec. 202.008. MEETINGS; PUBLIC PARTICIPATION. (a) Requires the board to hold regular quarterly meetings on dates set by the board and special meetings at the call of the presiding officer.

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

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

(d) Requires the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of TJJJ.

Sec. 202.009. AUDIT; AUTHORITY OF STATE AUDITOR. (a) Provides that TJJJ is subject to audit by the state auditor in accordance with Chapter 321 (State Auditor), Government Code.

(b) Authorizes the state auditor, on request of the office of inspector general, to provide information or other assistance to the office of inspector general that the state auditor determines is appropriate. Authorizes the office of inspector general to coordinate with the state auditor to review or schedule a plan for an investigation under Subchapter C (Abuse or Crimes Committed At Department Facilities or By Department Employees), Chapter 242 (Operation of Secure Facilities), or share other information.

(c) Authorizes the state auditor to access all information maintained by the office of inspector general, such as vouchers, electronic data, and internal records, including information that is otherwise confidential under law. Provides that information obtained by the state auditor under this subsection is confidential and is not subject to disclosure under Chapter 552 (Public Information), Government Code.

(d) Provides that any provision of this title relating to the operations of the office of inspector general does not:

(1) supersede the authority of the state auditor to conduct an audit under Chapter 321, Government Code; or

(2) prohibit the state auditor from:

(A) conducting an audit, investigation, or other review; or

(B) having full and complete access to all records and other information concerning the department, including any witness statement or electronic data, that the state auditor considers necessary for the audit, investigation, or review.

Sec. 202.010. SUNSET PROVISION. Provides that the board and TJJJ are subject to Chapter 325 (Sunset Law), Government Code. Provides that, unless continued in existence as provided by that chapter, the board and TJJJ are abolished September 1, 2017.

## CHAPTER 203. GENERAL POWERS AND DUTIES OF BOARD AND DEPARTMENT

Sec. 203.001. CONTROL OVER DEPARTMENT; PRIORITIZATION OF SERVICES.

(a) Provides that the board is the governing body of TJJJ and is responsible for the operations of TJJJ.

(b) Requires the board to develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of TJJJ.

(c) Provides that a mission of TJJJ is to achieve the goal of prioritizing the use of probation services for juveniles over the commitment of juveniles to state facilities. Requires the board to develop and implement policies that prioritize the provision of:



(1) probation services under Subtitle B over commitment under Subtitle C; and

(2) funding and assistance to juvenile probation departments operated in accordance with Chapter 142 (Juvenile Probation Departments and Personnel).

Sec. 203.002. EXECUTIVE DIRECTOR. Requires the board to employ an executive director to administer TJJD, and supervise the director's administration of TJJD.

Sec. 203.003. ACCESSIBILITY TO PROGRAMS AND FACILITIES. (a) Requires TJJD to comply with federal and state laws related to program and facility accessibility.

(b) Requires the board to prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to TJJD's programs and services.

Sec. 203.004. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) Requires the board to develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of TJJD rules; and

(2) 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 TJJD's jurisdiction.

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

(c) Requires TJJD to:

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

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Sec. 203.005. GIFTS AND GRANTS. (a) Authorizes TJJD to apply for and accept gifts and grants from any public or private source to use in maintaining and improving services provided under this title.

(b) Requires TJJD to deposit money received under this section in the state treasury. Authorizes TJJD to use the money only to make payments of state aid under Subtitle B and to administer this title.

Sec. 203.006. MEDICAID BENEFITS. Requires TJJD to:

(1) identify areas in which federal Medicaid program benefits could be used in a manner that is cost-effective for juveniles in the juvenile justice system;

(2) develop a program to encourage application for and receipt of Medicaid benefits;

(3) provide technical assistance to counties relating to eligibility for Medicaid benefits; and

(4) monitor the extent to which counties make use of Medicaid benefits.

Sec. 203.007. STUDIES; STATISTICAL RECORDS. (a) Authorizes TJJD to conduct or participate in studies relating to corrections methods and systems and to treatment and therapy programs at the governor's request or on TJJD's own initiative.

(b) Requires TJJD to continuously study the problem of juvenile delinquency in this state and the effectiveness of services provided or regulated by the department under Subtitle B or C and to report TJJD's findings to the governor and the legislature before each regular legislative session.

(c) Requires TJJD to keep records relating to juveniles within the juvenile justice system that participate in research programs or studies.

(d) Requires that the records show, for each calendar quarter and for each calendar year:

(1) the number of juveniles participating in research programs or studies for the appropriate reporting period;

(2) the type of research program or study in which each juvenile is participating;

(3) the name of the principal investigator conducting the research program or study; and

(4) the entity sponsoring the research program or study.

(e) Requires TJJD to submit a report that contains the information in the records kept under Subsection (d) on or before the 15th day after the last day of the appropriate reporting period to the:

(1) governor;

(2) lieutenant governor;

(3) speaker of the house of representatives; and

(4) members of the senate and house of representatives.

(f) Provides that a report submitted under this section is public information under Chapter 552, Government Code.

Sec. 203.008. AUTHORITY TO ISSUE SUBPOENA, ADMINISTER OATH, RECEIVE EVIDENCE, AND GATHER INFORMATION. (a) Defines "evidence" in this section.

(b) Authorizes TJJD to issue a subpoena requiring the attendance of a witness or the production of evidence that the department considers necessary for the investigation of:

(1) abuse, neglect, or exploitation allegations;

(2) complaints;

(3) financial and programmatic audits of juvenile probation programs, services, and facilities, including juvenile justice alternative education programs; or

(4) any other matter under the authority of TJJD, including a determination of treatment under Section 244.005.

(c) Authorizes TJJD to issue a subpoena under Subsection (b) only if the subpoena is signed by:

(1) the presiding officer of the board or, if the presiding officer is unavailable, the presiding officer's designee; and

(2) at least two other members of the board, including a board member who is a judge.

(d) Authorizes any peace officer, department investigator, other department official, or person authorized under Article 24.01 (Issuance of Subpoenas), Code of Criminal Procedure, to serve the subpoena in the same manner that similar process in a court of record having original jurisdiction of criminal actions is served.

(e) Requires that a subpoena under this section be served and witness fees and mileage paid as in civil cases in the district court in the county to which the witness is called, unless the proceeding for which the service or payment is made is under Chapter 2001 (Administrative Procedure), Government Code, in which case the service or payment shall be made as provided in that chapter. Requires witnesses subpoenaed at the instance of the department to be paid their fees and mileage by TJJD out of funds appropriated for that purpose.

(f) Authorizes a court of record having original jurisdiction of criminal actions, on application of TJJD, to compel the attendance of a witness, the production of material, or the giving of testimony before TJJD, by an attachment for contempt or in the same manner as the court may otherwise compel the production of evidence.

(g) Authorizes the presiding officer or a member of the board to administer an oath to a witness in attendance before TJJD or before an authorized representative of TJJD.

(h) Authorizes TJJD to apply to the district court for a rule or order returnable in not less than two or in more than five days, directing the witness to show cause before the judge why the witness should not be punished for contempt if a witness in attendance before TJJD or before an authorized representative refuses without reasonable cause to be examined or answer a legal or pertinent question, or to produce evidence when ordered by TJJD. Authorizes TJJD to apply to the district court of any county where the witness is in attendance, on proof by affidavit of the fact, unless the order of contempt is sought under Chapter 2001, Government Code, in which case TJJD is required to apply to a district court of Travis County, as provided by that chapter. Requires the judge hearing the matter, on return of the order, to examine the witness under oath and for the witness to be given an opportunity to be heard. Authorizes the judge to immediately find the witness in contempt of court if the judge determines that the witness has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce evidence that the witness was ordered to bring or produce.

(i) Requires TJJD to be granted access at any reasonable time to any evidence that is related to any matter TJJD or executive director considers necessary to administer TJJD's functions, powers, and duties.

Sec. 203.0081. ADVISORY COUNCIL ON JUVENILE SERVICES. (a) Provides that the advisory council on juvenile services consists of:

(1) two juvenile court judges, appointed by the chief justice of the Supreme Court of Texas;

(2) three chief juvenile probation officers, appointed by the Juvenile Justice Association of Texas;

(3) the executive director of TJJJ or the executive director's designee;

(4) the commissioner of human services or the commissioner's designee;

(5) one representative of the county commissioners courts, appointed by the Texas Association of Counties; and

(6) the director of probation services of TJJJ or the director's designee.

(b) Requires the advisory council to report any determinations made under Subsection (c) to the members of the board appointed under Section 202.001.

(c) Requires the advisory council to assist TJJJ in:

(1) determining the needs and problems of county juvenile boards and probation departments;

(2) conducting long-range strategic planning;

(3) reviewing existing or newly proposed standards affecting juvenile probation programs, services, or facilities; and

(4) analyzing the potential cost impact on probation departments of new standards proposed by the board.

Sec. 203.0082. FEES. Authorizes the board by rule to establish fees that are reasonable and necessary, produce revenue sufficient for the administration of this chapter, and do not produce unnecessary revenue, if the General Appropriations Act does not specify the amount of the fee.

Sec. 203.009. PUBLIC INTEREST INFORMATION. Requires TJJJ to prepare information of public interest describing the functions of TJJJ and describing the procedures by which complaints are filed with and resolved by TJJJ. Requires TJJJ to make the information available to the public and appropriate state agencies.

Sec. 203.010. DEPARTMENT COMPLAINTS. (a) Requires TJJJ to maintain a system to promptly and efficiently act on complaints filed with TJJJ, other than complaints received under Section 221.010.

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

(c) Requires that a complaint that raises or has the potential to raise, wholly or partly, a criminal matter be forwarded to the office of the inspector general. Requires that any other complaint be forwarded to the office of the independent ombudsman.

(d) Requires TJJJ to periodically notify the complaint parties of the status of the complaint until final disposition, unless the notice would jeopardize an undercover investigation.

(e) Requires TJJD to keep information about each written complaint filed with TJJD. Requires that the information include:

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

Sec. 203.011. APPEALS FROM DECISION OF EXECUTIVE DIRECTOR. Authorizes a juvenile probation department that is aggrieved by a decision of the executive director, including a decision relating to standards affecting juvenile probation programs, services, or facilities, to appeal the executive director's decision to the board. Provides that the decision of the board is final and cannot be appealed.

Sec. 203.012. ANNUAL FINANCIAL REPORT. Requires TJJD to prepare annually a complete and detailed written report accounting for all funds received and disbursed by TJJD during the preceding fiscal year. Requires that the annual report meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

Sec. 203.013. INTERNAL AUDIT; REPORT. (a) Requires TJJD to regularly conduct internal audits of TJJD, including audits of:

- (1) facilities operated by and under contract with TJJD; and
- (2) medical services provided to children in the custody of TJJD.

(b) Requires TJJD to, on a quarterly basis, report the results of the audits to:

- (1) the committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities; and
- (2) the state auditor.

Sec. 203.014. MERGER REPORT. (a) Requires TJJD, on or before December 1, 2012, to submit a report on the merger of TYC and TJPC to form TJJD to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) the standing committees of the senate and house of representative with primary jurisdiction over matters concerning juvenile justice; and
- (5) the Sunset Advisory Committee.

(b) Requires that the report include:

- (1) details of the merger;
- (2) a description of key accomplishments in relation to the merger;

- (3) organizational charts of TJJD; and
- (4) recommendations for legislative changes.

(c) Provides that this section expires December 31, 2012.

Sec. 203.015. TOLL-FREE NUMBER. (a) Requires TJJD to establish a permanent, toll-free number for the purpose of receiving any information concerning the abuse, neglect, or exploitation of children in the custody of TJJD or housed in a location probation facility.

(b) Requires TJJD to ensure that:

- (1) the toll-free number is prominently displayed in each TJJD facility and each local probation facility; and
- (2) children in the custody of TJJD or housed in a local probation facility and employees of TJJD and the facility have confidential access to telephones for the purpose of calling the toll-free number.

SECTION 1.003. Amends Title 12, Human Resources Code, as added by this Act, by adding Subtitle B with a heading to read as follows:

#### SUBTITLE B. PROBATION SERVICES; PROBATION FACILITIES

*[Note: In this subtitle, a reference to the department means TJPC until December 1, 2011, at which time a reference to the department will mean TJJD.]*

SECTION 1.004. Transfers Subchapters C, D, and E, Chapter 141, Human Resources Code, to Subtitle B, Title 12, Human Resources Code, as added by this Act, redesignates them as Chapters 221, 222, and 223, respectively, and amends them as follows:

#### New heading: CHAPTER 221. ASSISTANCE TO COUNTIES AND REGULATION OF JUVENILE BOARDS AND JUVENILE PROBATION DEPARTMENTS

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 221.001. PROVISION OF PROBATION AND DETENTION SERVICES. Redesignates existing Section 141.041 as Section 221.001. (a) Requires the department, rather than the Texas Juvenile Probation Commission (commission), to assist counties in providing probation and juvenile detention services by encouraging the continued operation of county and multi-county juvenile boards or probation offices.

(b) Makes a conforming change.

Sec. 221.002. New heading: GENERAL RULES GOVERNING JUVENILE BOARDS, PROBATION DEPARTMENTS, PROBATION OFFICERS, PROGRAMS, AND FACILITIES. Redesignates existing Section 141.042 as Section 221.002. (a) Requires the board, rather than the commission, to adopt reasonable rules that provide:

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

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

(4) 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 exempting certain facilities from certain certification requirements), and nonsecure correctional facilities operated by or under contract with a governmental unit; and

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

(b) Requires the board, rather than the commission, in adopting the rules, to consider local information and evidence gathered through public review and comment.

(c) Deletes existing text excepting a facility operated or certified by TYC from the requirement that the department, rather than the commission, operate a statewide registry for all public and private juvenile pre-adjudication secure detention facilities and all public and private juvenile post-adjudication secure correctional facilities.

(d) Makes a conforming change.

(e) Requires a juvenile board that does not accept state aid funding from the department under Section 223.001 to report to the department each month on a form provided by the department the same data as that required of counties accepting state aid funding regarding juvenile justice activities under the jurisdiction of the juvenile board. Authorizes the department, if the department makes available free software to a 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 rule by the board.

Sec. 221.003. RULES CONCERNING MENTAL HEALTH SCREENING INSTRUMENT AND RISK AND NEEDS ASSESSMENT INSTRUMENT; ADMISSIBILITY OF STATEMENTS. (a) Creates this subsection from existing Section 141.045(e). Requires the board by rule to require juvenile probation departments to use the mental health screening instrument selected by the department for the initial screening of children under the jurisdiction of probation departments who have been formally referred to a juvenile probation department. Requires the department to give priority to training in the use of this instrument in any preservice or in-service training that the department provides for probation officers. Requires that the rules adopted by the board under this section must allow a clinical assessment by a licensed mental health professional to be substituted for the mental health screening instrument selected by the department if the clinical assessment is performed in the time prescribed by the department, rather than providing that a clinical assessment by a licensed mental health screening instrument selected by the commission if the clinical assessment is performed in the time prescribed by the commission. Makes conforming changes.

(b) Redesignates existing Section 141.042(f) as Section 221.003(b). Makes a conforming change.

(c) Redesignates existing Section 141.042(g) as Section 221.003(c).

(d) Creates this subsection from text of existing Section 141.042(i). Requires a juvenile probation department to report data from the use of the screening instrument or clinical assessment under Subsection (a) and the risk and needs assessment under Subsection (b) to the department in the format and at the time prescribed by the department. Deletes existing text of Section 141.042(h) requiring a juvenile board that does not accept state aid funding from the commission under Section 141.081 to report to the commission each month on a form provided by the commission the same data as that required of counties accepting state aid funding regarding juvenile justice activities under the jurisdiction of the juvenile board. Deletes existing text authorizing the commission, if the commission 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 the commission. Makes conforming changes.

(e) Redesignates existing Section 141.042(j) as Subsection (e). Requires the board to adopt rules to ensure that youth in the juvenile justice system are assessed using the screening instrument or clinical assessment under Subsection (a) and the risk and needs assessment under Subsection (b). Makes conforming changes.

Sec. 221.004. STANDARDS RELATING TO LOCAL PROBATION DEPARTMENTS. Redesignates existing Section 141.0421 as Section 221.004. (a) Requires the board, rather than the commission, to adopt rules that provide:

(1) standards for the collection and reporting of information about juvenile offenders by local probation departments;

(2) performance measures to determine the effectiveness of probation services provided by local probation departments; and

(3) case management standards for all probation services provided by local probation departments.

(b) and (c) Makes conforming changes.

Sec. 221.005. TRAINING AND ASSISTANCE TO LOCAL AUTHORITIES. Redesignates existing Section 141.043 as Section 221.005. Makes a conforming change.

Sec. 221.006. VIOLENCE PREVENTION AND CONFLICT RESOLUTION TRAINING. Redesignates existing Section 141.0431 as Section 221.006. Makes a conforming change.

Sec. 221.007. New heading: JUVENILE BOARD RECORDS AND REPORTS. Redesignates Section 141.044 as Section 221.007. Makes conforming changes.

Deletes existing Section 141.045 (Gifts and Grants) authorizing the commission to apply for and accept gifts and grants from any public or private source to use in maintaining and improving probation services in the state and requiring the commission to deposit said money in the state treasury. Deletes existing text authorizing the commission to use the money only to make payments of state aid under this chapter and to administer this chapter.

Sec. 221.008. INSPECTIONS AND AUDITS. Redesignates existing Section 141.046 as Section 221.008. (a) Makes conforming and nonsubstantive changes.

(b) Makes a conforming change.



Deletes existing Section 141.0461 (Authority to Issue Subpoena, Administer Oath, Receive Evidence, and Gather Information), defining "evidence." Deletes existing text authorizing the commission to issue a subpoena requiring the attendance of a witness or the production of evidence that the commission considers necessary for the certain investigations, but only if the subpoena is signed by certain persons. Deletes existing text authorizing any peace officer, commission investigator, other commission official, or person authorized under Article 24.01 (Issuance of Subpoenas), Code of Criminal Procedure, to serve the subpoena in the same manner that similar process in a court of record having original jurisdiction of criminal actions is served. Deletes existing text requiring a subpoena under this section to be served and witness fees and mileage paid as in civil cases in the district court in the county to which the witness is called, unless the proceeding for which the service or payment is made is under Chapter 2001, Government Code, in which case the service or payment shall be made as provided in that chapter and requiring witnesses subpoenaed at the instance of the commission to be paid their fees and mileage by the commission out of funds appropriated for that purpose. Deletes existing text authorizing a court of record having original jurisdiction of criminal actions, on application of the commission, to compel the attendance of a witness, the production of material, or the giving of testimony before the commission, by an attachment for contempt or in the same manner as the court may otherwise compel the production of evidence. Deletes existing text authorizing the chairman or another member of the commission to administer an oath to a witness in attendance before the commission or before an authorized representative of the commission. Deletes existing text authorizing the commission, if a witness in attendance before the commission or before an authorized representative refuses without reasonable cause to be examined or answer a legal or pertinent question, or to produce evidence when ordered by the commission, to apply to the district court for a rule or order returnable in not less than two or in more than five days, directing the witness to show cause before the judge why the witness should not be punished for contempt. Deletes existing text authorizing the commission to apply to the district court of any county where the witness is in attendance, on proof by affidavit of the fact, unless the order of contempt is sought under Chapter 2001, Government Code, in which case the commission shall apply to a district court of Travis County, as provided by that chapter. Deletes existing text requiring the judge hearing the matter, on return of the order, to examine the witness under oath and the witness to be given an opportunity to be heard and authorizing the judge, if the judge determines that the witness has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce evidence that the witness was ordered to bring or produce, to immediately find the witness in contempt of court. Deletes existing text requiring that the commission be granted access at any reasonable time to any evidence that is related to any matter the commission or executive director considers necessary to administer the commission's functions, powers, and duties.

Sec. 221.009. New heading: INTERAGENCY AND INTERGOVERNMENTAL COOPERATION. Redesignates existing Section 141.047 as Section 221.009. (a) Makes a conforming change.

(b) Requires the executive director, rather than the executive commissioner of TYC, and the commissioners of education, mental health and mental retardation, and human services to meet in Austin at least quarterly to discuss mutual problems, resolve conflicts in providing services to juveniles, and make recommendations to the governor and legislature.

Deletes existing Section 141.0471 (Coordinated Strategic Planning Committee) requiring the director of TJPC (director) and the executive director of TYC to 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. Deletes existing text providing that the director and the executive director of TYC are co-

presiding officers of the strategic planning committee. Deletes existing text requiring the director to appoint four members to the strategic planning committee. Deletes existing text requiring 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. Deletes existing text requiring the executive director of TYC to appoint four members to the strategic planning committee and requiring 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, Education Code.

Sec. 221.0096. New heading: STRATEGIC PLAN; ADOPTION OF PLAN. Redesignates existing Section 141.0472 as Section 221.0096. (a) Requires the board to develop a strategic plan. Requires that the plan:

(1)-(4) Makes no changes to these subdivisions;

(5) describe intensive service and surveillance parole pilot programs to be developed, rather than jointly developed;

(6)-(7) Makes no changes to these subdivisions;

(8) identify outcome measures by which to evaluate the effectiveness of services provided to youth in the juvenile justice system, rather than the effectiveness of the system generally;

(9) include a plan of implementation for the development of common data sources and data sharing among the department, juvenile probation departments, 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; and

(10)-(13) Makes no changes to these subdivisions.

Deletes existing text requiring that TYC be included among the agencies with which a plan of implementation for the development of common data sources and data sharing among state agencies must be shared.

Makes a conforming change

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

Deletes existing text requiring that the coordinated strategic plan, in addition to the information described by Subsection (a), include specific processes and procedures for determining opportunities to coordinate practices for improving outcomes for youth, rather than procedures for routinely communicating juvenile justice system information between TJPC and TYC and determining opportunities to coordinate practices for improving outcomes for youth.

Deletes existing Section 141.048 (Studies) authorizing TJPC to conduct or participate in studies relating to corrections methods and systems and to treatment and therapy programs at the governor's request or on its own motion. Deletes

existing text requiring TJPC to continuously study the effectiveness of probation services and to report its findings to the governor and the legislature before each regular legislative session.

Deletes existing Section 141.0486 (Reporting Concerning Research Programs or Studies) requiring TJPC to keep records relating to children within the juvenile probation system that participate in research programs or studies and requiring the records to show, for each calendar quarter and for each calendar year the number of children participating in research programs or studies for the appropriate reporting period, the type of research program or study in which each child is participating, the name of the principal investigator conducting the research program or study, and the entity sponsoring the research program or study. Deletes existing text requiring TJPC to submit a report that contains the information in the records kept on or before the 15th day after the last day of the appropriate reporting period to the governor, lieutenant governor, speaker of the house of representatives, and members of the senate and house of representatives. Deletes existing text providing that a report submitted under this section is public information under Chapter 552, Government Code.

Sec. 221.010. COMPLAINTS RELATING TO JUVENILE BOARDS. Redesignates existing Section 141.049 as Section 221.010. (a)-(c) Makes conforming changes.

(d) Requires the department to handle and dispose of complaints received under this section in the manner described by Section 203.010. Deletes existing text requiring TJPC, if a written complaint is filed with TJPC relating to a juvenile board funded by the commission, to periodically notify the complainant and the juvenile board of the status of the complaint until final disposition, unless notice would jeopardize an undercover investigation.

Sec. 221.011. INVESTIGATORS. (a) Authorizes the department to employ and commission investigators as peace officers for the purpose of investigating allegations of abuse, neglect, and exploitation in juvenile justice programs and facilities under Section 261.405 (Investigations in Juvenile Justice Programs and Facilities), Family Code.

(b) Requires that peace officers employed and commissioned under Subsection (a) be certified by the Commission on Law Enforcement Officer Standards and Education under Chapter 1701 (Law Enforcement Officers), Occupations Code.

Sec. 221.012. ANNUAL REPORTS. (a) Requires the department to report annually to the governor and the legislature on the department's operations and the condition of probation services in the state during the previous year. Provides that the report:

(1) is authorized to include recommendations; and

(2) is required to include:

(A) an evaluation of the effectiveness of the community-based programs operated under Section 54.0401 (Community-Based Programs), Family Code; and

(B) information comparing the cost of a child participating in a program described by Paragraph (A) with the cost of committing the child to the department.

(b) Requires the department to file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding fiscal year. Requires the annual report to be in the form and be submitted by the time provided by the General Appropriations Act.

## SUBCHAPTER B. CONTRACT STANDARDS AND MONITORING

Sec. 221.051. **CONTRACT STANDARDS.** Redesignates Section 141.050 as Section 221.051. (a) Requires the department, rather than the commission, in each contract with counties for local probation services, to include:

- (1) clearly defined contract goals, outputs, and measurable outcomes that relate directly to program objectives;
- (2) clearly defined sanctions or penalties for failure to comply with or perform contract terms or conditions; and
- (3) clearly specified accounting, reporting, and auditing requirements applicable to money received under the contract.

(b) and (c) Makes conforming changes.

Sec. 221.052. **CONTRACT MONITORING.** Redesignates Section 141.051 as Section 221.052. Makes conforming changes.

Deletes existing Section 141.052 (Medicaid Benefits) requiring TJPC to identify areas in which federal Medicaid program benefits could be used in a manner that is cost-effective for children in the juvenile justice system, develop a program to encourage application for and receipt of Medicaid benefits, provide technical assistance to counties relating to eligibility for Medicaid benefits, and monitor the extent to which counties make use of Medicaid benefits.

Deletes existing Section 141.053 (Accessibility to Programs and Facilities) requiring TJPC to comply with federal and state laws relating to program and facility accessibility. Deletes existing text requiring the executive director to also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to TJPC's programs and services.

Sec. 221.053. **CONTRACTS FOR OUT-OF-STATE JUVENILE INMATES.** Redesignates Section 141.054 as Section 221.053. (a) Makes no changes to this subsection.

(b) Requires the board, rather than the commission, to develop rules, procedures, and minimum standards applicable to county or private correctional facilities housing out-of-state juvenile inmates. Requires that a contract made under Subsection (a) require the county, municipality, or private vendor to operate the facility in compliance with minimum standards adopted by the board, rather than by the commission. Makes a nonsubstantive change

Deletes existing Section 141.055 (Investigators) authorizing TJPC to employ and commission investigators as peace officers for the purpose of investigating allegations of abuse, neglect, and exploitation in juvenile justice programs and facilities under Section 261.405 (Investigations in Juvenile Justice Programs and Facilities), Family Code. Deletes existing text requiring those peace officers to be certified by the Commission on Law Enforcement Officer Standards and Education under Chapter 1701 (Law Enforcement Officers), Occupations Code.

Deletes existing Section 141.056 (Study of Alternative to Juvenile Justice System for Children Who Engage in Acts of Prostitution) requiring the director to establish a committee to evaluate alternatives to the juvenile justice system, such as government programs, faith-based programs, and programs offered by nonprofit organizations, for children who are accused of engaging in acts of prostitution. Deletes existing text requiring the director to determine the size of the committee. Deletes existing text requiring that the committee be composed

of members of TJPC, TYC, and other relevant state agencies as determined by the director, members of the legislature, members of nongovernmental organizations that provide programs and services to combat and prevent trafficking of persons as described by Section 20A.02 (Trafficking of Persons), Penal Code, in this state, including programs to promote public awareness, programs to identify and provide services to victims, legal services, and community outreach and training programs with respect to that trafficking, and other juvenile justice experts. Deletes existing text requiring the committee, not later than January 1, 2011, to prepare and deliver to each member of the legislature a report that includes the results of the study and recommendations for alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution. Deletes existing text providing this section, Section 141.055 (Study of Alternatives to Juvenile Justice System for Children Who Engage in Acts of Prostitution), expires June 1, 2011.

Sec. 221.054. DATA COLLECTION. Redesignates existing Section 141.057 as Section 221.054. (a) Makes a conforming change.

(b) Makes no changes to this subsection.

Sec. 221.055. QUARTERLY REPORT ON ABUSE, NEGLECT, AND EXPLOITATION. Redesignates existing Section 141.058 as Section 221.055. (a) Requires the department to prepare and deliver a quarterly report to the board concerning the final outcome of any complaint received under Section 261.405, Family Code, that concerns the abuse, neglect, or exploitation of a juvenile. Requires that the report include a summary of the actions performed by the department and any applicable juvenile board or juvenile probation department in resolving the complaint. Deletes existing text requiring 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, Family Code, that concerns the abuse, neglect, or exploitation of a juvenile. Makes a conforming change.

(b) Makes no changes to this subsection.

Sec. 221.056. RESIDENTIAL TREATMENT FACILITY. Redesignates existing Section 141.059 as Section 221.056. (a) Authorizes the department, rather than the commission, to contract with a local mental health and mental retardation authority, rather than with a local mental health and mental retardation authority that on April 1, 2009, had an unutilized or underutilized residential treatment facility, for the establishment of a residential treatment facility for juveniles with mental illness or emotional injury who, as a condition of juvenile probation, are ordered by a court to reside at the facility and receive education services at the facility. Makes conforming changes.

(b)-(d) Makes no changes to these subsections.

## New heading: CHAPTER 222. STANDARDS FOR AND REGULATION OF CERTAIN OFFICERS AND EMPLOYEES

### SUBCHAPTER A. STANDARDS FOR AND GENERAL REGULATION OF OFFICERS

Sec. 222.001. MINIMUM STANDARDS FOR PROBATION OFFICERS. Redesignates existing Section 141.061 as Section 222.001. (a) Makes conforming changes.

(b) Authorizes the board, rather than the commission, by rule to authorize the waiver of the requirement of a year of graduate study or full-time employment experience if the authority responsible for employing the officer establishes to the satisfaction of the department, rather than the commission, that, after a diligent

search, the authority cannot locate a person meeting that requirement to fill a job opening.

(c) Authorizes the board, rather than the commission, by rule to authorize the temporary employment of a person who has not completed a course of preservice training, passed the examination, or attained the required level of certification, contingent on the person meeting those requirements within the time specified by the board, rather than by the commission.

(d) and (e) Makes conforming changes.

(f) Requires the board, rather than the commission, to adopt rules defining the procedures to be used to request a waiver of the accreditation requirement in Subsection (a)(2). Makes conforming changes.

Sec. 222.002. MINIMUM STANDARDS FOR DETENTION OFFICERS. Redesignates existing Section 141.0611 as Section 222.002. Makes conforming changes.

Sec. 222.003. MINIMUM STANDARDS FOR CERTAIN EMPLOYEES OF NONSECURE CORRECTIONAL FACILITIES. Redesignates existing Section 141.0612 as Section 222.003. (a) Requires the board, rather than the commission, 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) Makes conforming changes.

Sec. 222.004. PERSONS WHO MAY NOT ACT AS CHIEF ADMINISTRATIVE, JUVENILE PROBATION, OR DETENTION OFFICERS. (a) Prohibits a peace officer, prosecuting attorney, or other person who is employed by or who reports directly to a law enforcement or prosecution official from acting as a chief administrative, juvenile probation, or detention officer or being made responsible for supervising a juvenile on probation.

(b) Provides that for purposes of this section, a chief administrative officer, regardless of title, is the person who is:

(1) hired or appointed by or under contract with the juvenile board; and

(2) responsible for the oversight of the operations of the juvenile probation department or any juvenile justice program operated by or under the authority of the juvenile board.

Sec. 222.005. CARRYING OF FIREARM BY CERTAIN OFFICERS PROHIBITED. (a) Prohibits a juvenile probation, detention, or corrections officer from carrying a firearm in the course of the person's official duties.

(b) Provides that this section does not apply to:

(1) an employee of the department; or

(2) a juvenile probation officer authorized to carry a firearm under Section 142.006 (Authorization to Carry a Firearm).

Sec. 222.006. PROBATION OFFICER: COUNTY EMPLOYEE. Provides that a juvenile probation officer whose jurisdiction covers only one county is considered to be an employee of that county.

#### SUBCHAPTER B. CERTIFICATION AND EXAMINATION

Sec. 222.051. NOTICE OF CERTIFICATION EXAMINATION RESULTS. Redesignates existing Section 141.062 as Section 222.051. (a)-(c) Makes conforming changes.

Sec. 222.052. ANALYSIS OF EXAMINATION PERFORMANCE. Redesignates existing Section 141.063 as Section 222.052. Makes a conforming change.

Sec. 222.053. REVOCATION OR SUSPENSION OF CERTIFICATION. Redesignates existing Section 141.064 as Section 222.053. (a) and (b) Makes conforming changes.

(c) Authorizes the executive director, rather than the director, to convene, in person or telephonically, a panel of three board members, rather than commission members, to determine if a person's continued certification threatens juveniles in the juvenile justice system. Authorizes the executive director to convene a panel under this subsection only if the danger posed by the person's continued certification is imminent. Makes a conforming change.

(d) Makes a conforming change.

(e) Makes no changes to this subsection.

Deletes existing Section 141.065 (Persons Who May Not Act As Chief Administrative, Juvenile Probation, or Detention Officers) prohibiting a peace officer, prosecuting attorney, or other person who is employed by or who reports directly to a law enforcement or prosecution official from acting as a chief administrative, juvenile probation, or detention officer or being made responsible for supervising a juvenile on probation. Deletes existing text defining a chief administrative officer for purposes of this section.

Deletes existing Section 141.066 (Carrying of Firearm by Certain Officers Prohibited) prohibiting a juvenile probation, detention, or corrections officer from carrying a firearm in the course of the person's official duties and text providing that the provision does not apply to an employee of the TYC or a juvenile probation officer authorized to carry a firearm under Section 142.006.

Deletes existing Section 141.067 (Probation Officer: County Employee) providing that a juvenile probation officer whose jurisdiction covers only one county is considered to be an employee of that county.

New heading: CHAPTER 223. STATE AID [Redesignates existing Subchapter E as Chapter 223.]

Sec. 223.001. DETERMINATION OF AMOUNT OF STATE AID. Redesignates existing Section 141.081 as Section 223.001. (a)-(c) Makes conforming changes.

Deletes existing text requiring 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. Deletes existing text requiring that the funding formulas established under this subsection include each grant for which the commission, on or before September 1, 2009, established an allocation formula.

Sec. 223.002. MAINTENANCE OF LOCAL FINANCIAL SUPPORT. Redesignates existing Section 141.082 as Section 223.002. (a) Makes conforming changes.

(b) Provides that, for purposes of Subsection (a), the amount spent on juvenile detention and correctional facilities is included in determining the amount of local or county funds, but the amount spent for construction or renovation is not included.

(c) Makes conforming changes.

(d) Makes conforming and nonsubstantive changes.

Sec. 223.003. SPECIAL RULES FOR MULTI-COUNTY JURISDICTIONS. Redesignates existing Section 141.083 as Section 223.003. Authorizes the board, rather than the commission, to, by rule, provide for:

(1) the payment of compensation, insurance, retirement, fringe benefits, and related matters to a juvenile probation officer whose jurisdiction covers more than one county;

(2) the centralization of administrative responsibility associated with the state aid program in a county included in a multi-county jurisdiction; and

(3) the application of Section 223.001, rather than Section 141.081 of this code, to a multi-county jurisdiction.

Sec. 223.004. PAYMENT OF STATE AID. Redesignates existing Section 141.084 as Section 223.004. (a) Makes conforming changes.

(b) Makes no changes to this subsection.

(c) Provides that a juvenile board receiving state aid under this chapter is subject to audit by:

(1) the Legislative Budget Board;

(2) the governor's budget, policy, and planning office;

(3) the state auditor; and

(4) the comptroller of public accounts.

Makes nonsubstantive changes.

(d) Makes a conforming change.

Sec. 223.005. REFUSAL, REDUCTION, OR SUSPENSION OF STATE AID. Redesignates existing Section 141.085 as Section 223.005. (a) and (b) Makes conforming changes.

Sec. 223.006. FUNDING AND CONSTRUCTION OF POST-ADJUDICATION FACILITIES. Redesignates existing Section 141.086 as Section 223.006. (a) Makes conforming changes.

(b) Makes no changes to this subsection.

(c)-(g) Makes conforming changes.

(h) Makes no changes to this subsection.

(i) Redesignates existing Subsection (j) as Subsection (i). Defines "operating costs" in this section. Deletes existing text requiring the commission to conduct an annual audit of the operating costs for a fiscal year of a facility constructed under this section for each fiscal year through fiscal year 1999 and requiring the commission to submit a report on the results of the audit to the Legislative Budget Board and the governor not later than the 60th day after the last day of the fiscal year covered by the audit.



SECTION 1.005. Amends Title 12, Human Resources Code, as added by this Act, by adding Subtitle C with a heading to read as follows:

#### SUBTITLE C. SECURE FACILITIES

*[Note: In this subtitle, a reference to the department means the Texas Youth Commission until December 1, 2011, at which time a reference to the department will mean TJJD.]*

SECTION 1.006. Transfers Subchapter G, Chapter 61, Human Resources Code, to Subtitle C, Title 12, Human Resources Code, as added by this Act, redesignates it as Chapter 241, and amends it as follows:

New heading: CHAPTER 241. GENERAL PROVISIONS [Redesignates existing Subchapter G as Chapter 241.]

Sec. 241.001. COOPERATION OF OTHER AGENCIES. Redesignates existing Section 61.091 as Section 241.001. Requires all departments and agencies of the state and all officers and employees of the state, when requested by the department, rather than TYC, to effectuate the purpose of this subtitle, rather than this chapter, and to make maximum use of existing facilities and personnel, to cooperate with the department in all activities consistent with their proper functions. Makes a nonsubstantive change.

Sec. 241.0015. New heading: STRATEGIC PLAN. Redesignates existing Section 61.0911 as Section 241.0015. Requires the department to biennially develop a strategic plan in the manner described by Section 221.0096, rather than TYC to biennially develop with TJPC a coordinated strategic plan in the manner described by Sections 141.0471 and 141.0472.

Sec. 241.002. New heading: NO FORFEITURE OF CERTAIN CIVIL RIGHTS. Redesignates existing Section 61.092 as Section 241.002. Makes a conforming change.

Deletes existing Section 61.093 (Escape and Apprehension) authorizing a sheriff, deputy sheriff, constable, or police officer to, without a warrant, arrest a child or authorizing a TYC employee designated by the executive commissioner of TYC to, without a warrant or other order, take a child into the custody of the commission if the child has been committed to TYC and placed by it in any institution or facility and has escaped or has been released under supervision and broken the conditions of release. Deletes existing text authorizing the detention of a child who is arrested or taken into custody under Subsection (a) in any suitable place, including an adult jail facility if the person is 17 years of age or older, until the child is returned to the custody of TYC or transported to a TYC facility. Deletes existing text authorizing TYC, notwithstanding Section 58.005 (Confidentiality of Records), Family Code, to disseminate to the public the following information relating to a child who has escaped from custody: the child's name, including other names by which the child is known, the child's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos, a photograph of the child, and, if necessary to protect the welfare of the community, any other information that reveals dangerous propensities of the child or expedites the apprehension of the child.

Deletes existing Section 61.0931 (Apprehension Specialists) authorizing TYC to employ and commission apprehension specialists as peace officers for the purpose of apprehending a child under Section 61.093. Deletes existing text requiring those peace officers to be certified by the Commission on Law Enforcement Officer Standards and Education under Chapter 415 (Commission on Law Enforcement Officer Standards and Education [Repealed]), Government Code.

Sec. 241.003. YOUTH DEVELOPMENT COUNCIL FUND. Redesignates existing Section 61.094 as Section 241.003. Makes no further changes.

Sec. 241.004. New heading: REQUEST FOR CERTAIN RECORDS. Redesignates existing Section 61.095 as Section 241.004. Makes conforming changes.

Sec. 241.005. LIABILITY OF VOLUNTEERS. Redesignates existing Section 61.096 as Section 241.005. (a) and (b) Makes no changes to these subsections.

(c) Makes a conforming change.

Sec. 241.006. APPLICATION OF LAW RELATING TO FREE EXERCISE OF RELIGION. Redesignates existing Section 61.097 as Section 241.006. Makes a conforming change.

Sec. 241.007. New heading: CERTAIN CRIMES CONCERNING THE DEPARTMENT. Redesignates existing Section 61.098 as Section 241.007. (a) Makes no changes to this subsection.

(b) Makes a conforming change.

(c) Requires the office of inspector general operated under Subchapter C, Chapter 242, to, on a quarterly basis, prepare and deliver to the board of directors of the special prosecution unit a report concerning any alleged criminal offense or delinquent conduct concerning the department, rather than the commission, and described by Article 104.003(a) (relating to state payment of certain prosecution costs), Code of Criminal Procedure, that occurred during the preceding calendar quarter, and the disposition of any case involving a criminal offense or delinquent conduct concerning the department, rather than the commission, and described by Article 104.003(a), Code of Criminal Procedure, that occurred during the preceding calendar quarter.

(d) and (e) Makes conforming changes.

Sec. 241.008. DUTY TO FILE COMPLAINT WITH LAW ENFORCEMENT AGENCY. Redesignates existing Section 61.099 as Section 241.008. Requires the executive director, rather than the executive commissioner, to immediately file a complaint with the appropriate law enforcement agency if the executive director has reasonable cause to believe that a child in the custody of the department is the victim of a crime committed at a department facility operated under this subtitle. Makes conforming changes.

SECTION 1.007. Transfers Subchapters C, D, E, and F, Chapter 61, Human Resources Code, to Subtitle C, Title 12, Human Resources Code, as added by this Act, redesignates them as Chapters 242, 243, 244, and 245, respectively, and amends them, as follows:

#### CHAPTER 242. OPERATION OF SECURE FACILITIES

New heading: SUBCHAPTER A. GENERAL AND ADMINISTRATIVE PROVISIONS  
[Redesignates existing Subchapter C, Chapter 61, Human Resources Code, as Subchapter A, Chapter 242, Human Resources Code.]

Sec. 242.001. ACCREDITATION BY AMERICAN CORRECTIONAL ASSOCIATION. Requires the board to adopt and implement a plan for each correctional facility operated by or under contract with the department under this subtitle to be accredited by the American Correctional Association. Requires the department to implement the plans.

Sec. 242.002. STUDY OF TREATMENT METHODS; STATISTICAL RECORDS. (a) Requires the department to conduct continuing inquiry into the effectiveness of the treatment methods the department employs in the reformation of children. Requires the department to maintain a record of arrests and commitments of its wards subsequent to

their discharge from the jurisdiction of the department and to tabulate, analyze, and publish biennially the data for use in evaluating the relative merits of treatment methods.

(b) Requires the department to cooperate with courts and private and public agencies in the collection of statistics and information regarding juvenile delinquency, arrests made, complaints, informations, and petitions filed, and the dispositions made of them, and other information useful in determining the amount and causes of juvenile delinquency in this state.

Deletes existing Section 61.031 (Continuing Study) requiring TYC to carry on a continuing study of the problem of juvenile delinquency in this state and to seek to focus public attention on special solutions to this problem.

Sec. 242.003. New heading: EVALUATION OF TREATMENT PROGRAMS; AVAILABILITY. Redesignates existing Section 61.0315 as Section 242.003. (a)-(e) Makes conforming changes.

Deletes existing Section 61.032 (Administration of Institutions) requiring the commission to administer the training, diagnostic treatment, and supervisory facilities and services of the state for children committed to the commission and to manage and direct all institutions and training school facilities under the authority of the commission.

Deletes existing Section 61.033 (Annual Financial Report) requiring the commission to prepare annually a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year. Deletes existing text requiring that the annual report meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

Deletes existing Section 61.0331 (Internal Audit; Report) requiring the commission to regularly conduct internal audits of the commission, including audits of correctional facilities operated by and under contract with the commission, and medical services provided to children in the custody of the commission. Deletes existing text requiring the commission to, on a quarterly basis, report the results of the audits to the committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities, and the state auditor.

Sec. 242.006. POLICIES AND RULES. Redesignates existing Section 61.034 as Section 242.006. (a) Provides that the board, rather than the executive commissioner, is responsible for the adoption of all policies and is required to make rules appropriate to the proper accomplishment of the department's functions.

(b) Requires the board to adopt rules for the government of the schools, facilities, and programs under the department's authority under this subtitle and to see that the schools, facilities, and programs are conducted according to law and to the board's rules.

(c) Provides that the purpose of the rules and of all education, work, training, discipline, and recreation adopted under this section and of all other activities in the schools, facilities, and programs is to restore and increase the self-respect and self-reliance of the children under the authority of the department and to qualify those children for good citizenship and honorable employment.

Makes conforming and nonsubstantive changes.

Sec. 242.0065. MISSION STATEMENT. Redesignates existing Section 61.0345 as Section 242.0065. Makes conforming changes.

Sec. 242.007. EMPLOYEES. Deletes existing Section 61.0345 (Mission Statement) requiring TYC to develop and adopt a statement regarding the role and mission of TYC. Redesignates existing Section 61.0345 as Section 242.007. (a) Makes conforming changes.

(b) Provides that, except as otherwise provided by this subchapter, rather than except as provided by this chapter, an employee of the department is employed on an at-will basis. Makes a conforming change.

(c) Makes conforming changes.

Deletes existing text requiring TYC to develop and adopt a statement regarding the role and mission of TYC.

Sec. 242.008. PROFESSIONAL INFORMATION FOR ADVISORY BOARD MEMBERS AND EMPLOYEES. Redesignates existing Section 61.0351 as Section 242.008. Requires the executive director to provide to members of any applicable advisory board, rather than the advisory board, and to department employees, as often as is necessary, information regarding qualifications for office or employment under this chapter and responsibilities under applicable laws relating to standards of conduct for state officers or employees. Makes conforming and nonsubstantive changes.

Deletes existing Section 61.0352 (Division of Responsibility) requiring the board to develop and implement policies that clearly separate the policymaking responsibilities of the TYC board and the management responsibilities of the staff of TYC.

Sec. 242.009. INTRA-AGENCY CAREER LADDER PROGRAM. Redesignates existing Section 61.0353 as Section 242.009. Makes no further changes.

Sec. 242.010. JOB PERFORMANCE EVALUATIONS. Redesignates existing Section 61.0354 as Section 242.010. Makes conforming changes.

Sec. 242.011. EQUAL EMPLOYMENT OPPORTUNITY POLICY STATEMENT. Redesignates existing Section 61.0355 as Section 242.011. (a) Makes conforming changes.

(b) Requires that a policy statement prepared under Subsection (a) cover an annual period, be updated annually, be reviewed by the Texas Workforce Commission, rather than the Commission on Human Rights, for compliance with Subsection (a)(1), and be filed with the governor's office.

(c) Makes no changes to this subsection.

Sec. 242.012. JUVENILE CORRECTIONAL OFFICERS; STAFFING. Redesignates existing Section 61.0356 as Section 242.012. (a) Redefines "juvenile correctional officer" in this section.

(b)-(g) Makes conforming changes.

(h) Requires the board, rather than the commission, to adopt rules necessary to administer this section.

Sec. 242.013. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS. Redesignates existing Section 61.0357 as Section 242.013. (a) Deletes existing text defining "department." Redefines "national criminal history record information."

(b) Requires the executive director, rather than the commissioner, to review the national criminal history record information, state criminal history record information maintained by the Department of Public Safety (DPS), rather than

maintained by the department, and previous and current employment references of each person who:

- (1) is an employee, contractor, volunteer, ombudsman, or advocate working for the department or working in a department facility or a facility under contract with the department;
- (2) provides direct delivery of services to children in the custody of the department; or
- (3) has access to records in department facilities or offices.

Makes conforming changes.

(c) Requires the board, rather than the commission, to enable the executive director, rather than the commissioner, to conduct the review, to adopt rules requiring a person described by Subsection (b) to electronically provide DPS with a complete set of the person's fingerprints in a form and of a quality acceptable to DPS and the Federal Bureau of Investigation. Makes conforming and nonsubstantive changes.

(d) and (e) Makes conforming and nonsubstantive changes.

(f) Authorizes the board, rather than the commission, to, by rule, require a person described by Subsection (b) to pay a fee related to the first national criminal history record information review conducted under this section. Makes a conforming change.

(g) Requires the board, rather than the commission, to adopt rules necessary to administer this section.

Sec. 242.014. COOPERATION WITH OTHER AGENCIES. Redesignates existing Section 61.036 as Section 242.014. (a) and (b) Makes conforming changes.

Sec. 242.016. BIENNIAL BUDGET. Requires the executive director to prepare a biennial budget of all funds necessary to be appropriated by the legislature to the department to carry out the purposes of this subtitle. Requires that the budget be submitted and filed by the executive director in the form and manner and within the time prescribed by law.

#### SUBCHAPTER B. SECURE FACILITIES; SERVICES

Sec. 242.051. ADMINISTRATION OF INSTITUTIONS; CHARGE OF CHILDREN. (a) Requires the department to:

- (1) administer the training, diagnostic treatment, and supervisory facilities and services of the state for children committed to the department; and
- (2) manage and direct all institutions and training school facilities under the authority of the department.

(b) Requires the department to have general charge of and be responsible for the welfare, custody, and rehabilitation of the children in a school, facility, or program operated or funded by the department. Requires the department to seek to establish relationships and to organize a way of life that will meet the spiritual, moral, physical, emotional, intellectual, and social needs of the children under the department's care as those needs would be met in an adequate home.

(c) Requires the department to see that the buildings and premises are kept in good sanitary condition.

Sec. 242.052. BUILDINGS AND IMPROVEMENTS. (a) Authorizes the department to design, construct, equip, furnish, and maintain buildings and improvements at facilities under the department's jurisdiction.

(b) Authorizes the department to employ architects or engineers, or both, to prepare plans and specifications and to supervise the construction and improvements described by Subsection (a).

(c) Requires the board to promulgate rules relating to the award of contracts for the construction of buildings and improvements. Requires that the rules provide for the award of contracts for the construction of buildings and improvements to the qualified bidder making the lowest and best bid. Prohibits a construction contract from being awarded for a sum in excess of the amount of funds available for the project. Authorizes the department to reject any and all bids submitted.

(d) Provides that if a project is financed wholly or partly by federal funds, any standards required by the enabling federal statute or required by the rules of the administering federal agency control over this section.

(e) Authorizes the department to employ professional, technical, and clerical personnel to carry out the design and construction functions required by this section.

Sec. 242.053. USE OF EXISTING INSTITUTIONS AND AGENCIES. Redesignates existing Section 61.037 as Section 242.053. (a) Authorizes the department, in carrying out the department's duties, to make use of law-enforcement, detention, supervisory, medical, educational, correctional, and other facilities, institutions, and agencies in the state. Provides that this section does not authorize the department to assume control of any other agency, institution, or facility in the state, or to require any agency, institution, or facility to serve the department in a manner inconsistent with the authority or function of the agency, institution, or facility or with any law or regulation governing the activity of the agency, institution, or facility.

(b) Authorizes the department, when funds are available for the purpose, to enter into agreements with appropriate public or private agencies for the separate care and treatment of persons subject to the control of the department. Prohibits the department from making use of any private institution or agency without its consent. Requires the department to make reasonable efforts to ensure that the expenditure of appropriations for the purchase of contract residential care for children, not including the purchase of care in foster family homes, be allocated to providers on a fixed monthly basis if that allocation is cost-effective and the number, type, needs, and conditions of the children to be served is reasonably constant.

(c) Requires the department to periodically inspect all public and private institutions and agencies whose facilities the department is using. Requires every public and private institution and agency to allow the department, rather than afford to the commission, reasonable opportunity to examine and consult with children who have been committed to the department and who are in the custody of the institution or agency.

(d) Provides that placement of a child in, or the release of a child by, any institution not operated by the department does not terminate the authority of the department over the child. Prohibits any child placed in an institution or under an agency by the department from being released by the institution or agency without the approval of the department.

Makes conforming and nonsubstantive changes.

Sec. 242.054. HALFWAY HOUSE PROGRAM. Redesignates existing Section 61.038 as Section 242.054. (a)-(c) Makes conforming changes.

Sec. 242.055. CRISIS INTERVENTION AND ASSESSMENT CENTERS. Redesignates existing Section 61.0385 as Section 242.055. Makes conforming changes.

Sec. 242.056. ADVOCACY AND SUPPORT GROUPS. Redesignates existing Section 61.0386 as Section 242.056. (a) Requires the department, rather than the commission, to allow advocacy and support groups whose primary functions are to benefit children, inmates, girls and women, the mentally ill, or, rather than and, victims of sexual assault to provide on-site information, support, and other services for children confined in department facilities.

(b) and (c) Makes conforming changes.

Sec. 242.057. New heading: DEPARTMENT PROGRAMS. Redesignates existing Section 61.039 as Section 242.057. (a)-(c) Makes conforming changes.

Sec. 242.058. New heading: SERVICES FOR CHILDREN NOT COMMITTED TO THE DEPARTMENT. Redesignates existing Section 61.0395 as Section 242.058. Authorizes the department to provide services to a child not committed to the department if the department contracts with a local juvenile probation department, the Health and Human Services Commission, rather than the Texas Department of Human Services, or the Department of Family and Protective Services, rather than the Department of Protective and Regulatory Services, to provide services to the child. Makes conforming changes.

Sec. 242.059. ADDITIONAL FACILITIES; PAROLE SUPERVISION. Redesignates existing Section 61.040 as Section 242.059. Makes conforming changes.

Sec. 242.060. COMPUTATION OF DAILY COSTS OF FACILITY. Redesignates existing Section 61.0401 as Section 242.060. Makes conforming and nonsubstantive changes.

Sec. 242.061. REFERRALS FROM FEDERAL COURT. Redesignates existing Section 61.042 as Section 242.061. Deletes existing text of Section 61.041 (Study of Treatment Methods, Statistical Records) requiring TYC to conduct continuing inquiry into the effectiveness of the treatment methods it employs in the reformation of children. Deletes existing text requiring TYC to maintain a record of arrests and commitments of its wards subsequent to their discharge from the jurisdiction of the commission and to tabulate, analyze, and publish biennially these data for use in evaluating the relative merits of treatment methods. Deletes existing text requiring TYC to cooperate with courts and private and public agencies in the collection of statistics and information regarding juvenile delinquency, arrests made, complaints, informations, and petitions filed, and the dispositions made of them, and other information useful in determining the amount and causes of juvenile delinquency in this state. Makes a conforming change.

Sec. 242.062. SPECIAL ACCOUNTS. Redesignates existing Section 61.0431 as Section 242.062. (a) Makes a conforming change.

(b) Creates this section from existing text. Requires proceeds in excess of the amount required for the expenses described by Subsection (a), donations for student activities, and proceeds from children's fundraising projects to be deposited to the credit of a special account in the General Revenue Fund called the student benefit fund and authorizes such proceeds to be used only to:

(1) and (2) Makes conforming and nonsubstantive changes.

(c) and (d) Makes conforming and nonsubstantive changes.

(e) Provides that money in the special accounts described by this section is appropriated for the purposes indicated in this section and shall be expended on warrants drawn by the comptroller on the order of the department, rather than on order of the commission.

Deletes existing Section 61.0421 (Public Interest Information) requiring TYC to prepare information of public interest describing the functions of TYC and describing the procedures by which complaints are filed with and resolved by TYC and requiring TYC to make the information available to the general public and appropriate state agencies.

Deletes existing Section 61.0422 (Complaints Regarding Services) requiring TYC to maintain a system to promptly and efficiently act on a 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. Deletes existing text requiring 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. Deletes existing text requiring TYC to make information available describing TYC's procedures for complaint investigation and resolution. Deletes existing text requiring TYC to periodically notify the complaint parties of the status of the complaint until final disposition, unless the notice would jeopardize an undercover investigation. Deletes existing text requiring TYC to keep information about each written complaint filed with TYC by a child receiving services from TYC or the child's parent or guardian and requiring that the information include: the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the period of time between the date the complaint is received and the date the complaint is closed.

Deletes existing Section 61.0423 (Public Hearings) requiring the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the commission. Deletes existing text requiring the TYC board to ensure that the location of public hearings held in accordance with this section is rotated between municipalities in which a commission facility is located or that are in proximity to a TYC facility.

Deletes existing Section 61.043 (Gifts; Grants) authorizing TYC to accept gifts, grants, or donations of money or property from private sources to effectuate the purpose of this chapter. Deletes existing text requiring donated funds to be placed in the state treasury in a special fund called the TYC Fund and expended as other state money is expended, on warrants drawn by the comptroller on the order of the commission. Deletes existing text requiring, at the end of each state fiscal year, any unexpended balance in the fund to be carried over in the same fund.

Sec. 242.063. STUDENT TRUST FUND; CONTRABAND MONEY. Redesignates existing Section 61.0432 as Section 242.063. (a) Requires, except as provided by Subsection (b), that money belonging to a child committed to the department, rather than the commission, in excess of the amount the department allows in a child's possession be deposited in a trust fund established by the facility operated by the department to which the child is assigned. Requires the board, rather than the commission, to adopt rules governing the administration of the trust fund. Makes conforming changes.

(b) Requires that money possessed by a child committed to the department, rather than the commission, that is determined to be contraband money as defined by department rule be deposited in the student benefit fund described by Section 242.062(b), rather than Section 61.0431. Makes conforming changes.

Sec. 242.064. DEBIT CARD SUSPENSE ACCOUNTS. Redesignates existing Section 61.0433 as Section 242.064. (a) Makes conforming changes.



(b)-(d) Makes no changes to these subsections.

Sec. 242.065. RELIGIOUS TRAINING. Redesignates existing Section 61.046 as Section 242.065. Makes a conforming change.

Deletes existing Section 61.044 (Biennial Budget) requiring the executive commissioner of TYC to prepare a biennial budget of all funds necessary to be appropriated by the legislature to the commission to carry out the purposes of this chapter and requiring that the budget be submitted and filed by the executive commissioner in the form and manner and within the time prescribed by law.

Deletes existing Section 61.045 (Operations of Programs and Facilities) requiring TYC to have general charge of and be responsible for the welfare, custody, and rehabilitation of the children in a school, facility, or program operated or funded by the commission. Deletes existing text requiring TYC to seek to establish relationships and to organize a way of life that will meet the spiritual, moral, physical, emotional, intellectual, and social needs of the children under its care as those needs would be met in an adequate home. Deletes existing text requiring TYC to see that the buildings and premises are kept in good sanitary order.

Deletes existing Section 61.0451 (Office of Inspector General) establishing the office of inspector general at TYC for the purpose of investigating crimes committed by TYC employees, including parole officers employed by or under a contract with TYC and crimes and delinquent conduct committed at a facility operated by TYC, a residential facility operated by another entity under a contract with TYC, or any facility in which a child committed to the custody of TYC is housed or receives medical or mental health treatment. Deletes existing text requiring the office of inspector general to prepare and deliver a report concerning the results of any investigation conducted under this section to the executive commissioner, the advisory board, the governor, the lieutenant governor, the speaker of the house of representatives, the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities, the special prosecution unit, the state auditor, and any other appropriate state agency responsible for licensing or certifying commission employees or facilities. Deletes existing text requiring that the report include a summary of the actions performed by the office of inspector general in conducting the investigation, a statement of whether the investigation resulted in a finding that a criminal offense or delinquent conduct occurred, and a description of the finding. Deletes existing text providing that the report is public information under Chapter 552, Government Code, only to the extent authorized under that chapter and other law. Deletes existing text authorizing the office of inspector general to employ and commission inspectors general as peace officers for the purpose of carrying out the duties described by this section and providing that an inspector general shall have all of the powers and duties given to peace officers under Article 2.13 (Duties and Powers), Code of Criminal Procedure. Deletes existing text requiring such peace officers employed and commissioned to be certified by the Commission on Law Enforcement Officer Standards and Education under Chapter 1701, Occupations Code, and to complete advanced courses relating to the duties of peace officers employed and commissioned under Subsection (d) as part of any continuing education requirements for the peace officers. Deletes existing text requiring the executive commissioner to select a commissioned peace officer as chief inspector general and providing that the chief inspector general is subject to the requirements of this section and may only be discharged for cause. Deletes existing text requiring the chief inspector general to on a quarterly basis prepare and deliver a report concerning the operations of the office of inspector general to the executive commissioner, the advisory board, the governor, the lieutenant governor, the speaker of the house of representatives, the standing committees of the senate and house of representatives with primary jurisdiction over correctional facilities, the state auditor, and the comptroller.

Deletes existing text providing that a report prepared under Subsection (g) is public information under Chapter 552, Government Code, to the extent authorized under that chapter and other law, and the requiring the commission to publish the report on the commission's Internet website. Deletes existing text requiring that a report be both aggregated and disaggregated by individual facility and include information relating to the types of investigations conducted by the office of inspector general, such as whether an investigation concerned narcotics or an alleged incident of sexual abuse; the relationship of a victim to a perpetrator, if applicable; and the number of investigations conducted concerning suicides, deaths, and hospitalizations of children in the custody of the commission. Deletes existing text requiring the office of inspector general to immediately report to the executive director, the board, the governor's general counsel, and the state auditor any particularly serious or flagrant problem concerning the administration of a commission program or operation; or any interference by the executive director, an employee of the commission, a facility, or an officer or employee of a facility described by Subsection (a)(2), Section 62.0451, with an investigation conducted by the office.

Deletes existing Section 61.0452 (Toll-Free Number) requiring TYC to establish a permanent, toll-free number for the purpose of receiving any information concerning the abuse, neglect, or exploitation of children in the custody of TYC. Deletes existing text requiring the office of inspector general to ensure that the toll-free number is prominently displayed in each TYC facility, and children in the custody of TYC and TYC employees have confidential access to telephones for the purpose of calling the toll-free number.

Sec. 242.066. New heading: EMPLOYMENT OR DESIGNATION OF CHAPLAIN AT CERTAIN DEPARTMENT FACILITIES. Redesignates existing Section 61.0461 as Section 242.066. Makes conforming changes.

Sec. 242.067. VIOLENCE PREVENTION AND CONFLICT RESOLUTION EDUCATION. Redesignates existing Section 61.047 as Section 242.067. Makes a conforming change.

Sec. 242.068. FIRE PROTECTION ACTIVITIES. Redesignates existing Section 61.050 as Section 242.068. (a) and (b) Makes conforming changes.

Deletes existing Section 61.048 (Buildings and Improvements) authorizing TYC to design, construct, equip, furnish, and maintain buildings and improvements at facilities under its jurisdiction and authorizing TYC to employ architects or engineers, or both, to prepare plans and specifications and to supervise the construction and improvements. Deletes existing text requiring TYC to promulgate rules relating to the award of contracts for the construction of buildings and improvements. Deletes existing text requiring that the rules provide for the award of contracts for the construction of buildings and improvements to the qualified bidder making the lowest and best bid. Deletes existing text prohibiting a construction contract from being awarded for a sum in excess of the amount of funds available for the project. Deletes existing text authorizing TYC to reject any and all bids submitted. Deletes existing text providing that if a project is financed in whole or in part by federal funds, any standards required by the enabling federal statute or required by the rules of the administering federal agency control over this section. Deletes existing text authorizing TYC to employ professional, technical, and clerical personnel to carry out the design and construction functions required by this section.

Sec. 242.069. CLIENT SERVICE CONTRACT STANDARDS. Redesignates existing Section 61.051 as Section 242.069. Makes a conforming change.

Sec. 242.070. CONTRACT MONITORING. Redesignates existing Section 61.052 as Section 242.070. Makes conforming changes.

Sec. 242.071. SALE OR LICENSE OF TREATMENT PROGRAMS. Redesignates existing Section 61.054 as Section 242.071. (a) Makes conforming changes.

(b) and (c) Makes no changes to these subsections.

Deletes existing Section 61.053 (Medicaid Benefits) requiring TYC to apply for benefits under the federal Medicaid program if application is cost effective in reducing health care costs incurred by TYC.

#### SUBCHAPTER C. ABUSE OR CRIMES COMMITTED AT DEPARTMENT FACILITIES OR BY DEPARTMENT EMPLOYEES

Sec. 242.101. ZERO-TOLERANCE POLICY. Redesignates existing Section 61.055 as Section 242.101. (a) Requires the department to adopt and enforce a zero-tolerance policy concerning the detection, prevention, and punishment of the sexual abuse, including consensual sexual contact, of children in the custody of the department. Makes conforming changes.

(b)-(d) Makes conforming changes.

Sec. 242.102. OFFICE OF INSPECTOR GENERAL. (a) Establishes the office of inspector general at the department under the direction of the board for the purpose of investigating:

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

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

(b) Requires the office of inspector general to prepare and deliver a report concerning the results of any investigation conducted under this section to:

(1) the board;

(2) the executive director;

(3) any applicable advisory board;

(4) the governor;

(5) the lieutenant governor;

(6) the speaker of the house of representatives;

(7) the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities;

(8) the special prosecution unit;

(9) the state auditor; and

(10) any other appropriate state agency responsible for licensing or certifying department employees or facilities.

(c) Requires that the report prepared under Subsection (b) include a summary of the actions performed by the office of inspector general in conducting the investigation, a statement of whether the investigation resulted in a finding that a criminal offense or delinquent conduct occurred, and a description of the finding. Provides that the report is public information under Chapter 552, Government Code, only to the extent authorized under that chapter and other law.

(d) Authorizes the office of inspector general to employ and commission inspectors general as peace officers for the purpose of carrying out the duties described by this section. Provides that an inspector general shall have all of the powers and duties given to peace officers under Article 2.13, Code of Criminal Procedure.

(e) Requires peace officers employed and commissioned under Subsection (d) to:

(1) be certified by the Commission on Law Enforcement Officer Standards and Education under Chapter 1701, Occupations Code; and

(2) complete advanced courses relating to the duties of peace officers employed and commissioned under Subsection (d) as part of any continuing education requirements for the peace officers.

(f) Requires the board to select a commissioned peace officer as chief inspector general. Provides that the chief inspector general:

(1) operates directly under the authority of the board;

(2) is subject to the requirements of this section; and

(3) may only be discharged by the board for cause.

(g) Requires the chief inspector general to, on a quarterly basis, prepare and deliver a report concerning the operations of the office of inspector general to:

(1) the board;

(2) the executive director;

(3) any applicable advisory board;

(4) the governor;

(5) the lieutenant governor;

(6) the speaker of the house of representatives;

(7) the standing committees of the senate and house of representatives with primary jurisdiction over correctional facilities;

(8) the state auditor; and

(9) the comptroller.

(h) Provides that a report prepared under Subsection (g) is public information under Chapter 552, Government Code, to the extent authorized under that chapter and other law, and requires the department to publish the report on the department's Internet website. Requires that a report be both aggregated and disaggregated by individual facility and include information relating to:

(1) the types of investigations conducted by the office of inspector general, such as whether an investigation concerned narcotics or an alleged incident of sexual abuse;

(2) the relationship of a victim to a perpetrator, if applicable; and

(3) the number of investigations conducted concerning suicides, deaths, and hospitalizations of children in the custody of the department.

(i) Requires the office of inspector general to immediately report to the board, the governor's general counsel, and the state auditor:

(1) any particularly serious or flagrant problem concerning the administration of a department program or operation; or

(2) any interference by the executive director, an employee of the department, a facility described by Subsection (a)(2), or an officer or employee of a facility described by Subsection (a)(2) with an investigation conducted by the office.

Sec. 242.104. DETECTION AND MONITORING OF CELLULAR TELEPHONES. Redesignates existing Section 61.0455 as Section 242.104. (a)-(c) Makes conforming changes.

New heading: CHAPTER 243. ADMISSION AND COMMITMENT; ESCAPE [Redesignates existing Subchapter D as Chapter 243.]

#### SUBCHAPTER A. ADMISSION AND COMMITMENT

Sec. 243.001. New heading: PLACEMENT IN DEPARTMENT FACILITIES. Redesignates existing Section 61.061 as Section 243.001. (a) Makes conforming changes.

(b) Requires the board, rather than the commission, by rule to adopt scheduling, housing, and placement procedures for the purpose of protecting vulnerable children in the custody of the department. Makes a conforming change.

(c) Makes conforming changes.

Sec. 243.002. ESTABLISHMENT OF MINIMUM LENGTH OF STAY. Redesignates existing Section 61.062 as Section 243.002. (a) and (b) Makes conforming changes.

Sec. 243.003. New heading: CONVEYANCE OF CHILD TO DEPARTMENT. Redesignates existing Section 61.064 as Section 243.003. (a) Makes a conforming change.

(b) Requires that the cost of conveying the child be paid by the county from which the child is committed, except that no compensation shall be allowed other than for the actual and necessary expenses of the child and the person accompanying the child. Makes nonsubstantive changes.

Sec. 243.004. NOTIFICATION AND DUTY TO FURNISH INFORMATION. Redesignates existing Section 61.065 as Section 243.004. (a)-(c) Makes conforming changes.

Sec. 243.005. INFORMATION PROVIDED BY COMMITTING COURT. Redesignates existing Section 61.0651 as Section 243.004. Makes conforming changes.

Sec. 243.006. COMMITMENT RECORDS. Redesignates existing Section 61.066 as Section 243.006. Makes a conforming change.

Sec. 243.007. INFORMATION PROVIDED TO COMMITTING COURT. Redesignates existing Section 61.067 as Section 243.007. (a) and (b) Makes conforming changes.

(c) Makes no changes to this subsection.

#### SUBCHAPTER B. ESCAPE AND VIOLATION OF RELEASE CONDITIONS

Sec. 243.051. APPREHENSION AFTER ESCAPE OR VIOLATION OF RELEASE CONDITIONS. (a) Provides that if a child who has been committed to the department and placed by the department in any institution or facility has escaped or has been released under supervision and broken the conditions of release:

(1) a sheriff, deputy sheriff, constable, or police officer may, without a warrant, arrest the child; or

(2) a department employee designated by the executive director may, without a warrant or other order, take the child into the custody of the department.

(b) Authorizes that a child who is arrested or taken into custody under Subsection (a) be detained in any suitable place, including an adult jail facility if the person is 17 years of age or older, until the child is returned to the custody of the department or transported to a department facility.

(c) Authorizes the department, notwithstanding Section 58.005, Family Code, to disseminate to the public the following information relating to a child who has escaped from custody:

(1) the child's name, including other names by which the child is known;

(2) the child's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;

(3) a photograph of the child; and

(4) if necessary to protect the welfare of the community, any other information that reveals dangerous propensities of the child or expedites the apprehension of the child.

Sec. 243.052. APPREHENSION SPECIALISTS. (a) Authorizes the department to employ and commission apprehension specialists as peace officers for the purpose of apprehending a child under Section 243.051.

(b) Requires peace officers employed and commissioned under Subsection (a) to be certified by the Texas Commission on Law Enforcement Officer Standards and Education under Chapter 1701, Occupations Code.

### CHAPTER 244. CARE AND TREATMENT OF CHILDREN [Redesignates existing Subchapter E as Chapter 244.]

#### SUBCHAPTER A. GENERAL CARE AND TREATMENT OF CHILDREN

Sec. 244.001. INITIAL EXAMINATION. Redesignates existing Section 61.071 as Section 244.001. (a)-(c) Makes conforming changes.

Sec. 244.002. REEXAMINATION. Redesignates existing Section 61.072 as Section 244.002. (a) Creates this subsection from existing text. Makes conforming changes.

(b) Creates this subsection from existing text. Requires that the reexamination, rather than the examination, include a study of all current circumstances of a child's personal and family situation and an evaluation of the progress made by the child since the child's last examination.

(c) Creates this subsection from existing text. Makes conforming changes.

Deletes existing Section 61.0711 (Health Care Delivery System) requiring TYC, in providing medical care, to integrate the provision of medical care, behavioral health care, or rehabilitation services, in an integrated comprehensive delivery system. Deletes existing text authorizing the delivery system to be used to deliver any medical, behavioral health, or rehabilitation services provided to a child in the custody of TYC, including health care, dental care, behavioral health care, substance abuse treatment, nutrition, programming, case management, and general rehabilitation services, including educational, spiritual, daily living, recreational, and security services.

Sec. 244.003. RECORDS OF EXAMINATIONS AND TREATMENT. Redesignates existing Section 61.073 as Section 244.003. (a) and (b) Creates these subsections from existing text. Makes conforming changes.

Sec. 244.004. FAILURE TO EXAMINE OR REEXAMINE. Redesignates existing Section 61.074 as Section 244.004. (a) Provides that failure of the department to examine or reexamine a child as required by this subchapter, rather than as required by this chapter, does not entitle the child to be discharged from the control of the department, but the child may petition the committing court for discharge. Makes conforming changes.

(b) Creates this subsection from existing text. Makes conforming changes.

Deletes existing Section 61.0731 (Information Available to Children, Parents, and Others) authorizing TYC, in the interest of achieving the purpose of TYC and protecting the public, to disclose records and other information concerning a child to the child and the child's parent or guardian only if disclosure would not materially harm the treatment and rehabilitation of the child and would not substantially decrease the likelihood of TYC receiving information from the same or similar sources in the future. Deletes existing text prohibiting information concerning a person who is age 18 or older from being disclosed to the person's parent or guardian without the person's consent. Deletes existing text authorizing TYC to disclose information regarding a child's location and committing court to a person having a legitimate need for the information. Deletes existing text authorizing TYC to disclose to a peace officer or law enforcement agency images of children recorded by an electronic recording device and incident reporting and investigation documents containing the names of children if the information is relevant to the investigation of a criminal offense alleged to have occurred in a facility operated by or under contract with TYC. Deletes existing text requiring TYC, notwithstanding Subsection (a), to disclose records and other information concerning the child to the Department of Family and Protective Services (DFPS) as provided by department rules if DFPS has been appointed managing conservator for a child.

Sec. 244.005. DETERMINATION OF TREATMENT. Redesignates existing Section 61.075 as Section 244.005. Makes conforming and nonsubstantive changes.

Sec. 244.006. TYPE OF TREATMENT PERMITTED. Redesignates existing Section 61.076 as Section 244.006. (a) Makes nonsubstantive and conforming changes.

(b) Makes no changes to this subsection.

Deletes existing Section 61.0751 (Subpoenas) authorizing a hearings examiner appointed by TYC to issue a subpoena requiring the attendance of a witness or the production of any record, book, paper, or document the hearings examiner considers necessary for a determination of treatment under Section 61.075. Deletes existing text authorizing the hearings examiner to sign a subpoena and administer an oath. Deletes existing text authorizing a peace officer, apprehension specialist, parole officer, or other TYC official to serve the subpoena in the same manner as similar process in a court of record having original jurisdiction of criminal actions is served. Deletes existing text providing that a person who testifies falsely, fails to appear when subpoenaed, or fails or refuses to produce material under the subpoena is subject to the same orders and penalties to which a person taking those actions before a court is subject. Deletes existing text authorizing a court of record having original jurisdiction of criminal actions, on application of TYC, to compel the attendance of a witness, the production of material, or the giving of testimony before the hearings examiner, by an attachment for contempt or in the same manner as the court may otherwise compel the production of evidence.

Sec. 244.007. FAMILY PROGRAMS. Redesignates existing Section 61.0761 as Section 244.007. Makes a conforming change.

Sec. 244.0075. RESTRAINT OF PREGNANT JUVENILE. Redesignates existing Section 61.07611 as Section 244.0075. (a) Makes conforming changes.

(b) Makes no changes to this subsection.

Sec. 244.008. INFANT CARE AND PARENTING PROGRAM. Redesignates existing Section 61.0762 as Section 244.008. (a)-(c) Makes conforming changes.

Sec. 244.009. HEALTH CARE DELIVERY SYSTEM. (a) Requires the department, in providing medical care, behavioral health care, or rehabilitation services, to integrate the provision of those services in an integrated comprehensive delivery system.

(b) Authorizes the delivery system to be used to deliver any medical, behavioral health, or rehabilitation services provided to a child in the custody of the department, including:

(1) health care;

(2) dental care;

(3) behavioral health care;

(4) substance abuse treatment;

(5) nutrition;

(6) programming;

(7) case management; and

(8) general rehabilitation services, including educational, spiritual, daily living, recreational, and security services.

Sec. 244.010. New heading: DEPARTMENT CASEWORKERS. Redesignates existing Section 61.0764 as Section 244.010. (a) and (b) Makes conforming changes.

(c) Makes no changes to this subsection



Deletes existing Section 61.0763 (Rights of Parents) requiring TYC, in consultation with advocacy and support groups such as those described in Section 61.0386(a), to develop a parent's bill of rights for distribution to the parent or guardian of a child who is under 18 years of age and committed to TYC. Deletes existing text requiring that the parent's bill of rights include a description of TYC's grievance policies and procedures, including contact information for the office of inspector general and the office of the independent ombudsman established under Chapter 64 (Office of Independent Ombudsman of the Texas Youth Commission), a list of possible incidents that require parental notification, policies concerning visits and telephone conversations with a child committed to TYC, a description of TYC caseworker responsibilities, a statement that the TYC caseworker assigned to a child may assist the child's parent or guardian in obtaining information and services from TYC and other resources concerning: counseling, including substance abuse and mental health counseling, assistance programs, including financial and travel assistance programs for visiting a child committed to TYC, workforce preparedness programs, parenting programs, and TYC seminars; and information concerning the indeterminate sentencing structure at TYC, an explanation of reasons that a child's commitment at TYC could be extended, and an explanation of the review process under Sections 61.0815 and 61.0816 for a child committed to TYC without a determinate sentence. Deletes existing text requiring TYC, not later than 48 hours after the time a child is admitted to a TYC facility, to mail to the child's parent or guardian at the last known address of the parent or guardian the parent's bill of rights and the contact information of TYC caseworker assigned to the child. Deletes existing text requiring TYC to, on a quarterly basis, provide to the parent, guardian, or designated advocate of a child who is in the custody of TYC a report concerning the progress of the child at TYC, including the academic and behavioral progress of the child and the results of any reexamination of the child conducted under Section 61.072. Deletes existing text requiring TYC to ensure that written information provided to a parent or guardian regarding the rights of a child in the custody of TYC or the rights of a child's parent or guardian, including the parent's bill of rights, is clear and easy to understand. Deletes existing text requiring TYC to ensure that if DFPS has been appointed managing conservator of a child, DFPS is given the same rights as the child's parent under the parent's bill of rights developed under this section.

Deletes existing Section 61.0765 (Reporting Concerning Research Programs or Studies) requiring TYC to keep records relating to children committed to it that participate in research programs or studies. Deletes existing text requiring that the records show, for each calendar quarter and for each calendar year the number of children participating in research programs or studies for the appropriate reporting period, the type of research program or study in which each child is participating, the name of the principal investigator conducting the research program or study, and the entity sponsoring the research program or study. Deletes existing text requiring TYC to submit a report that contains the information in those records on or before the 15th day after the last day of the appropriate reporting period to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature. Deletes existing text providing that a report submitted under this section is public information under Chapter 552, Government Code.

Sec. 244.0105. New heading: **REPORT CONCERNING FOSTER CHILDREN COMMITTED TO DEPARTMENT.** Redesignates existing Section 61.0766 as Section 244.0105. (a) and (b) Makes conforming changes.

Sec. 244.0106. **RULES REGARDING SERVICES FOR FOSTER CHILDREN.** Redesignates existing Section 61.0767 as Section 244.0106. (a) Requires the board, rather than the commission, and the executive commissioner of the Health and Human Services Commission to jointly adopt rules to ensure that a child for whom DFPS has been appointed managing conservator receives appropriate services while the child is

committed to the department or released under supervision by the department. Makes conforming changes.

(b) Requires that the rules adopted under this section require the department and DFPS to cooperate in providing appropriate services to a child for whom DFPS has been appointed managing conservator while the child is committed to the department or released under supervision by the department including:

- (1) medical care, as defined by Section 266.001 (Definitions), Family Code;
- (2) mental health treatment and counseling;
- (3) education, including special education;
- (4) case management;
- (5) drug and alcohol abuse assessment or treatment;
- (6) sex offender treatment; and
- (7) trauma informed care.

Makes conforming changes.

(c) Sets forth the required content of the rules.

Sec. 244.011. CHILDREN WITH MENTAL ILLNESS OR MENTAL RETARDATION. Redesignates existing Section 61.077 as Section 244.011. (a)-(g) Makes conforming changes.

Sec. 244.012. EXAMINATION BEFORE DISCHARGE. Redesignates existing Section 61.0772 as Section 244.012. (a)-(c) Makes conforming changes.

Sec. 244.0125. TRANSFER OF CERTAIN CHILDREN SERVING DETERMINATE SENTENCES FOR MENTAL HEALTH SERVICES. Redesignates existing Section 61.0773 as Section 244.0125. (a)-(d) Makes conforming changes.

(e) Makes no changes to this subsection.

(f) Makes conforming changes.

Sec. 244.013. NOTICE OF PENDING DISCHARGE. Redesignates existing Section 61.078 as Section 244.013. Makes conforming and nonsubstantive changes.

Sec. 244.014. REFERRAL OF VIOLENT AND HABITUAL OFFENDERS FOR TRANSFER. Redesignates existing Section 61.079 as Section 244.014. (a)-(c) Makes conforming changes.

Sec. 244.015. EVALUATION OF CERTAIN CHILDREN SERVING DETERMINATE SENTENCES. Redesignates existing Section 61.0791 as Section 244.015. (a) and (b) Makes conforming changes.

## SUBCHAPTER B. PROVISION OF CERTAIN INFORMATION; RIGHTS OF PARENTS

Sec. 244.051. INFORMATION AVAILABLE TO CHILDREN, PARENTS, AND OTHERS. (a) Authorizes the department, in the interest of achieving the purpose of the department and protecting the public, to disclose records and other information concerning a child to the child and the child's parent or guardian only if disclosure would not materially harm the treatment and rehabilitation of the child and would not

substantially decrease the likelihood of the department receiving information from the same or similar sources in the future. Prohibits information concerning a person who is age 18 or older from being disclosed to the person's parent or guardian without the person's consent.

(b) Authorizes the department to disclose information regarding a child's location and committing court to a person having a legitimate need for the information.

(c) Authorizes the department to disclose to a peace officer or law enforcement agency images of children recorded by an electronic recording device and incident reporting and investigation documents containing the names of children if the information is relevant to the investigation of a criminal offense alleged to have occurred in a facility operated by or under contract with the department.

(d) Requires the department, notwithstanding Subsection (a), to disclose records and other information concerning the child to DFPS as provided by the rules of DFPS if DFPS has been appointed managing conservator for a child.

Sec. 244.052. RIGHTS OF PARENTS. (a) Requires the department, in consultation with advocacy and support groups such as those described in Section 242.056(a), to develop a parent's bill of rights for distribution to the parent or guardian of a child who is under 18 years of age and committed to the department. Requires that the parent's bill of rights include:

(1) a description of the department's grievance policies and procedures, including contact information for the office of inspector general and the office of the independent ombudsman established under Chapter 261;

(2) a list of possible incidents that require parental notification;

(3) policies concerning visits and telephone conversations with a child committed to the department;

(4) a description of department caseworker responsibilities;

(5) a statement that the department caseworker assigned to a child may assist the child's parent or guardian in obtaining information and services from the department and other resources concerning:

(A) counseling, including substance abuse and mental health counseling;

(B) assistance programs, including financial and travel assistance programs for visiting a child committed to the department;

(C) workforce preparedness programs;

(D) parenting programs; and

(E) department seminars; and

(6) information concerning the indeterminate sentencing structure at the department, an explanation of reasons that a child's commitment at the department could be extended, and an explanation of the review process under Sections 245.101 and 245.104 for a child committed to the department without a determinate sentence.

(b) Requires the department, not later than 48 hours after the time a child is admitted to a department facility, to mail to the child's parent or guardian at the last known address of the parent or guardian:

(1) the parent's bill of rights; and

(2) the contact information of the department caseworker assigned to the child.

(c) Require the department, on a quarterly basis, to provide to the parent, guardian, or designated advocate of a child who is in the custody of the department a report concerning the progress of the child at the department, including:

(1) the academic and behavioral progress of the child; and

(2) the results of any reexamination of the child conducted under Section 244.002.

(d) Requires the department to ensure that written information provided to a parent or guardian regarding the rights of a child in the custody of the department or the rights of a child's parent or guardian, including the parent's bill of rights, is clear and easy to understand.

(e) Requires the department to ensure that if DFPS has been appointed managing conservator of a child, DFPS is given the same rights as the child's parent under the parent's bill of rights developed under this section.

#### CHAPTER 245. RELEASE [Redesignates existing Subchapter F as Chapter 245.]

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 245.001. PAROLE OFFICERS; PAROLE MANAGEMENT. (a) Authorizes the department to employ parole officers to investigate, place, supervise, and direct the activities of a parolee to ensure the parolee's adjustment to society in accordance with the rules adopted by the board.

(b) Authorizes parole officers to work with local organizations, clubs, and agencies to formulate plans and procedures for the prevention of juvenile delinquency.

(c) Requires the department to develop a management system for parole services that objectively measures and provides for:

(1) the systematic examination of children's needs and the development of treatment plans to address those needs;

(2) the evaluation of homes, foster homes, and public and private institutions as constructive parole placements;

(3) the classification of children based on the level of children's needs and the degree of risk presented to the public;

(4) the objective measurement of parole officer workloads; and

(5) the gathering and analysis of information related to the effectiveness of parole services and to future parole requirements.

Sec. 245.003. CONTRACTS WITH COUNTIES. (a) Authorizes the department to make a contract with a county to use the services of the county's juvenile probation department for the supervision of children within the county who are on furlough from a department facility or who are released under supervision from a department facility.

(b) Requires that payments under a contract described by Subsection (a) be made to the county treasurer on a quarterly schedule.

(c) Prohibits the department from paying a county for supervision of a child for any time after the child:

(1) is discharged from the department's custody;

(2) is returned to a department facility; or

(3) transfers the child's residence to another county or state.

(d) Requires a county that has a contract with the department to report to the department on the status and progress of each child for whom the county is receiving payments. Requires that the reports be made at the time and in the manner specified by the contract.

#### SUBCHAPTER B. AUTHORITY TO RELEASE; RESUMPTION OF CARE

Sec. 245.051. **RELEASE UNDER SUPERVISION.** Redesignates existing Section 61.081 as Section 245.051. (a) Makes conforming and nonsubstantive changes.

(b) Redesignates existing Subsection (e) as Subsection (b). Make conforming changes.

Deletes existing text of Subsection (b) authorizing TYC, subject to legislative appropriation, to employ parole officers to investigate, place, supervise, and direct the activities of a parolee to ensure the parolee's adjustment to society in accordance with the rules adopted by TYC. Deletes existing text of Subsection (c) authorizing parole officers to work with local organizations, clubs, and agencies to formulate plans and procedures for the prevention of juvenile delinquency. Deletes existing text of Subsection (d) authorizing TYC to resume the care and custody of any child released under supervision at any time before the final discharge of the child.

(c) Redesignates existing Subsection (f) as Subsection (c). Makes conforming changes.

(d) Redesignates existing Subsection (g) as Subsection (d). Makes a conforming change.

(e) Authorizes the department to resume the care and custody of any child released under supervision at any time before the final discharge of the child.

(f) Redesignates existing Subsection (h) as Subsection (f). Makes conforming changes.

(g) Redesignates existing Subsection (i) as Subsection (g). Makes conforming changes.

Sec. 245.052. New heading: **SUBSTANCE ABUSE TREATMENT.** Redesignates existing Section 61.0812 as Section 245.052. Makes a conforming change. Deletes existing text of Section 61.0811 (Parole Management) requiring TYC to develop a management system for parole services that objectively measures and provides for the systematic examination of children's needs and the development of treatment plans to address those needs, the evaluation of homes, foster homes, and public and private institutions as constructive parole placements, the classification of children based on the level of children's needs and the degree of risk presented to the public, the objective measurement of parole officer workloads, and the gathering and analysis of information related to the effectiveness of parole services and to future parole requirements.

Sec. 245.053. SEX OFFENDER COUNSELING AND TREATMENT. Redesignates existing Section 61.0813 as Section 245.053. (a) Makes a conforming change.

(b) Makes no changes to this subsection.

(c)-(i) Makes conforming changes.

Sec. 245.0535. COMPREHENSIVE REENTRY AND REINTEGRATION PLAN FOR CHILDREN; STUDY AND REPORT. Redesignates existing Section 61.08131 as Section 245.0535. (a) Requires the department, rather than the commission, to develop a comprehensive plan for each child committed to the custody of the department to reduce recidivism and ensure the successful reentry and reintegration of the child into the community following the child's release under supervision or final discharge, as applicable, from the department, rather than the commission. Requires that the plan for a child be designed to ensure that the child receives an extensive continuity of care in services from the time the child is committed to the department to the time of the child's final discharge from the department. Requires that the plan for a child include, as applicable:

(1) housing assistance;

(2) a step-down program, such as placement in a halfway house;

(3) family counseling;

(4) academic and vocational mentoring;

(5) trauma counseling for a child who is a victim of abuse while in custody of the department; and

(6) other specialized treatment services appropriate for the child.

Makes nonsubstantive changes.

(b)-(c) Makes conforming changes.

(d) Makes no changes to this subsection.

(e)-(f) Makes conforming changes.

(h)-(i) Makes conforming changes.

(j) Requires the department, if a program or service in the child's comprehensive reentry and reintegration plan is not available at the time the child is to be released, to find a suitable alternative program or service so that the child's release is not postponed.

(k) Requires the department to:

(1) clearly explain the comprehensive reentry and reintegration plan and any conditions of supervision to a child who will be released on supervision; and

(2) require each child committed to the department that is to be released on supervision to acknowledge and sign a document containing any conditions of supervision.

Deletes existing Subsection (g) requiring TYC to ensure that each reentry and reintegration plan developed for a child under Section 61.0814 is coordinated with the comprehensive reentry and reintegration plan developed under this section.

Sec. 245.054. INFORMATION PROVIDED TO COURT BEFORE RELEASE. Redesignates existing Section 61.08141 as Section 245.054. (a) Requires the department, in addition to providing the court with notice of release of a child under Section 245.051(b), as soon as possible but not later than the 30th day before the date the department releases the child, to provide the court that committee the child to the department:

(1) a copy of the child's reentry and reintegration plan developed under Section 245.0535, rather than Section 61.0814; and

(2) Makes no changes to this subdivision.

(b)-(c) Makes conforming changes.

#### SUBCHAPTER C. MINIMUM LENGTH OF STAY; EXTENSION ORDERS

Sec. 245.101. New heading: COMPLETION OF MINIMUM LENGTH OF STAY; PANEL. Redesignates existing Section 61.0815 as Section 245.101. (a) Requires the department, after a child who is committed to the department without a determinate sentence completes the minimum length of stay established by the department for the child under Section 243.002, to, in the manner provided by this section and Section 245.102:

(1) discharge the child from the custody of the department;

(2) release the child under supervision under Section 245.051; or

(3) extend the length of the child's stay in the custody of the department.

Makes conforming changes.

(b) Requires the board, rather than the commission, by rule to establish a panel whose function is to review and determine whether a child who has completed the child's minimum length of stay should be discharged from the custody of the department as provided by Subsection (a)(1), be released under supervision under Section 245.051 as provided by Subsection (a)(2), or remain in the custody of the department for an additional period of time as provided by Subsection (a)(3). Makes conforming changes.

(c) Requires the executive director to determine the size of the panel described by Subsection (b) and the length of the members' terms of service on the panel. Makes conforming changes.

Deletes existing Section 61.0814 (Reentry and Reintegration Plan) requiring TYC to develop a reentry and reintegration plan for each child committed to the custody of TYC. Deletes existing text requiring that the plan for a child be designed to ensure that the child receives an extensive continuity of care in services from the time the child is committed to TYC to the time of the child's final discharge from TYC. Deletes existing text requiring that the plan for a child include, as applicable, housing assistance, a step-down program, such as placement in a halfway house, family counseling, academic and vocational mentoring, trauma counseling for a child who is a victim of abuse while in the custody of the commission, and other specialized treatment services appropriate for the child. Deletes existing text requiring TYC, if a program or service in the child's reentry and reintegration plan is not available at the time the child is to be

released, to find a suitable alternative program or service so that the child's release is not postponed.

Sec. 245.102. New heading: EXTENSION ORDER. Creates this section from existing text. (a)-(c) Makes conforming and nonsubstantive changes.

Sec. 245.103. New heading: STATISTICS AND REPORTS CONCERNING EXTENSION ORDERS. Creates this section from existing text. (a) Requires the department to maintain statistics of the number of extensions granted by a panel under Section 245.102, rather than granted by the panel. Requires that the statistics include certain aggregated information. Makes conforming and nonsubstantive changes.

(b)-(d) Makes conforming and nonsubstantive changes.

Sec. 245.104. REQUEST FOR RECONSIDERATION OF EXTENSION ORDER. Redesignates existing Section 61.0816 as Section 245.104. (a) Requires the board, rather than the commission, by rule to establish a process to request the reconsideration of an extension order issued by a panel under Section 245.102, rather than the panel established under Section 61.0815.

(b)-(c) Makes conforming and nonsubstantive changes.

Sec. 245.105. New heading: STATISTICS AND REPORTS CONCERNING RECONSIDERATIONS OF EXTENSION ORDERS. Creates this section from existing text. (a) Requires the department to maintain statistics of the number of requests for reconsideration of an extension order that are submitted under Section 245.104 and the action taken on reconsideration of the extension order. Requires that the statistics include certain aggregated information. Makes a conforming change

(b)-(c) Makes conforming changes.

Sec. 245.106. TRANSPORTATION, CLOTHING, MONEY. Redesignates existing Section 61.082 as Section 245.106. Makes conforming and nonsubstantive changes.

#### SUBCHAPTER D. TERMINATION OF CONTROL

Sec. 245.151. TERMINATION OF CONTROL. Redesignates existing Section 61.084 as Section 245.151. (a)-(c) Makes conforming and nonsubstantive changes.

(d) Redesignates existing Subsection (e) as Subsection (d). Requires the department, except as provided by Subsection (e), rather than except as provided by Subsection (g), to discharge from its custody a person not already discharged on the person's 19th birthday. Makes a conforming change.

(e) Redesignates existing Subsection (g) as Subsection (e). Makes conforming changes.

Deletes existing Section 61.083 (Contracts With Counties) authorizing TYC to make a contract with a county to use the services of the county's juvenile probation department for the supervision of children within the county who are on furlough from a TYC facility or who are released under supervision from a TYC facility. Deletes existing text requiring that the payments be made to the county treasurer on a quarterly schedule. Deletes existing text prohibiting TYC from paying a county for supervision of a child for any time after the child is discharged from the commission's custody, for any time after the child is returned to a commission facility, or for any time after the child transfers his or her residence to another county or state. Deletes existing text requiring a county that has a contract with TYC to report to TYC on the status and progress of each child for whom the county is receiving payments. Deletes existing text requiring that the reports be made at the time and in the manner specified by the contract.



Sec. 245.152. DETERMINATE SENTENCE PAROLE. Redesignates existing Section 61.0841 as Section 245.152. (a) Requires the department to submit to the Texas Department of Criminal Justice (TDCJ), rather than to TYC, not later than the 90th day before the date the department transfers a person to the custody of TDCJ for release on parole under Section 245.051(c) or 245.151(e), all pertinent information relating to the person, including:

- (1) the juvenile court judgment;
- (2) the circumstances of the person's offense;
- (3) the person's previous social history and juvenile court records;
- (4) the person's physical and mental health record;
- (5) a record of the person's conduct, employment history, and attitude while committed to the department;
- (6) a record of the sentence time served by the person at the department and in a juvenile detention facility in connection with the conduct for which the person was adjudicated; and
- (7) any written comments or information provided by the department, local officials, family members of the person, victims of the offense, or the general public.

Makes conforming changes.

(b) and (c) Makes conforming changes.

SECTION 1.008. Transfers Subchapters H and I, Chapter 61, Human Resources Code, to Subtitle C, Title 12, Human Resources Code, as added by this Act, redesignates them as Chapter 246, and amends them, as follows:

#### CHAPTER 246. MISCELLANEOUS PROGRAMS

New heading: SUBCHAPTER A. YOUTH BOOT CAMP PROGRAMS [Redesignates existing Subchapter H as Subchapter A.]

Sec. 246.001. YOUTH BOOT CAMP PROGRAMS. Redesignates existing Section 61.101 as Section 246.001. (a) Makes a conforming change.

(b) Requires the department, rather than TYC in consultation with TJPC, to develop guidelines for a program of physical and correctional training and military-style discipline for children placed in youth boot camps operated by local probation departments for violating the conditions of release under supervision or parole under Chapter 245, rather than under Section 61.081.

(c) Makes conforming changes.

(d) Requires the board, rather than TYC, to adopt rules of conduct for children participating in the program under this section.

New heading: SUBCHAPTER B. INDUSTRIES PROGRAM [Redesignates existing Subchapter I as Subchapter B.]

Sec. 246.051. PURPOSE; IMPLEMENTATION. Redesignates existing Section 61.121 as Section 246.051. Makes conforming changes.

Sec. 246.052. **ADVISORY COMMITTEE.** Redesignates existing Section 61.122 as Section 246.052. (a) Makes conforming changes.

(b) Makes no changes to this subsection.

(c) Makes conforming changes.

Sec. 246.053. **PAY AND DISTRIBUTION OF PAY.** Redesignates existing Section 61.123 as Section 246.053. Makes conforming changes.

Sec. 246.054. **INDUSTRIES FUND.** Redesignates existing Section 61.124 as Section 246.054. (a) Creates a Texas Juvenile Justice Department industries program fund, rather than a Texas Youth Commission industries program fund, in the state treasury.

(b) Makes no changes to this subsection.

(c) Makes a conforming change.

Deletes existing Subsection (d) providing that Sections 403.094 (repealed by Acts 1995, 74th Leg., Ch. 1058, § 17, eff. Sept. 1, 1995) and 403.095 (Use of Dedicated Revenue), Government Code, do not apply to the fund.

Sec. 246.055. **CONTRACTS.** Redesignates existing Section 61.125 as Section 246.055. Makes a conforming change.

Sec. 246.056. **DONATIONS.** Redesignates existing Section 61.126 as Section 246.056. Makes a conforming change.

Sec. 246.057. **GRANTS.** Redesignates existing Section 61.127 as Section 246.057. (a) and (b) Makes conforming changes.

Sec. 246.058. **LEASE OF LAND.** Redesignates existing Section 61.128 as Section 246.058. (a) Makes conforming changes.

(b)-(d) Makes no changes to these subsections.

Sec. 246.059. **OPTIONAL AD VALOREM TAX ABATEMENT.** Redesignates existing Section 61.130 as Section 246.059. (a) and (b) Makes conforming changes.

Deletes existing Section 61.129 (Certification for Franchise Credit) requiring TYC to prepare and issue a certification that a corporation requires for the franchise tax credit for wages paid as provided by Subchapter M (Tax Credit for Wages Paid to Certain Children Committed to Texas Youth Commission, repealed by Acts 2006, 79th Leg., 3rd C.S., ch. 1, § 18(a)(2)), Chapter 171 (Franchise Tax), Tax Code.

**SECTION 1.009.** Amends Title 12, Human Resources Code, as added by this Act, by adding Subtitle D with a heading to read as follows:

#### **SUBTITLE D. INDEPENDENT OMBUDSMAN**

**SECTION 1.010.** Transfers Chapter 64, Human Resources Code, to Subtitle D, Title 12, Human Resources Code, as added by this Act, redesignates it as Chapter 261, and amends it as follows:

#### **New heading: CHAPTER 261. INDEPENDENT OMBUDSMAN**

#### **SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 261.001. **DEFINITIONS.** Redesignates existing Section 64.001 as Section 261.001. Deletes existing text defining "commission." Makes nonsubstantive changes.

Sec. 261.002. ESTABLISHMENT; PURPOSE. Redesignates existing Section 64.002 as Section 261.002. Establishes the office of independent ombudsman (office) at the department for the purpose of investigating, evaluating, and securing the rights of the children committed to the department, rather than TYC, including a child released under supervision before final discharge. Deletes existing text relating to the office being a state agency.

Sec. 261.003. INDEPENDENCE. Redesignates existing Section 64.003 as Section 261.003. Deletes the Subsection (a) designation. Makes a conforming change. Deletes existing Subsection (b) providing that funding for the independent ombudsman is appropriated separately from funding for the commission.

#### SUBCHAPTER B. APPOINTMENT AND MANAGEMENT OF OFFICE

Sec. 261.051. APPOINTMENT OF INDEPENDENT OMBUDSMAN. Redesignates existing Section 64.051 as Section 261.051. (a) Requires the board, rather than the governor with the advice and consent of the senate, to appoint the independent ombudsman for a term of two years, expiring February 1 of odd-numbered years.

(b) Makes no changes to this subsection.

Sec. 261.052. ASSISTANTS. Redesignates existing Section 64.052 as Section 261.052. Makes no further changes.

Sec. 261.053. CONFLICT OF INTEREST. Redesignates existing Section 64.053 as Section 261.053. (a) and (b) Makes conforming changes.

(c) and (d) Makes no changes to these subsections.

Deletes existing Section 64.054 (Sunset Provision) providing that the office is subject to review under Chapter 325, Government Code, but is not abolished under that chapter. Deletes existing text requiring the office to be reviewed during the periods in which TJJD or its successor agency is reviewed, rather than periods in which TYC is reviewed. Deletes existing text requiring the Sunset Advisory 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, and providing that this subsection expires September 1, 2011.

Sec. 261.055. REPORT. Redesignates existing Section 64.055 as Section 261.055. (a) and (b) Makes conforming changes.

Sec. 261.056. COMMUNICATION AND CONFIDENTIALITY. Redesignates existing Section 64.056 as Section 261.056. (a) and (b) Makes conforming changes.

(c) and (d) Makes no changes to these subsections.

Sec. 261.057. PROMOTION OF AWARENESS OF OFFICE. Redesignates existing Section 64.057 as Section 261.057. Makes a conforming change.

Sec. 261.058. RULEMAKING AUTHORITY. Redesignates existing Section 64.058 as Section 261.058. (a) Requires the board by rule to establish policies and procedures for the operations of the office of independent ombudsman.

(b) Requires the board, rather than the office and TYC, to adopt rules necessary to implement Section 261.060, including rules that establish procedures for the department to review and comment on reports of the office and for the department to expedite or eliminate review of and comment on a report due to an emergency

or a serious or flagrant circumstance described by Section 261.055(b). Makes conforming changes.

Deletes existing Section 64.059 (Authority of State Auditor) providing that the office is subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Sec. 261.060. REVIEW AND FORMAT OF REPORTS. Redesignates existing Section 64.060 as Section 261.060. (a)-(c) Makes conforming changes.

(d) Makes no changes to this subsection.

Deletes existing Section 64.061 (Complaints) requiring 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. Deletes existing text requiring 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. Deletes existing text requiring the office to make information available describing its procedures for complaint investigation and resolution. Deletes existing text requiring the office to periodically notify the complaint parties of the status of the complaint until its final disposition.

#### SUBCHAPTER C. DUTIES AND POWERS

Sec. 261.101. DUTIES AND POWERS. Redesignates existing Section 64.101 as Section 261.101. (a) Makes conforming changes.

(b)-(d) Makes no changes to these subsections.

(e) Provides that, notwithstanding any other provision of this chapter, the powers of the office are limited to facilities operated and services provided by the department under Subtitle C.

Sec. 261.102. New heading: TREATMENT OF DEPARTMENT EMPLOYEES WHO COOPERATE WITH INDEPENDENT OMBUDSMAN. Redesignates existing Section 64.102 as Section 261.102. Makes a conforming change.

Sec. 261.103. TRAINING. Redesignates existing Section 64.103 as Section 261.103. Makes a conforming change.

Sec. 261.104. MEMORANDUM OF UNDERSTANDING. Redesignates existing Section 64.104 as Section 261.104. (a) Makes conforming changes.

(b) Requires that the memorandum of understanding entered into under Subsection (a), at a minimum:

(1) address the interaction of the office with that portion of the department, rather than the commission, that conducts an internal audit under Section 203.013, rather than under Section 61.0331;

(2)-(4) Makes conforming changes;

(5) preserve the independence of the office by authorizing the office to withhold information concerning matters under active investigation by the office from the department, rather than the commission, and department staff and to report the information to the board and the governor. Makes a conforming change.

#### SUBCHAPTER D. ACCESS TO INFORMATION

Sec. 261.151. ACCESS TO INFORMATION OF GOVERNMENTAL ENTITIES. Redesignates existing Section 64.151 as Section 261.151. (a) Provides that the independent ombudsman has access, rather than TYC is required to allow access, to the department's records relating to the children committed to the department. Makes conforming and nonsubstantive changes.

(b) Makes no changes to this subsection.

(c) Makes a conforming change.

Sec. 261.152. ACCESS TO INFORMATION OF PRIVATE ENTITIES. Redesignates existing Section 64.152 as Section 261.152. Makes a conforming change.

SECTION 1.011. Amends Section 61.020(a), Human Resources Code, as follows:

(a) Abolishes TYC on December 1, 2011. Deletes existing text providing that TYC is subject to Chapter 325, Government Code, and unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2011.

SECTION 1.012. Amends Section 141.012(a), Human Resources Code, as follows:

(a) Abolishes TJPC on December 1, 2011. Deletes existing text providing that TJPC is subject to Chapter 325, Government Code, and unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2011.

## ARTICLE 2. MISCELLANEOUS PROVISIONS

SECTION 2.001. Amends Section 51.126, Family Code, by amending Subsections (b), (c), (d), and (e) and adding Subsection (f), as follows:

(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 TJJD, rather than 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:

(1) Makes a conforming change; and

(2) Makes no changes to this subdivision.

(c) Makes conforming changes.

(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 TJJD, rather than except for a facility operated by or under contract with TYC, to:

(1) register the facility annually with TJJD, rather than with TJPC; and

(2) Makes no changes to this subdivision.

(e) Makes a conforming change.

(f) Provides that, in this section, "Texas Juvenile Justice Department" means TJPC. Provides that this subsection expires December 1, 2011.

SECTION 2.002. Amends Section 614.017(c)(1), Health and Safety Code, as follows:

(1) Provides that "agency" includes any of the following entities and individuals, a person with an agency relationship with one of the following entities or individuals, and a person who contracts with one or more of the following entities or individuals:

(A)-(C) Makes no changes to these paragraphs;

(D) TJJD, rather than TJPC; and

(E)-(T) Makes nonsubstantive changes.

Deletes existing text providing for TYC to be included in the list of agencies to be considered an "agency" in this subdivision.

SECTION 2.003. Amends Sections 614.018(a) and (b), Health and Safety Code, as follows:

(a) Requires TJJD, DPS, the Department of State Health Services, the Department of Aging and Disability Services, the Department of Family and Protective Services, the Texas Education Agency, and local juvenile probation departments 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. Deletes existing text including TJPC and TYC among the list of departments required 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.

(b) Requires that the memorandum of understanding establish methods for:

(1) Makes no changes to this subdivision;

(2) 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 the TJJD, DPS, the Department of State Health Services, the Department of Family and Protective Services, the Department of Aging and Disability Services, the Texas Education Agency, local juvenile probation departments, local mental health or mental retardation authorities, and independent school districts; and

(3) Makes no changes to this subdivision.

Deletes existing text including TYC and TJPC in the list of departments which committed, treated, served, or supervised juveniles with mental impairments which were to develop interagency rules, policies, and procedures for the coordination of care of and the exchange of information on those juveniles

### ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.001. Amends Article 2.12, Code of Criminal Procedure, as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. Provides that the following are peace officers:

(1)-(28) Makes no changes to these subdivisions;

(29) apprehension specialists and inspectors general commissioned by TJJD, rather than commissioned by TYC, as officers under Sections 242.102 and 243.052, Human Resources Code, rather than Sections 61.0451 and 61.0931, Human Resources Code;

(30)-(34) Makes no changes to these subdivisions;

(35) investigators commissioned by TJJD, rather than TJPC, as officers under Section 221.011, Human Resources Code, rather than Section 141.055, Human Resources Code; and

(36) Makes no changes to this subdivision.

SECTION 3.002. Amends Section 5(d), Article 18.20, Code of Criminal Procedure, to authorize TJJD, rather than TYC, to own electronic, mechanical, or other devices for a use or purpose authorized by Section 242.104, Human Resources Code, rather than Section 61.0455, Human Resources Code, and authorizes the inspector general of TJJD, a commissioned officer of that office, or another person acting in the presence and under the direction of a commissioned officer of that office to possess, install, operate, or monitor those devices as provided by Section 242.104. Makes conforming changes.

SECTION 3.003. Amends Section 29.012(e), Education Code, to provide that this section does not apply to a residential treatment facility for juveniles established under Section 221.056, Human Resources Code, rather than Section 141.059, Human Resources Code.

SECTION 3.004. Amends Section 51.13(c), Family Code, as follows:

(c) Prohibits a child from being committed or transferred to a penal institution or other facility used primarily for the execution of sentences of persons convicted of crime, except:

(1) and (2) Makes no changes to these subdivisions; or

(3) after transfer from TJJD, rather than from TYC, under Section 245.151(c), Human Resources Code, rather than Section 61.084, Human Resources Code.

SECTION 3.005. Amends Section 51.21(a), Family Code, to require a probation department that administers the mental health screening instrument or clinical assessment required by Section 221.003, Human Resources Code, rather than Section 141.042(e), Human Resources Code, to refer the child to the local mental health authority for assessment and evaluation if certain conditions exist.

SECTION 3.006. Amends Section 53.045(d), Family Code, to provide that for the purpose of the transfer of a child to TDCJ as provided by Section 245.151(c), Human Resources Code, rather than Section 61.084(c), Human Resources Code, a juvenile court petition approved by a grand jury under this section is an indictment presented by the grand jury.

SECTION 3.007. Amends Sections 54.11(a), (h), (i), and (j), Family Code, as follows:

(a) Requires the court, on receipt of a referral under Section 244.014(a), Human Resources Code, for the transfer to TDCJ of a person committed to TJJD under Section 54.04(d)(3), 54.04(m), or 54.05(f), or on receipt of a request by TJJD under Section 245.051(d), Human Resources Code, for approval of the release under supervision of a person committed to TJJD under Section 54.04(d)(3), 54.04(m), or 54.05(f), to set a time and place for a hearing on the release of the person. Deletes existing text requiring the court, on receipt of a referral under Section 61.079(a), Human Resources Code, for the transfer to TDCJ of a person committed to TYC under Section 54.04(d)(3), 54.04(m), or 54.05(f), or on receipt of a request by TYC under Section 61.081(g), Human Resources Code, for approval of the release under supervision of a person committed to TYC under Section 54.04(d)(3), 54.04(m), or 54.05(f), to set a time and place for a hearing on the release of the person.

(h) and (i) Makes conforming changes.

(j) Authorizes the court, on conclusion of the hearing on a person who is referred for release under supervision under Section 245.051(c), Human Resources Code, rather than Section 61.081(f), Human Resources Code, to order the return of the person to TJJD, rather than TYC:

(1) and (2) Makes no changes to these subdivisions.

SECTION 3.008. Amends Section 58.003(g-1), Family Code, to provide that any records collected or maintained by TJJD, rather than TJPC, including statistical data submitted under Section 221.007, Human Resources Code, rather than Section 141.044, Human Resources Code, are not subject to a sealing order issued under this section.

SECTION 3.009. Amends Section 58.0072(b), Family Code, to provide that juvenile justice information consists of information of the type described by Section 58.104, including statistical data in any form or medium collected, maintained, or submitted to TJJD, rather than TJPC, under Section 221.007, Human Resources Code, rather than Section 141.044, Human Resources Code.

SECTION 3.010. Amends Section 41.310(b), Government Code, to require the counselor, in addition to the duties prescribed by Subsection (a), to, on a quarterly basis, provide the board of directors of the special prosecution unit and the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities with a report concerning offenses or delinquent conduct prosecuted by the unit on receiving a request for assistance under Section 241.007, Human Resources Code, rather than Section 61.098, Human Resources Code, or a request for assistance otherwise from a prosecuting attorney. Requires that a report be both aggregated and disaggregated by individual facility and include certain information. Makes a conforming change.

SECTION 3.011. Amends Section 411.1141(a), Government Code, to entitle TJJD, rather than TYC, to obtain from DPS criminal history record information maintained by DPS that relates to a person described by Section 242.013(b), Human Resources Code, rather than Section 61.0357(b), Human Resources Code.

SECTION 3.012. Amends Section 493.017(d), Government Code, to require a sex offender correction program that provides counseling sessions for a child who is released under supervision under Section 245.053, Human Resources Code, rather than Section 61.0813, Human Resources Code, to report to TJJD, rather than TYC, not later than the 15th day of each month, certain information about the child.

SECTION 3.013. Amends Section 499.053, Government Code, as follows:

Sec. 499.053. New heading: TRANSFERS FROM TEXAS JUVENILE JUSTICE DEPARTMENT. (a) Requires the Texas Department of Criminal Justice (TDCJ) to accept persons transferred to TDCJ from TJJD under Section 245.151, Human Resources Code. Deletes existing text requiring the institutional division to accept persons transferred to the division from TYC under Section 61.084, Human Resources Code.

(b) Entitles a person transferred to TDCJ, rather than to the institutional division, from TJJD, rather than from TYC, to credit on the person's sentence for the time served in the custody of TJJD. Makes a conforming change.

(c) and (d) Makes conforming changes.

SECTION 3.014. Amends Section 508.156(a), Government Code, to require a parole panel, before the release of a person who is transferred under Section 245.051(c) or 245.151(e), Human Resources Code, rather than Section 61.081(f) or 61.084(g), Human Resources Code, to TJJD, rather than the pardons and parole division of TDCJ, for release on parole, to review the person's records and authorize the panel to interview the person or any other person the panel considers necessary to determine the conditions of parole.



SECTION 3.015. Amends Section 614.019(c), Health and Safety Code, to authorize a child with mental illness or mental retardation who is discharged from TJJD, rather than from TYC, under Section 244.011, Human Resources Code, rather than Section 61.077, Human Resources Code, to receive continuity of care services from the office for a minimum of 90 days after discharge from TYC and for as long as necessary for the child to demonstrate sufficient stability to transition successfully to mental health or mental retardation services provided by a local mental health or mental retardation authority.

SECTION 3.016. Amends Section 152.0007(b), Human Resources Code, to authorize the juvenile board to adopt all or part of TJJD's, rather than TJPC's, minimum standards for assessment under Section 221.002, rather than under Section 141.042, in complying with this subsection.

SECTION 3.017. Amends Sections 152.0011(b) and (c), Human Resources Code, as follows:

(b) Deletes existing text prohibiting the juvenile board from awarding a contract under this subsection unless the board requests proposals and receives a proposal that meets or exceeds, in addition to requirements specified in the request for proposals, the requirements specified in Section 141.0434 (Additional Requirements for Contracts with Private Vendors, repealed).

(c) Requires that a juvenile board youth boot camp offer a program that complies with the requirements of the youth boot camps set forth in Section 246.001, rather than in Section 141.0432.

SECTION 3.018. Amends Section 152.0301(f), Human Resources Code, to require the juvenile board to ensure that the chief juvenile officer and fiscal officer keep the financial and statistical records and submit reports to TJJD, rather than to TJPC, as prescribed by Section 221.007, rather than as prescribed by Section 141.044, and submit periodic financial and statistical reports to the county commissioners court.

SECTION 3.019. Amends Section 152.0791(g), Human Resources Code, to require the juvenile board to ensure that the chief juvenile officer and fiscal officer keep the financial and statistical records and submit reports to TJJD, rather than to TJPC, as prescribed by Section 221.007, rather than as prescribed by Section 141.044, and submit periodic financial and statistical reports to the commissioners courts.

SECTION 3.020. Amends Section 152.1371(f), Human Resources Code, to make conforming changes.

SECTION 3.021. Amends Section 152.1431(f), Human Resources Code, to make conforming changes.

SECTION 3.022. Amends Section 152.2511(f), Human Resources Code, to make conforming changes.

SECTION 3.023. Amends Section 16.02(e-1), Penal Code, to provide that it is a defense to prosecution under Subsection (d)(1) (relating to offenses concerning devices designed primarily for nonconsensual interception of communications) that the electronic, mechanical, or other device is possessed by a person authorized to possess the device under Section 500.008 (Detection and Monitoring of Cellular Telephones), Government Code, or Section 242.104, Human Resources Code, rather than Section 61.0455, Human Resources Code.

#### ARTICLE 4. TRANSITION AND EFFECTIVE DATE

SECTION 4.001. (a) Repealer, effective December 1, 2011: Subchapter A (General Provisions), Chapter 61 (Texas Youth Commission), Human Resources Code.

Repealer, effective December 1, 2011: Subchapter B (Administrative Provisions), Chapter 61, Human Resources Code.

Repealer, effective December 1, 2011: Subchapter A (General Provisions), Chapter 141 (Texas Juvenile Probation Commission), Human Resources Code.

Repealer, effective December 1, 2011: Subchapter B (Administrative Provisions), Chapter 141, Human Resources Code.

(b) Provides that, effective December 1, 2011, TYC and TJPC are abolished and the powers and duties of those agencies are transferred to the Texas Juvenile Justice Board and TJJD in accordance with Title 12, Human Resources Code, as added by this Act.

SECTION 4.002. (a) Requires the governor, not later than December 1, 2011, to appoint the initial members of the board under Section 202.001, Human Resources Code, as added by this Act. Requires the governor to appoint:

- (1) four members whose terms expire February 1, 2013;
- (2) four members whose terms expire February 1, 2015; and
- (3) three members whose terms expire February 1, 2017.

(b) Requires the initial members of the Advisory Council on Juvenile Services to be appointed as provided by Section 203.0081, Human Resources Code, as added by this Act, not later than December 1, 2011.

(c) Requires the board to appoint the independent ombudsman, as provided by Section 261.051, Human Resources Code, as designated and amended by this Act, as soon as practicable after December 1, 2011.

SECTION 4.003. (a) Requires all money, records, property, and equipment in the possession of the TYC or TJPC on December 1, 2011, to be transferred to the possession of TJJD on December 1, 2011, or as soon as possible after that date.

(b) Provides that, effective December 1, 2011, a rule adopted by TYC or TJPC is a rule of TJJD until and unless the board amends or repeals the rule.

(c) Provides that, effective December 1, 2011, a memorandum of understanding entered into by TYC or TJPC is binding against TJJD to the same extent that the memorandum bound the agency that entered into the memorandum of understanding, until and unless the department enters into a new memorandum of understanding that modifies the department's responsibilities.

SECTION 4.004. Requires TJJD, as soon as practicable after September 1, 2011, to establish the toll-free number for complaints, as required under Section 203.015, Human Resources Code, as added by this Act.

SECTION 4.005. Requires TYC and TJPC, as applicable, to implement each change in law made by this Act, including adopting any necessary or required rule, not later than December 1, 2011, unless another provision of this Act specifically provides otherwise.

SECTION 4.006. (a) Provide that the validity of a disposition of a child under Title 3 (Juvenile Justice Code), Family Code, made before, on, or after the effective date of this Act is not affected solely because:

- (1) the terms of the disposition refer to TYC or TJPC; and
- (2) during the time for the disposition is in effect, TYC or TJPC cease to exist and their powers and duties are transferred, as provided by this Act, to TJJD.

(b) Provides that the action of a juvenile probation department taken in relation to a child before, on, or after the effective date of this Act is not affected solely because:

(1) the terms of the action refer to TYC or TJPC; and

(2) during the time for the action is in effect, TYC or TJPC cease to exist and their powers and duties are transferred, as provided by this Act, to TJJD.

(c) Provides that the changes in law made by this Act to Title 3, Family Code, are not substantive in nature and apply to conduct by a child that occurs before, on, or after the effective date of this Act.

SECTION 4.007. (a) Provides that this section applies only to a closed facility on real property owned by TYC or TJJD that is located wholly or partly in a county that has a population of less than 100,000.

(b) Authorizes TYC or TJJD to transfer a closed facility to the county or municipality in which the facility is located.

(c) Provides that the consideration for the transfer authorized by Subsection (b) of this section is the requirement that the county or municipality use the property transferred only for a purpose that benefits the public interest of the state. Provides that, if the county or municipality no longer uses the property for a public purpose, ownership of the property automatically reverts to TJJD.

(d) Requires TYC or TJJD to transfer the property by an appropriate instrument of transfer, executed on the agency's behalf by the commissioner of the General Land Office. Requires that the instrument of transfer:

(1) provide that:

(A) the transferee shall use the property only for a purpose that benefits the public interest of the state; and

(B) ownership of the property will automatically revert to TJJD if the transferee uses the property for any purpose other than a purpose that benefits the interest of the state;

(2) describe the property to be transferred by metes and bounds; and

(3) exclude from the transfer all mineral interests in and under the property and prohibit any exploration, drilling, or other similar intrusion on the property related to mineral interests.

(e) Requires TJJD to retain custody of the instrument of transfer after the instrument of transfer is filed in the real property records of the county in which the property is located.

(f) Provides that this section expires September 1, 2017.

SECTION 4.008. Effective date: September 1, 2011.