

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1727
By: Schwertner et al.
Criminal Justice
3/29/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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 165 county juvenile probation departments. While TJJD's functions remain necessary, the Sunset Advisory Commission found 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, the agency's governing board has not provided the consistent, engaged leadership needed to guide the juvenile justice system out of ongoing crises. TJJD is subject to abolishment under the Sunset Act on September 1, 2023, unless continued by the legislature.

The Sunset Advisory Commission also found the Office of the Independent Ombudsman (OIO) continues to fulfill a critical role by securing the rights of post-adjudicated youth. However, its statutory authority and inspection procedures require updates to minimize risks impacting youth, staff, and county stakeholders. OIO is not subject to abolishment under the Sunset Act.

Major Provisions in the Sunset Bill:

- Continues TJJD for two years, and requires Sunset staff to conduct a limited-scope review of the agency during the 2024-24 biennium.
- Sweeps TJJD's board, reduces its size from 13 to nine members, and strengthens its oversight and training requirements.
- Advances legislative regionalization reforms designed to keep youth closer to home.
- Aligns TJJD's regulation of juveniles facilities and county-level employees with best practices
- Revises various confinement practices for justice-involved youth.
- Updates OIO's statute to align with the office's current practices and ongoing needs

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1727 amends current law relating to the continuation and functions of the Texas Juvenile Justice Department and the functions of the office of independent ombudsman for the Texas Juvenile Justice Department.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Juvenile Justice Board in SECTION 12 (Section 203.0081, Human Resources Code), SECTION 13 (Section 203.0083, Human Resources Code), SECTION 17 (Section 203.0185, Human Resources Code), SECTION 23 (Section 223.001, Human Resources Code), SECTION 28 (Section 242.102, Human Resources Code), and SECTION 29 (Section 243.001, Human Resources Code) of this bill.

Rulemaking authority previously granted the Texas Juvenile Justice Board is modified in SECTION 18 (Section 221.002, Human Resources Code) of this bill.

Rulemaking authority is expressly granted to the Texas Juvenile Justice Department in SECTION 20 (Section 222.001, Human Resources Code) and SECTION 22 (Section 222.0522, Human Resources Code) of this bill.

Rulemaking authority is expressly granted to the independent ombudsman in SECTION 39 (Section 261.101, Human Resources Code) of this bill.

Rulemaking authority previously granted to the Texas Juvenile Justice Board is rescinded in SECTION 45 (Section 222.001, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.12(c-1), Family Code, to require Texas Juvenile Justice Department (TJJD) to inspect, rather than annually inspect, each public or private juvenile pre-adjudication secure detention facility.

SECTION 2. Amends Section 51.125(c), Family Code, to require TJJD to inspect, rather than to annually inspect, each public or private juvenile post-adjudication secure correctional facility that is not operated by TJJD.

SECTION 3. Amends Section 51.126(c), Family Code, to require TJJD to inspect, rather than to annually inspect, each nonsecure correctional facility.

SECTION 4. Amends Sections 51.20(a), (b), (c), and (d), Family Code, to replace references to mental retardation and mental retardation facility with intellectual disability and intellectual and developmental disability authority, respectively, throughout.

SECTION 5. Amends Section 56.01(c), Family Code, as follows:

(c) Authorizes an appeal to be taken:

(1) except as provided by Subsection (n) (relating to prohibiting a child who enters a plea or agrees to a stipulation of evidence in a proceeding held under this title from appealing an order of the juvenile court entered under certain sections), by or on behalf of a child from an order entered under:

(A)-(D) makes no changes to these paragraphs; or

(E) Chapter 55 (Proceedings Concerning Children with Mental Illness or Intellectual Disability) by a juvenile court committing a child to a facility for persons with mental illness or intellectual disabilities, rather than the mentally ill or intellectually disabled; or

(2) makes no changes to this subdivision.

SECTION 6. Amends Sections 202.001(a) and (b), Human Resources Code, as follows:

(a) Provides that the Texas Juvenile Justice Board (board) is composed of the following nine, rather than 13, members appointed by the governor with the advice and consent of the senate:

(1) makes no changes to this subdivision;

(2) one member who is a member of a county commissioners court with juvenile justice experience, rather than three members who are members of a county commissioners court;

(3)-(6) makes no changes to these subdivisions;

(7) one adolescent mental health treatment professional licensed under Subtitle B (Physicians) or I (Regulation of Psychology and Counseling), Title 3, Occupations Code, or a representative from a local mental health authority

designated under Chapter 533 (Powers and Duties of Department of State Health Services), Health and Safety Code, who has experience working with children;

(8) one member who is an educator, as that term is defined by Section 5.001 (Definitions), Education Code, with juvenile justice experience, or a juvenile justice professional with experience managing a secure juvenile justice facility operated by TJJD or a county; and

(9) one member, rather than three members, of the general public.

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

SECTION 7. Amends Section 202.005, Human Resources Code, as follows:

Sec. 202.005. BOARD MEMBER RECUSAL. (a) Prohibits a chief juvenile probation officer who is a board member from voting or rendering any decisions regarding matters of officer discipline, rather than abuse and neglect, presented to the board regarding the chief juvenile probation officer's department.

(a-1) Requires the member, if a juvenile justice professional is appointed as a board member under Section 202.001(a)(8), to 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. Prohibits the professional from voting or rendering any decisions regarding matters of officer discipline presented to the board regarding any juvenile probation department or facility the professional is employed by or works for under a contract.

(b) Authorizes the board to adopt recusal requirements in addition to those described by Subsections (a) and (a-1), rather than by Subsection (a), including requirements that are more restrictive than those described by those subsections.

SECTION 8. Amends Section 202.006, Human Resources Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires that the training program provide the person with information regarding:

(1) the law governing TJJD operations, rather than the legislation that created TJJD;

(2) makes no changes to this subdivision;

(3) the scope of and limitations on the rulemaking authority of the board;

(4) creates this subdivision from existing text;

(5) the requirements of laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest, and other laws applicable to members of a state policymaking body in performing their duties; and

(6) creates this subdivision from existing text.

(d) Requires the executive director of TJJD (executive director) to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each member of the board. Requires each member of the board to sign and submit to the executive director a

statement acknowledging that the member received and has reviewed the training manual.

SECTION 9. Amends Section 202.010, Human Resources Code, as follows:

Sec. 202.010. SUNSET PROVISION. Provides that the board and TJJD are subject to Chapter 325 (Sunset Law), Government Code. Provides that the board and TJJD are abolished September 1, 2025, rather than September 1, 2023, unless continued in existence as provided by that chapter.

SECTION 10. Amends Section 203.001, Human Resources Code, by adding Subsections (b-1) and (b-2), as follows:

(b-1) Authorizes the board to delegate to the executive director the board's responsibilities as the board determines appropriate.

(b-2) Requires the board, in making a delegation under Subsection (b-1), to provide:

(1) to the executive director with respect to each delegation: clear direction; performance measures; and reporting requirements; and

(2) to TJJD, sufficient oversight to ensure that delegated responsibilities are performed according to the mission and funding priorities described by Subsection (c) (relating to requiring the board to establish the mission of TJJD with the goal of establishing a cost-effective continuum of youth services that emphasizes keeping youth in their home communities while balancing the interests of rehabilitative needs with public safety).

(b-3) Provides that the executive director is a full-time employee of the board and is required to 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 this subtitle or designated by the board.

(b-4) Prohibits the executive director from performing a discretionary or decision-making function for which the board is solely responsible.

SECTION 11. Amends Section 203.002, Human Resources Code, as follows:

Sec. 203.002. EXECUTIVE DIRECTOR. (a) Creates this subsection from existing text.

(b) Requires the executive director to possess the following minimum qualifications:

(1) five years of experience in the field of juvenile corrections or congregate care in an administrative capacity;

(2) 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

(3) seven years of experience in management and administration of a government agency, institution of higher education, or business enterprise of a size comparable to TJJD.

(c) Requires TJJD to track the frequency with which the executive director takes the following actions as defined by TJJD rule:

(1) selects a child for a conditional placement;

- (2) selects a child for a home placement;
 - (3) 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;
 - (4) waives the requirement for a child to be on intensive supervision when initially released on parole;
 - (5) authorizes early discharges for a child on parole; or
 - (6) finalizes an appeal brought by an advocacy group or social service provider who was denied certain access to TJJD facilities.
- (d) Requires the executive director to provide the board and the Sunset Advisory Commission at the beginning of each calendar quarter aggregated data on the number of times each action described by Subsection (c) was taken during the previous calendar quarter.

SECTION 12. Amends Section 203.0081, Human Resources Code, by amending Subsections (a) and (e) and adding Subsection (c-1), as follows:

(a) Provides that the advisory council on juvenile services consists of:

- (1)-(5) makes no changes to these subdivisions;
- (6)-(7) makes nonsubstantive changes to these subdivisions; and
- (8) the commissioner of the Department of Family and Protective Services or the commissioner's designee.

(c-1) Requires the board to adopt rules regarding:

- (1) the purpose, role, responsibility, goals, and duration of the advisory council;
- (2) the quorum requirement for the advisory council;
- (3) training requirements for advisory council members;
- (4) policies to avoid conflicts of interest by advisory council members;
- (5) a periodic review process to evaluate the continuing need for the advisory council;
- (6) policies to ensure the advisory council does not violate any provision of Chapter 551 (Open Meetings), Government Code, applicable to the board or the advisory council;
- (7) the appropriate level of participation from ex officio advisory council members designated under Subsections (a)(1)-(4); and
- (8) reporting requirements and other communication procedures between the board and the advisory council.

(e) Requires the advisory council to assist TJJD in:

- (1)-(3) makes no changes to these subdivisions;
- (4) makes a nonsubstantive change to this subdivision;

(5) assessing and developing recommendations to improve the sharing of information between agencies that serve children, including agencies serving children in both the juvenile justice and child welfare systems; and

(6) creates this subdivision from existing text.

SECTION 13. Amends Chapter 203, Human Resources Code, by adding Sections 203.0083, 203.0084, 203.0085, and 203.0101, as follows:

Sec. 203.0083. **AUTHORITY TO ESTABLISH ADVISORY COMMITTEES.** (a) Authorizes the board by rule to establish advisory committees to make recommendations to the board on programs, rules, and policies administered by the board.

(b) Requires the board, in establishing an advisory committee under this section, to adopt rules, including rules regarding:

(1) the purpose, role, responsibility, goals, and duration of the committee;

(2) the size of and quorum requirement for the committee;

(3) qualifications for committee membership;

(4) appointment procedures for members;

(5) terms of service for members;

(6) training requirements for members;

(7) policies to avoid conflicts of interest by members;

(8) a periodic review process to evaluate the continuing need for the committee; and

(9) policies to ensure the committee does not violate any provision of Chapter 551, Government Code, applicable to the board or the committee.

(c) Requires the board to establish a youth career and technical education advisory committee and adopt rules required by Subsection (a) for the committee. Requires the advisory committee to assist TJJJ with overseeing and coordinating vocational training for youth in the custody of TJJJ, including training provided by community colleges and other local entities with which TJJJ is authorized to partner.

Sec. 203.0084. **RISK FACTORS AND RISK ASSESSMENT TOOLS.** (a) Requires TJJJ to develop a comprehensive set of risk factors to use in assessing the overall risk level of the facilities and entities inspected by TJJJ under:

(1) Chapter 51 (General Provisions), Family Code;

(2) Section 221.008 (Inspections and Audits) of this code; and

(3) Subtitle C (Secure Facilities), Title 12, of this code.

(b) Authorizes the risk factors described by Subsection (a) to include:

(1) the entity type;

(2) available programming;

- (3) past and repeat standards violations;
- (4) the volume and types of complaints received by TJJD;
- (5) recent leadership changes;
- (6) high staff turnover;
- (7) relevant findings from the office of independent ombudsman (office) and the office of inspector general;
- (8) negative media attention; and
- (9) the number of months since the date of TJJD's last inspection of the entity.

(c) Requires TJJD to use the risk factors developed under this section to guide the inspections process for all facilities and entities described by Subsection (a) by developing risk assessment tools with clear, objective standards to use in assessing the overall risk level of each entity.

(d) Authorizes TJJD to develop distinct assessment tools under Subsection (c) for different entity types, as appropriate.

(e) Requires TJJD to periodically review the assessment tools developed under this section to ensure that the tools remain up to date and meaningful, as determined by TJJD.

Sec. 203.0085. RISK-BASED INSPECTIONS. (a) Requires TJJD to adopt a policy prioritizing inspections conducted by TJJD under Chapter 51, Family Code; Section 221.008 of this code; and Subtitle C, Title 12, of this code.

(b) Requires that the policy under Subsection (a) require TJJD to prioritize the inspection of entities based on the relative risk level of each entity and use the risk assessment tools established under Section 203.0084 to determine how frequently and intensively TJJD conducts risk-based inspections.

(c) Authorizes the policy under Subsection (a) to provide for TJJD to use alternative inspection methods for entities determined to be low risk, including the following methods: desk audits of key documentation, abbreviated inspection procedures, videoconference technology, and other methods that are an alternative to conducting an in-person inspection.

(d) Requires a juvenile probation department or a private facility under TJJD's jurisdiction, on request by TJJD, to provide information to assist TJJD in implementing a risk-based inspection schedule.

Sec. 203.0101. STATISTICAL ANALYSIS OF COMPLAINTS. (a) Requires TJJD to make available on TJJD's Internet website a statistical analysis of the complaints received against certified officers by TJJD.

(b) Requires that the complaint analysis under this section 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:

- (1) the number of certified officers by certification type;
- (2) the number of complaints against certified officers by certification type;

(3) the number of complaints resolved and the manner of resolution, including:

(A) the total number of agreed, default, and board orders entered;

(B) the total number of cases referred for contested case hearings by the State Office of Administrative Hearings;

(C) the total number of contested cases heard by the State Office of Administrative Hearings; and

(D) the total number of contested cases that were appealed to a district court;

(4) the average number of days required to resolve a complaint;

(5) a detailed analysis of the resolution for each closed complaint, by the nature of the alleged violation; and

(6) a detailed analysis of each closed complaint, by source.

SECTION 14. Amends Section 203.013, Human Resources Code, by adding Subsection (c), to require the executive director to acknowledge receipt of and discuss the results of internal audits with the board.

SECTION 15. Amends Section 203.017, Human Resources Code, by adding Subsections (a-1), (a-2), (b-1), and (e-1) and amending Subsection (e), as follows:

(a-1) Requires TJJD, not later than December 1, 2024, to update and submit the regionalization plan developed under Subsection (a) (relating to requiring TJJD to develop and the board to adopt a regionalization plan for keeping children closer to home in lieu of commitment to the secure facilities operated by TJJD) to the Sunset Advisory Commission and standing legislative committees with primary jurisdiction over juvenile justice matters by December 1 of each even-numbered year. Requires TJJD, before submitting the plan, to present an updated draft of the regionalization plan to the board for public comment and board approval.

(a-2) 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.

(b-1) Requires TJJD, in addition to the requirements of Subsection (b) (relating to requiring TJJD to consult with juvenile probation departments in developing a regionalization plan), in developing the regionalization plan, to consult with:

(1) the advisory council on juvenile services;

(2) juvenile probation departments;

(3) regional juvenile probation associations;

(4) advocacy groups;

(5) parents and guardians of children under the jurisdiction of TJJD;

(6) individuals formerly involved in the juvenile justice system; and

(7) any other stakeholder TJJD determines may be helpful.

(e) Requires that the regionalization plan, as applicable:

(1)-(2) makes no changes to these subdivisions;

(3) redesignates Subdivision (4) as Subdivision (3);

(4) include information on TJJD's compliance with statutory regionalization requirements and internal goals for diverting children from commitment to TJJD; and

(5) include 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's facilities while ensuring access to programs and the supervision necessary to maintain public safety.

Deletes existing text requiring that the regionalization plan include sufficient mechanisms to divert at least 30 juveniles from commitment to secure facilities operated by TJJD for the state fiscal year beginning September 1, 2015, and 150 juveniles from commitment to secure facilities operated by TJJD for the state fiscal year beginning September 1, 2016.

(e-1) Requires TJJD, in developing the steps under Subsection (e)(5), to consider:

(1) options to target or expand funding for juvenile probation departments to enhance community-based programs and maximize the use of existing juvenile justice beds;

(2) opportunities to use financial and other incentives to encourage diversion, facilitate cooperation within and across the regions established under Subsection (c) (relating to requiring the regionalization plan to define regions of the state to be served by facilities operated by juvenile probation departments, counties, halfway houses, or private operators, based on the post-adjudication facilities identified as being available for the purpose of the plan), and emphasize the benefits of sharing available resources among counties;

(3) 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

(4) processes for downsizing, closing, or repurposing large state secure facilities to shift toward a more regionally-based juvenile justice system.

SECTION 16. Amends Section 203.018(e), Human Resources Code, as follows:

(e) Authorizes, rather than prohibits, TJJD or any local probation department to use or contract with a facility that was constructed or previously used for the confinement of adult offenders if TJJD determines that the facility is appropriately retrofitted to accommodate youth-specific requirements and needs.

SECTION 17. Amends Chapter 203, Human Resources Code, by adding Section 203.0185, as follows:

Sec. 203.0185. RESOURCE MAPPING. (a) 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. Requires TJJD, to determine the types of information TJJD requires to timely identify and address resource, program, and service gaps in probation regions that result in commitments to TJJD secure facilities, to consult with institutions of higher education, the advisory council on juvenile services, and other relevant stakeholders.

(b) Requires the board to adopt rules requiring juvenile probation departments, at useful and reasonable intervals, to report to TJJD relevant information on resource, program, and service gaps identified under Subsection (a), including information on the needs of children committed to TJJD that are not being met with community resources and on the types of resources, programs, and services that, if available in the community, may allow juvenile probation departments to keep children closer to home as an alternative to commitment to TJJD.

SECTION 18. Amends Section 221.002, Human Resources Code, by adding Subsection (d-1), as follows:

(d-1) Requires the board, in adopting rules under Subsection (a)(4) (relating to the board adopting rules that provide 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), 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.

SECTION 19. Amends Section 221.056(a), Human Resources Code, as follows:

(a) Authorizes TJJD to contract with a local mental health authority, rather than local mental health and mental retardation authority, 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. Authorizes TJJD to work in cooperation with the local mental health authority, rather than local mental health and mental retardation authority, to provide mental health residential treatment services for juveniles residing at a facility established under Section 221.056 (Residential Treatment Facility).

SECTION 20. Amends Section 222.001, Human Resources Code, by amending Subsection (a) and adding Subsection (b-1), as follows:

(a) Deletes existing text requiring a person who was not employed as a probation officer before September 1, 1981, to be eligible for appointment as a probation officer, to be of good moral character; have acquired a bachelor's degree conferred by a college or university accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board; and have either one year of graduate study in criminology, corrections, counseling, law, social work, psychology, sociology, or other field of instruction approved by TJJD, or one year of experience in full-time case work, counseling, or community or group work in a social service, community, corrections, or juvenile agency that deals with offenders or disadvantaged persons and that TJJD determines provides the kind of experience necessary to meet this requirement. Makes nonsubstantive changes.

(b-1) Requires TJJD by rule to establish, with input from the advisory council on juvenile services and other relevant stakeholders, the minimum education and experience requirements a person is required to meet to be eligible for a juvenile probation officer certification. Provides that rules adopted by TJJD under this subsection are required to 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.

SECTION 21. Amends Section 222.002, Human Resources Code, as follows:

Sec. 222.002. MINIMUM STANDARDS FOR DETENTION OFFICERS. Deletes existing text requiring a person who was not employed as a detention officer before

September 1, 2005, to be eligible for appointment as a detention officer, to be of good moral character. Makes nonsubstantive changes.

SECTION 22. Amends Subchapter B, Chapter 222, Human Resources Code, by adding Sections 222.0521 and 222.0522, as follows:

Sec. 222.0521. APPLICATION OF CERTAIN LAW. Provides that Chapter 53 (Consequences of Criminal Conviction), Occupations Code, applies to the issuance of a certification issued by TJJD.

Sec. 222.0522. PROVISIONAL CERTIFICATION. (a) 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 certified under Section 222.001 (Minimum Standards for Probation Officers), 222.002, or 222.003 (Minimum Standards for Certain Employees of Nonsecure Correctional Facilities), as applicable.

(b) Requires TJJD to adopt rules to implement Subsection (a), including rules regarding eligibility for provisional certification and application procedures.

SECTION 23. Amends Section 223.001, Human Resources Code, by adding Subsections (a-1), (a-2), and (d-1) and amending Subsection (c), as follows:

(a-1) Authorizes TJJD to incorporate as factors in the basic probation funding formula under Subsection (a) (relating to requiring TJJD to annually allocate funds for financial assistance to juvenile boards to provide juvenile services according to certain factors) measures that create incentives for diverting children from the juvenile justice system. Authorizes TJJD to prioritize factors for which TJJD currently collects relevant information. Authorizes the board to adopt rules establishing and defining the factors under this subsection.

(a-1) Requires TJJD, when revising the basic probation funding formula under Subsection (a), to consult and coordinate with relevant stakeholders, including the advisory council on juvenile services and the Legislative Budget Board (LBB).

(c) Authorizes TJJD to incorporate incentives into the discretionary grant funding protocols that encourage collaboration between juvenile probation departments.

(d-1) 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's custody under Chapter 54 (Judicial Proceedings), Family Code. Authorizes the board to by rule to establish exceptions to this requirement for offenses or circumstances TJJD considers inappropriate for diversion from commitment to state custody.

SECTION 24. Amends Chapter 241, Human Resources Code, by adding Section 241.009, as follows:

Sec. 241.009. COMMITMENT INFORMATION. (a) Requires TJJD, not later than October 1 of each year, to publish on TJJD's Internet 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.

(b) Requires TJJD to publish quarterly on TJJD's Internet website current information end-of-month data described by Subsection (a), aggregated for all children committed to TJJD and for children placed in each secure facility and halfway house.

(c) Requires TJJD to ensure that information regarding an individual child cannot be identified in any of the aggregated information published under this section.

SECTION 25. Amends the heading to Section 242.002, Human Resources Code, to read as follows:

Sec. 242.002. TREATMENT PROGRAMS; AVAILABILITY.

SECTION 26. Amends Sections 242.002(c) and (d), Human Resources Code, as follows:

(c) Requires TJJD to offer or make available 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, rather than programs as described by Subsection (a) (relating to requiring TJJD to annually review the effectiveness of TJJD's programs for the rehabilitation and reestablishment in society of children committed to TJJD, including certain programs), in an adequate manner so that a child in the custody of TJJD receives appropriate rehabilitation services recommended for the child by the court committing the child to TJJD.

(d) Requires TJJD, if TJJD is unable to offer or make available programs described by Subsection (c), rather than by Subsection (a) in the manner provided by Subsection (c), to provide not later than December 31 of each even-numbered year, the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities with a report explaining certain information.

SECTION 27. Amends Section 242.056(a), Human Resources Code, as follows:

(a) Requires TJJD to allow advocacy and support groups whose primary functions are to benefit certain populations, including persons with mental illness, rather than the mentally ill, to provide on-site information, support, and other services for children confined in TJJD facilities.

SECTION 28. Amends Section 242.102, Human Resources Code, by adding Subsection (c-1), as follows:

(c-1) Requires the board by rule to require any findings related to an administrative investigation under Subsection (a)(2) (relating to providing that the office of the inspector general is established for the purpose of investigating certain complaints) to be reviewed for legal sufficiency before being made public.

SECTION 29. Amends Section 243.001, Human Resources Code, by adding Subsection (d), as follows:

(d) 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's custody. Requires the board by rule to establish placement procedures that guide TJJD in determining the most appropriate setting for the child based on rehabilitative needs while preserving due process rights.

SECTION 30. Amends the heading to Section 244.011, Human Resources Code, to read as follows:

Sec. 244.011. CHILDREN WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITIES.

SECTION 31. Amends Sections 244.011(a), (b), (e), (f), and (g), Human Resources Code, as follows:

(a) Requires TJJD to accept a child with mental illness or intellectual disabilities who is committed to TJJD, rather than a child committed to TJJD who is mentally ill or mentally retarded.

(b) Requires TJJD, unless the child is committed to TJJD under a determinate sentence under Section 54.04(d)(3) (relating to authorizing the court or jury to sentence the child to commitment in TJJD or a post-adjudication secure correctional facility), 54.04(m) (relating to authorizing the court or jury to sentence a child adjudicated for habitual felony conduct under certain circumstances), or 54.05(f) (relating to authorizing a certain disposition to be modified if the court, after a hearing to modify disposition finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court), Family Code, to discharge a child with mental illness or intellectual disabilities, rather than a child who is mentally ill or mentally retarded, from its custody if:

(1) makes no changes to this subdivision; and

(2) TJJD determines that the child is unable to progress in TJJD's rehabilitation programs because of the child's mental illness or intellectual disabilities, rather than mental retardation.

(e) Makes conforming changes to this subsection.

(f) Makes conforming changes to this subsection.

(g) Provides that a child is eligible to receive continuity of care services from the Texas Correctional Office on Offenders with Medical or Mental Impairments under Chapter 614 (Texas Correctional Office on Offenders with Medical or Mental Impairments), Health and Safety Code, if a child with mental illness or intellectual disabilities, rather than a child who is mentally ill or mentally retarded, is discharged from TJJD under Subsection (b).

SECTION 32. Amends Section 244.012, Human Resources Code, as follows:

Sec. 244.012. EXAMINATION BEFORE DISCHARGE. (a) Requires TJJD to establish a system that identifies children with mental illness or intellectual disabilities in TJJD's custody, rather than in TJJD's custody who are mentally ill or mentally retarded.

(b) Requires a TJJD psychiatrist to examine a child before the child with mental illness, rather than who is identified as mentally ill, is discharged from TJJD's custody under Section 244.011(b) (relating to requiring TJJD to discharge a child who is mentally ill from custody under certain circumstances). Requires TJJD, for a child requiring inpatient psychiatric treatment, to file a sworn application for court-ordered mental health services, as provided in Subchapter C (Proceedings for Court-Ordered Mental Health Services), Chapter 574, Health and Safety Code, if:

(1) makes no change to this subdivision; and

(2) the psychiatrist who examined the child determines that the child is a child with mental illness, rather than mentally ill, and the child meets at least one of the criteria listed in Section 574.034 (Order for Temporary Inpatient Mental Health Services) or 574.0345 (Order for Temporary Outpatient Mental Health Services), Health and Safety Code.

(c) Requires TJJD, before a child who is identified as having an intellectual disability, rather than as mentally retarded, under Chapter 593 (Admission and Commitment to Intellectual Disability Services), Health and Safety Code, is discharged from TJJD's custody under Section 244.011(b), to refer the child for intellectual disability, rather than mental retardation, services if the child is not receiving intellectual disability, rather than mental retardation, services.

SECTION 33. Amends Section 244.014, Human Resources Code, by adding Subsection (a-1), as follows:

(a-1) Requires TJJD, after a child sentenced to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 16 years of age but before the child becomes 19 years of age, to refer the child to the juvenile court that entered the order of commitment for approval of the child's transfer to the Texas Department of Criminal Justice (TDCJ) for confinement if:

- (1) the child has not completed the sentence;
- (2) while the child was committed to the custody of TJJD, the child was subsequently adjudicated or convicted for conduct constituting a felony of the first or second degree or an offense punishable under Section 22.01(b)(1) (relating to providing that certain assaults are felonies), Penal Code; and
- (3) the child was at least 16 years of age at the time the conduct occurred.

SECTION 34. Amends Sections 245.0535(h) and (i), Human Resources Code, as follows:

(h) Requires TJJD to conduct and coordinate research:

- (1) creates this subdivision from existing text; and
- (2) to review the effectiveness of TJJD's 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.

(i) Requires TJJD, not later than December 31 of each even-numbered year, to deliver a report of the results of research conducted or coordinated under Subsection (h) to the lieutenant governor, the speaker of the house of representatives, LBB, and the standing committees of each house of the legislature with primary jurisdiction over juvenile justice and corrections.

SECTION 35. Amends Section 261.002, Human Resources Code, as follows:

Sec. 261.002. ESTABLISHMENT; PURPOSE. Provides that the office is a state agency established for the purpose of investigating, evaluating, and securing the rights of children:

- (1) creates this subdivision from existing text; and
- (2) adjudicated for conduct that constitutes an offense and placed in a facility operated by or contracted with a juvenile probation department or juvenile board.

SECTION 36. Amends Section 261.056(a), Human Resources Code, as follows:

(a) Requires TJJD to allow any child committed to TJJD or adjudicated for conduct that constitutes an offense and placed in a facility operated by or contracted with a juvenile probation department or juvenile board to communicate with the independent ombudsman or an assistant to the ombudsman.

SECTION 37. Amends Section 261.057, Human Resources Code, as follows:

Sec. 261.057. PROMOTION OF AWARENESS OF OFFICE. Requires the independent ombudsman to promote awareness among the public and the children committed to TJJD or adjudicated for conduct that constitutes an offense and placed in a facility operated by or contracted with a juvenile probation department or juvenile board of certain information.

SECTION 38. Amends Section 261.061(c), Human Resources Code, to require the office to periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

SECTION 39. Amends Section 261.101, Human Resources Code, by amending Subsection (a) and adding Subsection (g), as follows:

(a) Requires the independent ombudsman to:

- (1) makes no changes to this subdivision;
- (2) review complaints filed with the independent ombudsman concerning the actions of TJJD, juvenile probation departments, or other entities operating facilities in which children adjudicated for conduct that constitutes an offense are placed and investigate each complaint in which it appears that a child may be in need of assistance from the independent ombudsman;
- (3) conduct investigations of complaints, other than complaints alleging criminal behavior, if the office determines that:
 - (A) a child committed to TJJD, a child adjudicated for conduct that constitutes an offense and placed in a facility operated by or contracted with a juvenile probation department or juvenile board, or the child's family may be in need of assistance from the office; or
 - (B) a systemic issue raised in a complaint about the provision of services to children by TJJD, juvenile probation departments, or other entities operating facilities in which children adjudicated for conduct that constitutes an offense are placed, rather than a systemic issue in TJJD provision of services is raised by a complaint;
- (4) review or inspect periodically the facilities and procedures of any institution or residence in which a child adjudicated for conduct that constitutes an offense has been placed by TJJD or a juvenile probation department, whether public or private, to ensure that the rights of children are fully observed;
- (5)-(6) makes no changes to these subdivisions;
- (7) recommend changes in any procedure relating to the treatment of children committed to TJJD or adjudicated for conduct that constitutes an offense and placed in a facility operated by or contracted with a juvenile probation department or juvenile board;
- (8) makes no changes to this subdivision;
- (9) supervise assistants who are serving as advocates in internal administrative and disciplinary hearings by representing children committed to TJJD or adjudicated for conduct that constitutes an offense and placed in a facility operated by or contracted with a juvenile probation department or juvenile board, rather than supervise assistants who are serving as advocates in their representation of children committed to TJJD in internal administrative and disciplinary hearings;
- (10) makes no changes to this subdivision;
- (11) report a possible standards violation by a juvenile probation department, rather than a local juvenile probation department, to the appropriate division of TJJD; and

(12) makes no change to this subdivision.

(g) Requires TJJD and juvenile probation departments to notify the office regarding any private facility described by Subsection (f)(1) 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. Requires that the report under this subsection be made annually and updated at the time a new contract is entered into with a facility described by this subsection. Requires the office to adopt rules to implement the reporting requirements under this subsection, including the specific times the report is required to be made.

SECTION 40. Amends Section 261.102, Human Resources Code, as follows:

Sec. 261.102. New heading: TREATMENT OF EMPLOYEES WHO COOPERATE WITH INDEPENDENT OMBUDSMAN. Prohibits TJJD, a juvenile probation department, or another entity operating a facility in which children adjudicated for conduct that constitutes an offense are placed from discharging or in any manner discriminating or retaliating against an employee who in good faith makes a complaint to the office or cooperates with the office in an investigation.

SECTION 41. Amends Subchapter C, Chapter 261, Human Resources Code, by adding Sections 261.105 and 261.106, as follows:

Sec. 261.105. RISK FACTORS AND RISK ASSESSMENT TOOLS. (a) Requires the office to develop a comprehensive set of risk factors to use in assessing the overall risk level of facilities and entities described by Section 261.101(f) (relating to the powers of the office) and of TJJD parole officers. Authorizes the risk factors to include:

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

(b) Requires the office to use the risk factors developed under this section to guide the inspections of facilities and entities the office described by Section 261.101(f), 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.

(c) Authorizes the office to develop distinct assessment tools under Subsection (b) for different entity types, as appropriate.

(d) Requires the office to periodically review the assessment tools developed under this section to ensure that the tools remain up to date and meaningful, as determined by the office.

Sec. 261.106. RISK-BASED INSPECTIONS. (a) Requires the office to adopt a policy prioritizing the inspection of facilities conducted under Section 261.101(f) and of TJJD parole offices based on the relative risk level of each entity.

(b) Requires that the policy under Subsection (a) require the office use the risk assessment tools established under Section 261.105 to determine how frequently and intensively the office conducts risk-based inspections.

(c) Authorizes the policy under Subsection (a) to provide for the office to use alternative inspection methods for entities determined to be low risk, including desk audits of key documentation, abbreviated inspection procedures, videoconference technology, and other methods that are an alternative to conducting an in-person inspection.

(d) Requires TJJD, a juvenile probation department, or a private facility under the office's jurisdiction, on request by the office, to provide information to assist the office in implementing a risk-based inspection schedule.

SECTION 42. Amends Section 261.151(c), Human Resources Code, as follows:

(c) Requires a local law enforcement agency to allow the independent ombudsman access to its records relating to any child in the care or custody of TJJD or any child adjudicated for conduct that constitutes an offense and placed in a facility operated by or contracted with a juvenile probation department or juvenile board.

SECTION 43. Amends Section 261.152, Human Resources Code, as follows:

Sec. 261.152. ACCESS TO INFORMATION OF PRIVATE ENTITIES. Requires the independent ombudsman to have access to the records of a private entity that relate to a child committed to TJJD or a child adjudicated for conduct that constitutes an offense and placed in a private facility contracted with a juvenile probation department or juvenile board.

SECTION 44. Amends Subchapter D, Chapter 261, Human Resources Code, by adding Section 261.153, as follows:

Sec. 261.153. ACCESS TO INFORMATION OF JUVENILE PROBATION DEPARTMENTS. Requires the independent ombudsman have access to the records of a juvenile probation department that relate to a child adjudicated for conduct that constitutes an offense and placed in a facility operated by or contracted with a juvenile probation department or juvenile board.

SECTION 45. Repealers: Sections 222.001(b) (relating to authorizing the board by rule to authorize the waiver of the requirement of a year of graduate study or full-time employment experience) and (f) (relating to authorizing TJJD to waive the degree accreditation requirement under certain circumstances), Human Resources Code.

Repealers: Sections 242.002(a) (relating to requiring TJJD to annually review the effectiveness of TJJD's programs for the rehabilitation and reestablishment in society of children committed to TJJD) and (b) (relating to requiring TJJD to make a report on the effectiveness of the programs to LBB), Human Resources Code.

Repealer: Section 246.002 (Advisory Committee), Human Resources Code.

SECTION 46. (a) Requires TJJD to repeal, not later than January 1, 2024, any rule requiring that an individual is required to be of good moral character to qualify for a TJJD certification.

(b) Requires TJJD to submit the first updated regionalization plan required by Section 203.017(a-1), Human Resources Code, as added by this Act, not later than December 1, 2024.

SECTION 47. (a) Provides that the term for a member of the board serving on September 1, 2023, expires on that date, notwithstanding Section 202.001(b), Human Resources Code, as amended by this Act, and except as otherwise provided by this subsection. Authorizes a board member serving on that date to continue to serve as a member of the board until a majority of appointments to the board are made under Subsection (b) of this section. Provides that a member of the board described by this subsection is eligible for reappointment under Subsection (b) of this section.

(b) Requires the governor, in making the initial appointments to the board according to the changes in law made by this Act to Section 202.001, Human Resources Code, to designate three members to serve terms expiring February 1, 2025, three members to serve terms expiring February 1, 2027, and three members to serve terms expiring February 1, 2029.

SECTION 48. (a) Provides that Section 202.006, Human Resources Code, as amended by this Act, applies to a member of the board appointed before, on, or after the effective date of this Act, except as provided by Subsection (b) of this section.

(b) Provides that a member of the board who before the effective date of this Act completed the training program required by Section 202.006, Human Resources Code, as that law existed before the effective date of this Act, is only required to complete additional training on the subjects added by this Act to the training program required by Section 202.006, Human Resources Code. Prohibits a board member described by this subsection from voting, deliberating, or being counted as a member in attendance at a meeting of the board held on or after December 1, 2023, until the member completes the additional training.

SECTION 49. (a) Requires the Sunset Advisory Commission to conduct a limited-scope review of TJJJ for the 89th Legislature, for purposes of Section 202.010, Human Resources Code, as amended by this Act.

(b) Requires that the Sunset Advisory Commission staff evaluation and report, in conducting the limited-scope review under this section:

(1) review the implementation of the Sunset Advisory Commission's recommendations adopted by the commission and statutory recommendations for the TJJJ and the office for TJJJ made to the 88th Legislature;

(2) identify the barriers to implementing the recommendations under Subdivision (1) of this subsection;

(3) identify any changes needed to improve coordination between TJJJ and the TDCJ, particularly for children transferred from the custody of TJJJ to the custody of TDCJ; and

(4) review the decision-making processes involving the board and executive director to evaluate any needed changes in board engagement, delegation of duties, staff discretion, and transparency.

(c) Authorizes the Sunset Advisory Commission's recommendations to the 89th Legislature to include any recommendation the commission considers appropriate based on the limited-scope review conducted under this section.

SECTION 50. Effective date: September 1, 2023.