

## **BILL ANALYSIS**

C.S.S.B. 1727  
By: Schwertner  
Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In 2011, the legislature created the Texas Juvenile Justice Department (TJJD) after previous agencies were abolished following abuse scandals and operational problems. Today, TJJD both manages state-level facilities and oversees county juvenile probation departments. Following its review of TJJD, the Sunset Advisory Commission found that while TJJD's functions remain necessary, the agency is trapped in a longstanding cycle of instability. Chronic staff shortages fuel TJJD's current turmoil, heightening safety risks, decreasing access to rehabilitation, and preventing greater focus on diversion from state commitment. Meanwhile, TJJD's governing board has not provided the consistent, engaged leadership needed to guide the juvenile justice system out of ongoing crises. The sunset commission also found the office of independent ombudsman for TJJD continues to fulfill a critical role by securing the rights of post-adjudicated youth. However, the office's statutory authority and inspection procedures require updates to minimize risks impacting youth, staff, and county stakeholders. C.S.S.B. 1727 seeks to provide for the continuation of TJJD and the Texas Juvenile Justice Board until 2029, while also making several statutory modifications to address the issues identified by the sunset commission.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Juvenile Justice Board in SECTIONS 22, 23, 30, 36, 41, and 42 of this bill; the Texas Juvenile Justice Department in SECTIONS 21, 33, and 35 of this bill; and the office of independent ombudsman for the Texas Juvenile Justice Department in SECTION 51 of this bill.

### **ANALYSIS**

#### **Texas Juvenile Justice Board; Texas Juvenile Justice Department**

##### Continuation

C.S.S.B. 1727 amends the Human Resources Code to continue the Texas Juvenile Justice Board and the Texas Juvenile Justice Department (TJJD) under the Texas Sunset Act until September 1, 2029.

##### Board Composition; Recusal; Training

C.S.S.B. 1727, with respect to the board's membership, does the following:

- decreases the board's overall membership from 13 members to 11 members by reducing from three to two the number of board members who are representatives of the general

public and from three to two the number of board members who are county commissioners;

- requires the two county commissioner board members to have juvenile justice experience;
- gives the governor the option of appointing a member who is a representative from a local mental health authority designated by the executive commissioner of the Health and Human Services Commission (HHSC) in a local service area who has experience working with children as an alternative to appointing a licensed adolescent mental health treatment professional; and
- requires that an educator appointed as a board member have juvenile justice experience but gives the governor the option of appointing a member who is a juvenile justice professional with experience managing a secure juvenile justice facility operated by TJJD or a county as an alternative to appointing such an educator.

C.S.S.B. 1727 establishes general recusal provisions specifically applicable to a juvenile justice professional who is appointed to the board in lieu of the educator but authorizes the board to adopt additional recusal requirements applicable to the professional that are more restrictive than those specified in the bill. The general provisions establish that the professional so appointed:

- must avoid the appearance of a conflict of interest by not voting or participating in any decision by the board that solely benefits or penalizes or otherwise solely impacts any juvenile probation department or facility the professional is employed by or works for under a contract; and
- may not vote or render any decisions regarding matters of officer discipline presented to the board with respect to any juvenile probation department or facility the professional is employed by or works for under a contract.

With respect to the recusal of a chief juvenile probation officer serving as a board member on matters presented to the board regarding the officer's department, the bill changes the type of matters for which recusal is required from matters of abuse and neglect to matters of officer discipline.

C.S.S.B. 1727 revises board member training requirements to incorporate certain of the sunset commission's across-the-board recommendations and provides for the transition to the new training requirements for current board members.

C.S.S.B. 1727 provides that all current board members' terms expire on September 1, 2023, and provides the following:

- a board member serving on that date may continue to serve until a majority of appointments to the board are made;
- current board members are eligible for reappointment; and
- in making the initial appointments to the board in compliance with the revised composition requirements, the governor must designate three members to serve terms expiring February 1, 2025, four members to serve terms expiring February 1, 2027, and four members to serve terms expiring February 1, 2029.

#### Board Delegation of Responsibilities

C.S.S.B. 1727 authorizes the board to delegate responsibilities to the TJJD executive director as it determines appropriate and requires the board, in making such a delegation, to provide the executive director clear direction, performance measures, and reporting requirements with respect to each delegation, as appropriate. The bill requires the board to also provide to TJJD sufficient oversight to ensure that delegated responsibilities are performed according to TJJD's mission and funding priorities, as appropriate. The bill establishes that the TJJD executive director is a full-time employee of the board who must perform the regular administrative functions of the board and any other duty as the board directs and, under the direction of the board, perform the duties required by state law relating to the board or designated by the board.

The bill prohibits the TJJJ executive director from performing a discretionary or decision-making function for which the board is solely responsible.

### TJJJ Executive Director

C.S.S.B. 1727 requires the TJJJ executive director to possess the following minimum qualifications:

- five years of experience in the field of juvenile corrections or congregate care in an administrative capacity;
- three years of experience in the field of juvenile corrections or congregate care in an administrative capacity and a graduate degree from an institution of higher education in a relevant field, including penology, adolescent development, behavior management, or rehabilitative services; or
- seven years of experience in management and administration of a government agency, institution of higher education, or business enterprise of a size comparable to TJJJ.

C.S.S.B. 1727 requires TJJJ to track the frequency with which the executive director takes certain actions specified by the bill. Moreover, the executive director must provide to the board and the sunset commission at the beginning of each calendar quarter aggregated data on the number of times each such action was taken during the previous calendar quarter. These provisions apply when the executive director takes the following actions, as defined by TJJJ rule:

- selects a child for a conditional placement;
- selects a child for a home placement;
- waives the requirement for a child with a determinate sentence to spend the child's entire minimum period of confinement in a high-restriction facility;
- waives the requirement for a child to be on intensive supervision when initially released on parole;
- authorizes early discharges for a child on parole; or
- finalizes an appeal brought by an advocacy group or social service provider who was denied certain access to TJJJ facilities.

C.S.S.B. 1727 requires the executive director to acknowledge receipt of TJJJ's internal audits and to discuss audit results with the board.

### Advisory Council on Juvenile Services

C.S.S.B. 1727 expands the membership of the advisory council on juvenile services to include the commissioner of the Department of Family and Protective Services (DFPS) or the commissioner's designee. The bill requires the advisory council to assist TJJJ in assessing and developing recommendations to improve information sharing between agencies that serve children, including agencies serving children in both the juvenile justice and child welfare systems. The bill requires the board to adopt rules regarding the following advisory council matters:

- the purpose, role, responsibility, goals, and duration of the advisory council;
- the quorum requirement for the advisory council;
- training requirements for advisory council members;
- policies to avoid conflicts of interest by advisory council members;
- a periodic review process to evaluate the continuing need for the advisory council;
- policies to ensure the advisory council does not violate any provision of state open meetings law applicable to the board or the advisory council;
- the appropriate level of participation from the following ex officio advisory council members:
  - TJJJ's executive director, director of probation services, and director of state programs and facilities or those officials' designees;

- the executive commissioner of HHSC or the commissioner's designee; and
- the commissioner of DFPS or the commissioner's designee; and
- reporting requirements and other communication procedures between the board and the advisory council.

### Advisory Committees

C.S.S.B. 1727 authorizes the board by rule to establish advisory committees to make recommendations to the board on programs, rules, and policies administered by the board. The bill requires the board, in establishing such an advisory committee, to adopt rules, including rules regarding:

- the purpose, role, responsibility, goals, and duration of the committee;
- the size of and quorum requirement for the committee;
- qualifications for committee membership;
- appointment procedures for members;
- terms of service for members;
- training requirements for members;
- policies to avoid conflicts of interest by members;
- a periodic review process to evaluate the continuing need for the committee; and
- policies to ensure the committee does not violate any provision of state open meetings law applicable to the board or the committee.

C.S.S.B. 1727 abolishes the industries advisory committee and requires the board to establish a youth career and technical education advisory committee to assist TJJJ with overseeing and coordinating vocational training for youth in TJJJ custody, including training provided by community colleges and other local entities with which TJJJ may partner. The bill requires the board to adopt for this advisory committee the operational rules required by the bill to be adopted for advisory committees established by the board by rule.

### Risk Factors and Risk Assessment Tools

C.S.S.B. 1727 requires TJJJ to develop a comprehensive set of risk factors to use in assessing the overall risk level of certain facilities and entities inspected by TJJJ under applicable law. The bill establishes that the risk factors used in an assessment, may include:

- the entity type;
- available programming;
- past and repeat standards violations;
- the volume and types of complaints received by TJJJ;
- recent leadership changes;
- high staff turnover;
- relevant findings from the office of independent ombudsman for TJJJ and the office of inspector general;
- negative media attention; and
- the number of months since the date of TJJJ's last inspection of the entity.

C.S.S.B. 1727 requires TJJJ to use the risk factors to guide the inspections process for the applicable facilities and entities by developing risk assessment tools with clear, objective standards to use in assessing the overall risk level of each entity. TJJJ may develop distinct assessment tools for different entity types, as appropriate, but TJJJ must periodically review the assessment tools to ensure that the tools remain up to date and meaningful, as determined by TJJJ.

### Risk-Based Inspections

C.S.S.B. 1727 removes certain statutorily prescribed inspection timelines and requires risk-based inspections instead. Accordingly, TJJD must adopt a policy prioritizing certain inspections it conducts under applicable state law based on the relative risk level of each entity and use the risk assessment tools established under the bill's provisions to determine how frequently and intensively it conducts risk-based inspections. For entities determined to be low risk, the policy may provide for TJJD to use alternative inspection methods to conducting in-person inspections, such as desk audits of key documentation, abbreviated inspection procedures, and videoconference technology. The bill requires a juvenile probation department or a private facility under TJJD jurisdiction, on request by TJJD, to provide information on a routine basis, as determined by TJJD, to assist TJJD in implementing a risk-based inspection schedule.

### Statistical Analysis of Complaints

C.S.S.B. 1727 requires TJJD to make available on its website a statistical analysis of the complaints received against certified officers by TJJD. The complaint analysis must include aggregate information on the number, source, type, and disposition of complaints received against certified officers during the preceding fiscal year and include the following information:

- the number of certified officers by certification type;
- the number of complaints against certified officers by certification type;
- the number of complaints resolved and the manner of resolution, including:
  - the total number of agreed, default, and board orders entered;
  - the total number of cases referred for contested case hearings by the State Office of Administrative Hearings (SOAH);
  - the total number of contested cases heard by SOAH; and
  - the total number of contested cases that were appealed to a district court;
- the average number of days required to resolve a complaint;
- a detailed analysis of the resolution for each closed complaint, by the nature of the alleged violation; and
- a detailed analysis of each closed complaint, by source.

### Regionalization Plan

C.S.S.B. 1727 does the following with respect to the TJJD regionalization plan for keeping children closer to home in lieu of commitment to TJJD secure facilities:

- requires the plan to include the following, as applicable:
  - information on TJJD compliance with statutory regionalization requirements and internal goals for diverting children from commitment to TJJD;
  - an analysis of rates of commitment to the custody of TJJD, broken down by region and county, and any relevant recommendations regarding trends in these rates; and
  - specific, actionable steps regarding how TJJD will enhance regional capacity, coordination, and collaboration among juvenile probation departments to keep children closer to home as an alternative to commitment to TJJD facilities while ensuring access to programs and the supervision necessary to maintain public safety;
- requires TJJD, in developing those steps, to consider the following:
  - options to target or expand funding for juvenile probation departments to enhance community-based programs and maximize the use of existing juvenile justice beds;
  - opportunities to use financial and other incentives to encourage diversion, facilitate cooperation within and across the regions of Texas defined in the plan, and emphasize the benefits of sharing available resources among counties;

- plans for creating additional capacity to minimize gaps in juvenile justice beds and services at the local level, including the expansion or development of beds and facilities designated specifically for regional use; and
- processes for downsizing, closing, or repurposing large state secure facilities to shift toward a more regionally based juvenile justice system;
- requires TJJD to update and submit the plan to the sunset commission and the standing legislative committees with primary jurisdiction over juvenile justice matters by December 1 of each even-numbered year, beginning in 2024, and requires TJJD, before submitting the plan, to present an updated draft of the plan to the board for public comment and board approval;
- includes the following among the parties with which TJJD must consult in developing the plan:
  - the advisory council on juvenile services;
  - juvenile probation departments;
  - regional juvenile probation associations;
  - advocacy groups;
  - parents and guardians of children under TJJD's jurisdiction;
  - individuals formerly involved in the juvenile justice system; and
  - any other stakeholder TJJD determines may be helpful; and
- authorizes TJJD to incorporate relevant suggestions, needs, or recommendations from the regionalization plan into subsequent strategic plans, legislative appropriation requests, and any other necessary document to support the plan's implementation.

### Resource Mapping

C.S.S.B. 1727 requires TJJD to partner with one or more public or private institutions of higher education to inventory and map resources available for children in the juvenile justice system. TJJD must consult with institutions of higher education, the advisory council on juvenile services, and other relevant stakeholders to determine the types of information it requires to timely identify and address resource, program, and service gaps in probation regions that result in commitments to TJJD secure facilities.

C.S.S.B. 1727 requires the board to adopt rules requiring juvenile probation departments, at useful and reasonable intervals, to report to TJJD relevant information on any identified resource, program, and service gaps, including information on the needs of children committed to TJJD that are not being met with community resources and the types of resources, programs, and services that, if available in the community, may allow juvenile probation departments to keep children closer to home in lieu of commitment to TJJD.

### Juvenile Probation Department Custody Pending Transfer

C.S.S.B. 1727 requires the board, in adopting rules providing for minimum standards for certain detention and correctional facilities, to authorize a juvenile probation department to house a child committed to TJJD in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility as the child awaits transfer to TJJD.

### State Aid for Probation Services and Probation Facilities

C.S.S.B. 1727 authorizes TJJD to incorporate as factors in the basic probation funding formula for juvenile boards measures that create incentives for diverting children from the juvenile justice system. The bill authorizes TJJD to prioritize factors for which it collects relevant information and authorizes the board to adopt rules establishing and defining these factors. When revising the basic probation funding formula, TJJD must consult and coordinate with relevant stakeholders, including the advisory council on juvenile services and the Legislative Budget Board (LBB).

C.S.S.B. 1727 authorizes TJJD to incorporate incentives into the discretionary grant funding protocols to fund programs designed to address special needs or projects of local juvenile boards that encourage collaboration between juvenile probation departments.

#### Placement of Certain Juveniles Pending Adjudication or Prosecution

C.S.S.B. 1727 requires TJJD to place a child in the most restrictive setting appropriate as the child awaits an adjudication or prosecution for conduct constituting a felony of the first or second degree while in TJJD custody. The board by rule must establish placement procedures that guide TJJD in determining the most appropriate setting for the child based on rehabilitative needs while preserving due process rights.

#### Regional Specialized Programs

C.S.S.B. 1727 requires the board, in consultation with the advisory council on juvenile services, to adopt rules requiring a juvenile probation department to apply for the placement of a child in a regional specialized program before a juvenile court commits the child to TJJD custody under applicable state law. The board by rule may establish exceptions to this requirement for offenses or circumstances TJJD considers inappropriate for diversion from commitment to state custody.

#### Commitment Information

C.S.S.B. 1727 requires TJJD, not later than October 1 of each year, to publish on its website aggregated information on the number of children committed to TJJD during the previous fiscal year, categorized by committing offense level, sentence type, age, and sex. The bill requires TJJD to publish quarterly on its website end-of-month information so described, aggregated for all children committed to TJJD and for children placed in each secure facility and halfway house. TJJD must ensure that information regarding an individual child cannot be identified in any of the aggregated information published under these provisions.

#### Employee Standards and Regulation

##### *Juvenile Probation and Detention Officer Minimum Standards*

C.S.S.B. 1727 removes statutorily prescribed education and experience requirements for juvenile probation officers. The bill requires TJJD instead to establish by rule, with input from the advisory council on juvenile services and other relevant stakeholders, the minimum education and experience requirements a person must meet to be eligible for a juvenile probation officer certification. The rules adopted by TJJD must be the least restrictive rules possible to ensure certified juvenile probation officers are qualified to protect children and public safety without creating barriers to entry into the profession.

C.S.S.B. 1727 removes a subjective moral character qualification for juvenile probation and detention officers and requires TJJD to repeal, not later than January 1, 2024, any rule requiring that an individual must be of good moral character to qualify for a TJJD certification.

##### *Certifications*

C.S.S.B. 1727 authorizes TJJD to issue a provisional certification to an employee of a juvenile probation department or a private facility that houses youth on probation until the employee is appropriately certified. The bill requires TJJD to adopt rules to implement these provisional certifications, including rules regarding eligibility for provisional certification and application procedures.

C.S.S.B. 1727 clarifies that Occupations Code provisions establishing the consequences of criminal conviction on an occupational license are applicable to the issuance of a TJJD certification.

#### Authorization to Use Appropriately Retrofitted Adult Facilities

C.S.S.B. 1727 removes the blanket prohibition against TJJD or a local probation department using or contracting with a facility that was constructed or previously used for the confinement of adult offenders and authorizes TJJD or a local probation department to do so if TJJD determines that they have been appropriately retrofitted to accommodate youth-specific requirements and needs.

#### Research Regarding Reentry and Reintegration

C.S.S.B. 1727 consolidates the following reports by TJJD:

- the biennial report submitted to the lieutenant governor, speaker of the house of representatives, and standing committees of each house of the legislature with primary jurisdiction over juvenile justice and corrections on the results of research to determine whether the comprehensive reentry and reintegration plan developed for each child committed to its custody reduces recidivism rates; and
- the biennial report submitted to the LBB on TJJD's review of the effectiveness of its programs for the rehabilitation and reestablishment in society of children committed to TJJD, including programs for females and for sex offenders, capital offenders, children who are chemically dependent, and children with mental illness.

In doing so, the bill eliminates the requirement for the review of the effectiveness of those rehabilitation and reestablishment programs to be performed annually.

#### Dissemination of Juvenile Justice Information

C.S.S.B. 1727 amends the Family Code to limit the applicability of the provision making juvenile justice information collected and maintained by TJJD for statistical and research purposes confidential and generally prohibiting that information from being disseminated by TJJD to only identifiable information. The bill establishes that information is identifiable if the information contains a juvenile offender's name or other personal identifiers or can, by virtue of sample size or other factors, be reasonably interpreted as referring to a particular juvenile offender.

C.S.S.B. 1727, with respect to the dissemination of juvenile justice information, does the following:

- retains TJJD's existing discretion in granting access to juvenile justice information for research and statistical purposes or for any other TJJD-approved purpose to any of the following, but limits that discretion to only the confidential, identifiable information:
  - a criminal justice agency;
  - the Texas Education Agency;
  - an agency under the authority of HHSC;
  - DFPS; and
  - an individual or entity that is working on a research or statistical project that meets the requirements of and is approved by TJJD and that has a specific agreement with TJJD regarding the access to and limited uses of that information;
- removes TJJD's discretion in granting access to juvenile justice information that is not identifiable by making it mandatory for TJJD to grant access to that information to the same agencies and universities subject to the previous authorization; and
- requires TJJD to grant access to the non-identifiable juvenile justice information for research or statistical purposes or for any other TJJD-approved purpose to an individual or entity working on a research or statistical project without regard to the funding source



and without the requirement for the individual or entity to enter into a specific agreement with TJJD regarding the information.

#### Reduced Period of Participation in Highly Structured Residential Program

C.S.S.B. 1727 authorizes TJJD to reduce the period in which a child at sanction level six is required to participate in a highly structured residential program and requires the reason for the reduction to be documented.

### **Office of Independent Ombudsman for TJJD**

#### Purpose and Scope of Duties

C.S.S.B. 1727 includes among the purposes of the office investigating, evaluating, and securing the rights of children who are adjudicated for conduct that constitutes an offense and placed in a facility operated by or contracted with a juvenile probation department or juvenile board. The bill makes related revisions to the office's powers and duties and other state law to reflect this expanded purpose, among them provisions granting access to the office to the records of a local law enforcement agency, the records of a private entity, and the records of a juvenile probation department that relate to a child so adjudicated. The bill requires the office to review and investigate complaints filed with the office concerning the actions of juvenile probation departments or other entities operating facilities in which children adjudicated for conduct that constitutes an offense are placed.

#### Complaint Status Notification

C.S.S.B. 1727 establishes an exception to the requirement for the office to periodically notify parties to a complaint of the status of the complaint until final disposition for instances in which that notice would jeopardize an investigation.

#### Risk Factors and Assessment Tools

C.S.S.B. 1727 requires the office to develop a comprehensive set of risk factors to use in assessing the overall risk level of facilities and entities the office has the power to inspect and establishes that the risk factors used in an assessment may include:

- the entity type;
- past and repeat children's rights violations;
- the volume and types of complaints received by the office;
- recent changes in a facility or parole office leadership;
- high staff turnover;
- relevant investigations by the TJJD office of the inspector general;
- negative media attention; and
- the number of months since the date of the office's last inspection of the entity.

C.S.S.B. 1727 requires the office to use those risk factors to guide the inspections of applicable facilities and entities and of TJJD parole offices by developing risk assessment tools with clear, objective standards to use in assessing the overall risk level of each facility, entity, or parole office. The bill authorizes the office to develop distinct assessment tools for different entity types, as appropriate, and requires the office to periodically review the assessment tools to ensure that the tools remain up to date and meaningful, as determined by the office.

#### Risk-Based Inspections

C.S.S.B. 1727 requires the office to adopt a policy prioritizing the inspection of facilities and of TJJD parole offices based on the relative risk level of each entity and, with respect to this policy:

- requires the office to use the risk assessment tools to determine how frequently and intensively the office conducts risk-based inspections;
- authorizes the policy to provide for the office to use, for entities determined to be low risk, alternative inspection methods to conducting in-person inspections, such as desk audits of key documentation, abbreviated inspection procedures, and videoconference technology; and
- requires TJJD, a juvenile probation department, or a private facility under the office's jurisdiction, on request by the office, to provide information on a routine basis, as determined by the office, to assist the office in implementing the risk-based inspection schedule.

#### Notification Regarding Private Facility Contracts

C.S.S.B. 1727 requires TJJD and juvenile probation departments to notify the office of independent ombudsman regarding any private facility with which TJJD or the juvenile probation department contracts to place children adjudicated as having engaged in conduct indicating a need for supervision or delinquent conduct. The report under this provision must be made annually and must be updated at the time a new contract is entered into with such a facility. The bill requires the office to adopt rules to implement the reporting requirement, including the specific times the report must be made.

#### **Office of Inspector General of TJJD**

C.S.S.B. 1727 includes the following among the purposes of the TJJD office of inspector general:

- detecting crimes committed by TJJD employees and crimes and delinquent conduct committed at applicable facilities;
- investigating complaints of abuse, neglect, or exploitation of:
  - juveniles housed in a pre-adjudication or post-adjudication public or private secure or nonsecure facility regardless of licensing entity; and
  - juveniles committed to TJJD;
- apprehending juveniles after escape or violation of release conditions;
- investigating gang-related activity within the juvenile justice system; and
- performing entry security and exterior perimeter security searches for a TJJD-operated secure correctional facility.

The bill requires the office of inspector general to operate the incident reporting center for TJJD. The bill transfers from TJJD to the office of inspector general the duty to operate the toll-free number for receiving information concerning the abuse, neglect, or exploitation of children in the custody of TJJD or housed in a local probation facility and clarifies that the office must share the complaints received with the appropriate TJJD entity. The bill grants the office of inspector general concurrent jurisdiction on agreement with the local law enforcement agency to conduct a criminal investigation of a complaint of abuse, neglect, or exploitation of juveniles committed to TJJD or housed in an applicable facility.

C.S.S.B. 1727 requires the board by rule to require any findings related to an administrative investigation by the office of inspector general of complaints involving allegations of abuse, neglect, or exploitation of children in juvenile justice programs or facilities to be reviewed for legal sufficiency before being made public.

C.S.S.B. 1727 revises the requirement for the office of inspector general to prepare and deliver a report concerning the results of investigations conducted by the office of inspector general to certain recipients as follows:

- by replacing the requirement to deliver the report to all the specified recipients with an authorization to deliver the report to any of the specified recipients; and
- with respect to the recipients to whom the report may be delivered:
  - by replacing the board with TJJD;

- by removing the TJJJ executive director; and
- by including the appropriate district or county attorney.

The bill revises the contents of the report to account for the office's authority to investigate abuse, neglect, or exploitation complaints. The bill prohibits an individual or entity that receives a report from disclosing the information unless otherwise authorized by law.

C.S.S.B. 1727 provides for the consolidation of certain quarterly reports by doing the following:

- repealing the requirement for TJJJ to prepare and deliver a quarterly report to the board concerning the final outcome of any complaint that concerns the abuse, neglect, or exploitation of a juvenile;
- requiring instead that the chief inspector general's quarterly report concerning the operations of the office of inspector general include information relating to the final disposition of any complaint received by TJJJ that relates to juvenile probation departments or that concerns the abuse, neglect, or exploitation of a juvenile.

The bill also includes the special prosecution unit among the recipients of the chief inspector general's quarterly report and specifies that the requirement for that report to include information relating to the number of investigations conducted concerning suicides, deaths, and hospitalizations of children in the custody of TJJJ applies with respect to children at secure facilities, on parole, or at other placement locations.

C.S.S.B. 1727 repeals authorizations for TJJJ 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 and to employ and commission apprehension specialists as peace officers for the purpose of apprehending a child. The bill authorizes the office of inspector general instead to employ investigators and security officers for the purpose of carrying out the duties of the office. The bill also replaces the authorization for the office to commission inspectors general as peace officers with the authorization for the office to appoint inspectors general as peace officers.

C.S.S.B. 1727 requires TJJJ to ensure that a peace officer appointed by the office of inspector general is compensated according to Schedule C of the position classification salary schedule prescribed by the General Appropriations Act. The bill includes temporary provisions set to expire September 1, 2025, requiring the classification officer in the office of the state auditor to classify the position of appointed peace officer employed by the office of inspector general as a Schedule C position under the Texas Position Classification Plan and specifying that such change applies beginning with the 2024-2025 state fiscal biennium.

C.S.S.B. 1727 amends the Code of Criminal Procedure to expand the definition of "designated law enforcement office or agency" for purposes of statutory provisions relating to the installation and use of tracking equipment and access to certain communications to include the office of inspector general. The bill also expands the definition of "authorized peace officer" for purposes of those provisions to include a law enforcement officer appointed by the office of inspector general. The bill requires the inspector general of TJJJ or the inspector general's designee to do the following:

- if the public safety director of the Department of Public Safety (DPS) or the director's designee approves the office of inspector general's policy governing the application of statutory provisions relating to the installation and use of tracking equipment and access to certain communications, submit to the director a written list of all officers appointed by the office of inspector general who are authorized to possess, install, operate, or monitor pen registers, ESN readers, or similar equipment; and
- submit to the director a written report of expenditures made by the office of inspector general to purchase and maintain such equipment.

The bill authorizes the office of inspector general to issue an administrative subpoena to a communication common carrier or a provider of an electronic communications service to compel the production of any carrier's or service provider's business records that are material to a criminal investigation and that disclose information about the carrier's or service provider's

customers or about users of services offered by the carrier or service provider. The bill requires the office of inspector general to report to DPS the issuance of an administrative subpoena not later than the 30th day after the date on which the subpoena is issued.

C.S.S.B. 1727 amends the Government Code to entitle a peace officer appointed by the office of inspector general to injury leave, without a deduction in salary or being required to use any other type of leave, for an injury sustained due to the nature of the officer's duties that occurs during the performance of such duties, except if an officer's gross negligence contributed to the officer's injury or if the injury was related to the performance of routine office duties. This provision applies only to an injury that occurs on or after the bill's effective date.

C.S.S.B. 1727 entitles the following state employees to compensatory time off if they are required to work on a national or state holiday that falls on a Saturday or Sunday:

- a state employee who is employed by TJJJ to perform communication service duties for the incident reporting center and to assist law enforcement officers appointed by the office of inspector general in performing investigative duties; and
- a state employee who is employed as a security officer providing security and entry searches for secure correctional facilities operated by TJJJ.

### **Repealed Provisions**

C.S.S.B. 1727 repeals the following provisions:

- Sections 58.009(d), (f), and (g), Family Code;
- Section 221.011, Human Resources Code;
- Section 221.055, Human Resources Code;
- Sections 222.001(b) and (f), Human Resources Code;
- Sections 242.002(a) and (b), Human Resources Code;
- Section 243.052, Human Resources Code; and
- Section 246.002, Human Resources Code.

### **EFFECTIVE DATE**

September 1, 2023.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1727 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

#### **Continuation and Limited Scope Review**

The engrossed continued the Texas Juvenile Justice Board and TJJJ under the Texas Sunset Act until September 1, 2025, and provided for the sunset commission to conduct a limited-scope review of TJJJ for the 89th Legislature.

Instead, the substitute continues the Texas Juvenile Justice Board and TJJJ under the act until September 1, 2029, and does not provide for any such limited-scope review by the commission.

#### **Texas Juvenile Justice Board**

Whereas the engrossed reduced the number of board members who are county commissioners from three to one, the substitute reduces the number from three to two.

Whereas the engrossed reduced the number of board members who are representatives of the general public from three to one, the substitute reduces the number from three to two.

## **Advisory Council on Juvenile Services**

Both the engrossed and substitute require the board to adopt rules regarding the appropriate level of participation from the following ex officio advisory council members:

- TJJJ's executive director, director of probation services, and director of state programs and facilities or those officials' designees; and
- the executive commissioner of HHSC or the commissioner's designee.

The substitute, however, also includes the commissioner of DFPS or the commissioner's designee among those council members for purposes of that rule requirement.

## **Certain Risk-Based Inspections**

While both the engrossed and substitute require a juvenile probation department or a private facility under TJJJ jurisdiction, on request by TJJJ, to provide information to assist TJJJ in implementing a risk-based inspection schedule, the substitute specifies that the information must be provided on a routine basis, as determined by TJJJ.

While both the engrossed and substitute require TJJJ, a juvenile probation department, or a private facility under the jurisdiction of the office of the independent ombudsman, on request by the office, to provide information to assist the office in implementing a risk-based inspection schedule, the substitute specifies that the information must be provided on a routine basis, as determined by the office.

## **Reduced Period of Participation in Highly Structured Residential Program**

The substitute includes an authorization for TJJJ to reduce the minimum period of participation in a highly structured residential program by a child at sanction level six and a requirement for TJJJ to document the reason for the reduction, which were not in the engrossed.

## **Regionalization Plan**

The substitute includes a requirement, which did not appear in the engrossed, for the TJJJ regionalization plan to include an analysis of rates of commitment to the custody of TJJJ, broken down by region and county, and any relevant recommendations regarding trends in these rates.

## **Dissemination of Juvenile Justice Information**

The substitute revises provisions relating to the dissemination of juvenile justice information by TJJJ, including by limiting the application of a confidentiality provision to only identifiable information and removing TJJJ's discretion regarding whether to grant access to juvenile justice information that is not identifiable information for research or statistical purposes or for any other purpose approved by TJJJ to specified individuals and entities by requiring TJJJ to do so. The engrossed did not revise those provisions.

## **Referral of Certain Determinate Sentence Offenders for Transfer**

The substitute omits the requirement from the engrossed for TJJJ to refer a determinate sentenced child to the juvenile court that entered the commitment order for approval of the child's transfer to the Texas Department of Criminal Justice for confinement after a child so sentenced becomes 16 years of age but before the child becomes 19 years of age under certain conditions.

## Office of Inspector General

The substitute includes provisions absent from the engrossed that do the following with respect to the TJJD office of inspector general:

- revise the office's established purposes;
- grant the office concurrent jurisdiction on agreement with the local law enforcement agency to conduct a criminal investigation of an applicable complaint of abuse, neglect, or exploitation of juveniles;
- transfer from TJJD to the office of inspector general the duty to operate the toll-free number for receiving information concerning the abuse, neglect, or exploitation of children in the custody of TJJD or housed in a local probation facility;
- require the office of inspector general to operate the incident reporting center for TJJD; and
- revise the office's responsibilities with respect to the preparation and delivery of reports concerning the results of investigations conducted by the office and prohibit a recipient of such a report from disclosing the information unless otherwise authorized by law.

The substitute repeals provisions authorizing TJJD to employ and commission investigators and apprehension specialists as peace officers, authorizes the office of inspector general instead to employ investigators and security officers, and clarifies that the office's inspectors general are appointed as peace officers instead of commissioned as such, whereas the engrossed did not make any of these changes. The substitute also includes provisions that were not in the engrossed providing for peace officers employed by the office of inspector general to be compensated according to Schedule C of the position classification salary schedule.

The substitute includes provisions absent from the engrossed providing for the consolidation and revision of certain quarterly report requirements. Specifically, the substitute does the following:

- eliminates the requirement for TJJD to prepare and deliver a quarterly report to the board concerning the final outcome of any complaint that concerns the abuse, neglect, or exploitation of a juvenile;
- requires the chief inspector general's quarterly report to include information relating to the final disposition of any complaint received by TJJD that relates to juvenile probation departments or that concerns the abuse, neglect, and exploitation of a juvenile;
- includes the special prosecution unit among the recipients of the chief inspector general's quarterly report; and
- specifies that the requirement for that quarterly report to include information relating to the number of investigations conducted concerning suicides, deaths, and hospitalizations of children in the custody of TJJD applies with respect to such children at secure facilities, on parole, or at other placement locations.

The substitute includes provisions absent from the engrossed that do the following:

- provide for the application of statutory provisions relating to the installation and use of tracking equipment and access to certain communications to the office of inspector general and its appointed law enforcement officers;
- entitle a peace officer appointed by the office of inspector general to injury leave for an injury sustained due to the nature of the officer's duties that occurs during the performance of such duties, with certain exceptions; and
- entitle the following state employees to compensatory time off if they are required to work on a national or state holiday that falls on a Saturday or Sunday:
  - a state employee who is employed by TJJD to perform communication service duties for the incident reporting center and to assist law enforcement officers appointed by the office of inspector general in performing investigative duties; and
  - a state employee who is employed as a security officer providing security and entry searches for secure correctional facilities operated by TJJD.