88R26036 CJD-D

By:  Schwertner, et al. S.B. No. 1727

(Canales, Dutton)

Substitute the following for S.B. No. 1727:

By:  Dutton C.S.S.B. No. 1727

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Juvenile Justice Department, the functions of the office of independent ombudsman for the Texas Juvenile Justice Department, and the powers and duties of the office of inspector general of the Texas Juvenile Justice Department.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12.  WHO ARE PEACE OFFICERS.  The following are peace officers:

(1)  sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(2)  constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(3)  marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(4)  rangers, officers, and members of the reserve officer corps commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

(5)  investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;

(6)  law enforcement agents of the Texas Alcoholic Beverage Commission;

(7)  each member of an arson investigating unit commissioned by a city, a county, or the state;

(8)  officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code;

(9)  officers commissioned by the General Services Commission;

(10)  law enforcement officers commissioned by the Parks and Wildlife Commission;

(11)  officers commissioned under Chapter 23, Transportation Code;

(12)  municipal park and recreational patrolmen and security officers;

(13)  security officers and investigators commissioned as peace officers by the comptroller;

(14)  officers commissioned by a water control and improvement district under Section 49.216, Water Code;

(15)  officers commissioned by a board of trustees under Chapter 54, Transportation Code;

(16)  investigators commissioned by the Texas Medical Board;

(17)  officers commissioned by:

(A)  the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, the Bexar County Hospital District, or the El Paso County Hospital District under Section 281.057, Health and Safety Code;

(B)  the board of directors of the Ector County Hospital District under Section 1024.117, Special District Local Laws Code;

(C)  the board of directors of the Midland County Hospital District of Midland County, Texas, under Section 1061.121, Special District Local Laws Code; and

(D)  the board of hospital managers of the Lubbock County Hospital District of Lubbock County, Texas, under Section 1053.113, Special District Local Laws Code;

(18)  county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;

(19)  investigators employed by the Texas Racing Commission;

(20)  officers commissioned under Chapter 554, Occupations Code;

(21)  officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;

(22)  investigators commissioned by the attorney general under Section 402.009, Government Code;

(23)  security officers and investigators commissioned as peace officers under Chapter 466, Government Code;

(24)  officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code;

(25)  officers commissioned by the state fire marshal under Chapter 417, Government Code;

(26)  an investigator commissioned by the commissioner of insurance under Section 701.104, Insurance Code;

(27)  officers appointed by the inspector general of [~~apprehension specialists and inspectors general commissioned by~~] the Texas Juvenile Justice Department [~~as officers~~] under Section [~~Sections~~] 242.102 [~~and 243.052~~], Human Resources Code;

(28)  officers appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code;

(29)  investigators commissioned by the Texas Commission on Law Enforcement under Section 1701.160, Occupations Code;

(30)  commission investigators commissioned by the Texas Private Security Board under Section 1702.061, Occupations Code;

(31)  the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code;

(32)  officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section; and

(33)  [~~investigators commissioned by the Texas Juvenile Justice Department as officers under Section 221.011, Human Resources Code; and~~

[~~(34)~~]  the fire marshal and any related officers, inspectors, or investigators commissioned by a county under Subchapter B, Chapter 352, Local Government Code.

SECTION 2.  Articles 18B.001(1) and (4), Code of Criminal Procedure, are amended to read as follows:

(1)  "Authorized peace officer" means:

(A)  a sheriff or deputy sheriff;

(B)  a constable or deputy constable;

(C)  a marshal or police officer of a municipality;

(D)  a ranger or officer commissioned by the Public Safety Commission or the director of the department;

(E)  an investigator of a prosecutor's office;

(F)  a law enforcement agent of the Texas Alcoholic Beverage Commission;

(G)  a law enforcement officer commissioned by the Parks and Wildlife Commission;

(H)  an enforcement officer appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code;

(I)  a law enforcement officer appointed by the inspector general of the Texas Juvenile Justice Department under Section 242.102, Human Resources Code;

(J)  an investigator commissioned by the attorney general under Section 402.009, Government Code; or

(K) [~~(J)~~]  a member of an arson investigating unit commissioned by a municipality, a county, or the state.

(4)  "Designated law enforcement office or agency" means:

(A)  the sheriff's department of a county with a population of 3.3 million or more;

(B)  a police department in a municipality with a population of 200,000 or more; [~~or~~]

(C)  the office of inspector general of the Texas Department of Criminal Justice; or

(D)  the office of inspector general of the Texas Juvenile Justice Department.

SECTION 3.  Article 18B.252(b), Code of Criminal Procedure, is amended to read as follows:

(b)  If the director of the department or the director's designee approves the policy submitted under Article 18B.251, the inspector general of the Texas Department of Criminal Justice or the inspector general's designee, the inspector general of the Texas Juvenile Justice Department or the inspector general's designee, or the sheriff or chief of a designated law enforcement agency or the sheriff's or chief's designee, as applicable, shall submit to the director a written list of all peace officers in the designated law enforcement office or agency who are authorized to possess, install, operate, or monitor pen registers, ESN readers, or similar equipment.

SECTION 4.  Article 18B.302(a), Code of Criminal Procedure, is amended to read as follows:

(a)  The inspector general of the Texas Department of Criminal Justice, the inspector general of the Texas Juvenile Justice Department or the inspector general's designee, or the sheriff or chief of a designated law enforcement agency, as applicable, shall submit to the director of the department a written report of expenditures made by the designated law enforcement office or agency to purchase and maintain a pen register, ESN reader, or similar equipment authorized under this chapter.

SECTION 5.  Article 18B.451, Code of Criminal Procedure, is amended to read as follows:

Art. 18B.451.  SUBPOENA AUTHORITY. The director of the department or the director's designee, the inspector general of the Texas Department of Criminal Justice or the inspector general's designee, the inspector general of the Texas Juvenile Justice Department or the inspector general's designee, or the sheriff or chief of a designated law enforcement agency or the sheriff's or chief's designee may 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:

(1)  disclose information about:

(A)  the carrier's or service provider's customers; or

(B)  users of the services offered by the carrier or service provider; and

(2)  are material to a criminal investigation.

SECTION 6.  Article 18B.452, Code of Criminal Procedure, is amended to read as follows:

Art. 18B.452.  REPORT OF ISSUANCE OF SUBPOENA. Not later than the 30th day after the date on which an administrative subpoena is issued under Article 18B.451, the inspector general of the Texas Department of Criminal Justice, the inspector general of the Texas Juvenile Justice Department or the inspector general's designee, or the sheriff or chief of a designated law enforcement agency, as applicable, shall report to the department the issuance of the subpoena.

SECTION 7.  Section 51.12(c-1), Family Code, is amended to read as follows:

(c-1)  The Texas Juvenile Justice Department shall [~~annually~~] inspect each public or private juvenile pre-adjudication secure detention facility. The department shall provide a report to each juvenile court judge presiding in the same county as an inspected facility indicating whether the facility is suitable or unsuitable for the detention of children in accordance with:

(1)  the requirements of Subsections (a), (f), and (g); and

(2)  minimum professional standards for the detention of children in pre-adjudication secure confinement promulgated by the department or, at the election of the juvenile board of the county in which the facility is located, the current standards promulgated by the American Correctional Association.

SECTION 8.  Section 51.125(c), Family Code, is amended to read as follows:

(c)  The Texas Juvenile Justice Department shall [~~annually~~] inspect each public or private juvenile post-adjudication secure correctional facility that is not operated by the department. The department shall provide a report to each juvenile court judge presiding in the same county as an inspected facility indicating whether the facility is suitable or unsuitable for the confinement of children in accordance with minimum professional standards for the confinement of children in post-adjudication secure confinement promulgated by the department or, at the election of the juvenile board of the county in which the facility is located, the current standards promulgated by the American Correctional Association.

SECTION 9.  Section 51.126(c), Family Code, is amended to read as follows:

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

SECTION 10.  Sections 51.20(a), (b), (c), and (d), Family Code, are amended to read as follows:

(a)  At any stage of the proceedings under this title, including when a child is initially detained in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility, the juvenile court may, at its discretion or at the request of the child's parent or guardian, order a child who is referred to the juvenile court or who is alleged by a petition or found to have engaged in delinquent conduct or conduct indicating a need for supervision to be examined by a disinterested expert, including a physician, psychiatrist, or psychologist, qualified by education and clinical training in mental health or intellectual disability [~~mental retardation~~] and experienced in forensic evaluation, to determine whether the child has a mental illness, as defined by Section 571.003, Health and Safety Code, is a person with an intellectual disability, [~~mental retardation~~] as defined by Section 591.003, Health and Safety Code, or suffers from chemical dependency, as defined by Section 464.001, Health and Safety Code. If the examination is to include a determination of the child's fitness to proceed, an expert may be appointed to conduct the examination only if the expert is qualified under Subchapter B, Chapter 46B, Code of Criminal Procedure, to examine a defendant in a criminal case, and the examination and the report resulting from an examination under this subsection must comply with the requirements under Subchapter B, Chapter 46B, Code of Criminal Procedure, for the examination and resulting report of a defendant in a criminal case.

(b)  If, after conducting an examination of a child ordered under Subsection (a) and reviewing any other relevant information, there is reason to believe that the child has a mental illness or intellectual disability [~~mental retardation~~] or suffers from chemical dependency, the probation department shall refer the child to the local mental health [~~or mental retardation~~] authority, to the local intellectual and developmental disability authority, or to another appropriate and legally authorized agency or provider for evaluation and services, unless the prosecuting attorney has filed a petition under Section 53.04.

(c)  If, while a child is under deferred prosecution supervision or court-ordered probation, a qualified professional determines that the child has a mental illness or intellectual disability [~~mental retardation~~] or suffers from chemical dependency and the child is not currently receiving treatment services for the mental illness, intellectual disability [~~mental retardation~~], or chemical dependency, the probation department shall refer the child to the local mental health [~~or mental retardation~~] authority, to the local intellectual and developmental disability authority, or to another appropriate and legally authorized agency or provider for evaluation and services.

(d)  A probation department shall report each referral of a child to a local mental health [~~or mental retardation~~] authority, to a local intellectual and developmental disability authority, or to another agency or provider made under Subsection (b) or (c) to the Texas Juvenile Justice Department in a format specified by the department.

SECTION 11.  Section 56.01(c), Family Code, is amended to read as follows:

(c)  An appeal may be taken:

(1)  except as provided by Subsection (n), by or on behalf of a child from an order entered under:

(A)  Section 54.02 respecting transfer of the child for prosecution as an adult;

(B)  Section 54.03 with regard to delinquent conduct or conduct indicating a need for supervision;

(C)  Section 54.04 disposing of the case;

(D)  Section 54.05 respecting modification of a previous juvenile court disposition; or

(E)  Chapter 55 by a juvenile court committing a child to a facility for persons with mental illness [~~the mentally ill~~] or intellectual disabilities [~~intellectually disabled~~]; or

(2)  by a person from an order entered under Section 54.11(i)(2) transferring the person to the custody of the Texas Department of Criminal Justice.

SECTION 12.  Section 58.009, Family Code, is amended by amending Subsections (a) and (c) and adding Subsections (a-1) and (c-1) to read as follows:

(a)  For purposes of this section, 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.

(a-1)  Except as provided by this section, identifiable juvenile justice information collected and maintained by the Texas Juvenile Justice Department for statistical and research purposes is confidential information for the use of the department and may not be disseminated by the department.

(c)  The Texas Juvenile Justice Department may grant [~~the following entities~~] access to identifiable juvenile justice information:

(1)  for research and statistical purposes or for any other purpose approved by the department to:

(A) [~~(1)~~]  criminal justice agencies as defined by Section 411.082, Government Code;

(B) [~~(2)~~]  the Texas Education Agency, as authorized under Section 37.084, Education Code;

(C) [~~(3)~~]  any agency under the authority of the Health and Human Services Commission; or

(D) [~~(4)~~]  the Department of Family and Protective Services; or

(2)  for a purpose beneficial to and approved by the department to an individual or entity that:

(A)  is working on a research or statistical project that meets the requirements of and is approved by the department; and

(B)  has a specific agreement with the department that:

(i)  specifically authorizes access to identifiable juvenile justice information;

(ii)  limits the use of the information to the purposes for which the information is given;

(iii)  ensures the security and confidentiality of the information; and

(iv)  provides for sanctions if a requirement imposed under Subparagraph (i), (ii), or (iii) is violated [~~(5) a public or private university~~].

(c-1)  The Texas Juvenile Justice Department shall grant access to juvenile justice information that is not identifiable information for research or statistical purposes or for any other purpose approved by the department to:

(1)  criminal justice agencies as defined by Section 411.082, Government Code;

(2)  the Texas Education Agency, as authorized under Section 37.084, Education Code;

(3)  any agency under the authority of the Health and Human Services Commission;

(4)  the Department of Family and Protective Services;

(5)  a public or private university; or

(6)  an individual or entity working on a research or statistical project.

SECTION 13.  Section 59.009(a), Family Code, is amended to read as follows:

(a)  For a child at sanction level six, the juvenile court may commit the child to the custody of the Texas Juvenile Justice Department [~~or a post-adjudication secure correctional facility under Section 54.04011(c)(1)~~]. The department [~~, juvenile board, or local juvenile probation department, as applicable,~~] may:

(1)  require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than nine months or more than 24 months unless the department, board, or probation department reduces or extends the period and the reason for the reduction or [~~an~~] extension is documented;

(2)  require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of the harm caused and according to the child's ability, if there is a victim of the child's conduct;

(3)  require the child and the child's parents or guardians to participate in programs and services for their particular needs and circumstances; and

(4)  if appropriate, impose additional sanctions.

SECTION 14.  Section 661.918(a), Government Code, is amended to read as follows:

(a)  This section applies to a peace officer under Article 2.12, Code of Criminal Procedure, who is commissioned or appointed, as applicable, as a law enforcement officer or agent, including a ranger, by:

(1)  the Public Safety Commission and the director of the Department of Public Safety;

(2)  the Parks and Wildlife Commission;

(3)  the Texas Alcoholic Beverage Commission;

(4)  the attorney general; [~~or~~]

(5)  the insurance fraud unit of the Texas Department of Insurance; or

(6)  the office of inspector general of the Texas Juvenile Justice Department.

SECTION 15.  Section 662.005(b), Government Code, is amended to read as follows:

(b)  Except as provided by Section 662.010, and notwithstanding Section 659.015 or another law, a state employee who is a peace officer commissioned or appointed, as applicable, by a state officer or state agency listed under Article 2.12, Code of Criminal Procedure, or who is employed by the Department of Public Safety either to perform communications or dispatch services related to traffic law enforcement or as a public security officer, as that term is defined by Section 1701.001, Occupations Code, or who is employed by the Parks and Wildlife Department to perform communications and dispatch services to assist law enforcement officers commissioned by the Parks and Wildlife Commission in performing law enforcement duties, or who is employed by the Texas Juvenile Justice Department to perform communication service duties for the incident reporting center and to assist law enforcement officers appointed by the office of inspector general of the Texas Juvenile Justice Department in performing investigative duties, or who is employed as a security officer providing security and entry searches for secure correctional facilities operated by the Texas Juvenile Justice Department, and who is required to work on a national or state holiday that falls on a Saturday or Sunday is entitled to compensatory time off at the rate of one hour for each hour worked on the holiday.

SECTION 16.  Sections 202.001(a) and (b), Human Resources Code, are amended to read as follows:

(a)  The board is composed of the following 11 [~~13~~] members appointed by the governor with the advice and consent of the senate:

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

(2)  two [~~three~~] members who are members of a county commissioners court with juvenile justice experience;

(3)  one prosecutor in juvenile court;

(4)  one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes fewer than 7,500 persons younger than 18 years of age;

(5)  one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes at least 7,500 but fewer than 80,000 persons younger than 18 years of age;

(6)  one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes 80,000 or more persons younger than 18 years of age;

(7)  one adolescent mental health treatment professional licensed under Subtitle B or I, Title 3, Occupations Code, or a representative from a local mental health authority designated under Chapter 533, Health and Safety Code, who has experience working with children;

(8)  one member who is:

(A)  an educator, as that term is defined by Section 5.001, Education Code, with juvenile justice experience; or

(B)  a juvenile justice professional with experience managing a secure juvenile justice facility operated by the department or a county; and

(9)  two [~~three~~] members of the general public.

(b)  Members serve staggered six-year terms, with the terms of three or four [~~or five~~] members expiring on February 1 of each odd-numbered year.

SECTION 17.  Section 202.005, Human Resources Code, is amended to read as follows:

Sec. 202.005.  BOARD MEMBER RECUSAL. (a) A chief juvenile probation officer who is a board member shall 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 the juvenile probation department over which the chief juvenile probation officer has authority. The chief juvenile probation officer may not vote or render any decisions regarding matters of officer discipline [~~abuse and neglect~~] presented to the board regarding the chief juvenile probation officer's department.

(a-1)  If a juvenile justice professional is appointed as a board member under Section 202.001(a)(8), the member shall 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. The professional may not vote or render 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)  The board may adopt recusal requirements in addition to those described by Subsections [~~Subsection~~] (a) and (a-1), including requirements that are more restrictive than those described by those subsections [~~Subsection (a)~~].

SECTION 18.  Section 202.006, Human Resources Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b)  The training program must provide the person with information regarding:

(1)  the law governing department operations [~~the legislation that created the department~~];

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

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

(4)  the results of the most recent formal audit of the department;

(5) [~~(4)~~]  the requirements of:

(A)  laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B)  other laws applicable to members of a state policymaking body in performing their duties; and

(6) [~~(5)~~]  any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(d)  The executive director shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the board. Each member of the board shall sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 19.  Section 202.010, Human Resources Code, is amended to read as follows:

Sec. 202.010.  SUNSET PROVISION. The Texas Juvenile Justice Board and the Texas Juvenile Justice Department are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board and the department are abolished September 1, 2029 [~~2023~~].

SECTION 20.  Section 203.001, Human Resources Code, is amended by adding Subsections (b-1), (b-2), (b-3), and (b-4) to read as follows:

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

(b-2)  In making a delegation under Subsection (b-1), the board shall provide, as appropriate:

(1)  to the executive director with respect to each delegation:

(A)  clear direction;

(B)  performance measures; and

(C)  reporting requirements; and

(2)  to the department, sufficient oversight to ensure that delegated responsibilities are performed according to the mission and funding priorities described by Subsection (c).

(b-3)  The executive director is a full-time employee of the board and shall:

(1)  perform the regular administrative functions of the board and any other duty as the board directs; and

(2)  under the direction of the board, perform the duties required by this subtitle or designated by the board.

(b-4)  The executive director may not perform a discretionary or decision-making function for which the board is solely responsible.

SECTION 21.  Section 203.002, Human Resources Code, is amended to read as follows:

Sec. 203.002.  EXECUTIVE DIRECTOR. (a) The board shall:

(1)  employ an executive director to administer the department; and

(2)  supervise the director's administration of the department.

(b)  The executive director must 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 the department.

(c)  The department shall track the frequency with which the executive director takes the following actions as defined by department 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 department facilities.

(d)  The executive director shall 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 22.  Section 203.0081, Human Resources Code, is amended by amending Subsections (a) and (e) and adding Subsection (c-1) to read as follows:

(a)  The advisory council on juvenile services consists of:

(1)  the executive director of the department or the executive director's designee;

(2)  the director of probation services of the department or the director's designee;

(3)  the director of state programs and facilities of the department or the director's designee;

(4)  the executive commissioner of the Health and Human Services Commission or the commissioner's designee;

(5)  one representative of the county commissioners courts appointed by the board;

(6)  two juvenile court judges appointed by the board; [~~and~~]

(7)  seven chief juvenile probation officers appointed by the board as provided by Subsection (b); and

(8)  the commissioner of the Department of Family and Protective Services or the commissioner's designee.

(c-1)  The board shall 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, 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); and

(8)  reporting requirements and other communication procedures between the board and the advisory council.

(e)  The advisory council shall assist the department in:

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

(2)  conducting long-range strategic planning;

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

(4)  analyzing the potential cost impact on juvenile probation departments of new standards proposed by the board; [~~and~~]

(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)  advising the board on any other matter on the request of the board.

SECTION 23.  Chapter 203, Human Resources Code, is amended by adding Sections 203.0083, 203.0084, and 203.0085 to read as follows:

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

(b)  In establishing an advisory committee under this section, the board shall 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)  The board shall establish a youth career and technical education advisory committee and adopt rules required by Subsection (b) for the committee. The advisory committee shall assist the department with overseeing and coordinating vocational training for youth in the custody of the department, including training provided by community colleges and other local entities with which the department may partner.

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

(1)  Chapter 51, Family Code;

(2)  Section 221.008 of this code; and

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

(b)  The risk factors described by Subsection (a) may include:

(1)  the entity type;

(2)  available programming;

(3)  past and repeat standards violations;

(4)  the volume and types of complaints received by the department;

(5)  recent leadership changes;

(6)  high staff turnover;

(7)  relevant findings from the office of independent ombudsman and the office of inspector general;

(8)  negative media attention; and

(9)  the number of months since the date of the department's last inspection of the entity.

(c)  The department shall use the risk factors developed under this section to guide the inspections process for 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)  The department may develop distinct assessment tools under Subsection (c) for different entity types, as appropriate.

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

Sec. 203.0085.  RISK-BASED INSPECTIONS. (a) The department shall adopt a policy prioritizing inspections conducted by the department under:

(1)  Chapter 51, Family Code;

(2)  Section 221.008 of this code; and

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

(b)  The policy under Subsection (a) must require the department to:

(1)  prioritize the inspection of entities based on the relative risk level of each entity; and

(2)  use the risk assessment tools established under Section 203.0084 to determine how frequently and intensively the department conducts risk-based inspections.

(c)  The policy under Subsection (a) may provide for the department to use alternative inspection methods for entities determined to be low risk, including the following methods:

(1)  desk audits of key documentation;

(2)  abbreviated inspection procedures;

(3)  videoconference technology; and

(4)  other methods that are an alternative to conducting an in-person inspection.

(d)  On request by the department, a juvenile probation department or a private facility under the department's jurisdiction shall provide information on a routine basis, as determined by the department, to assist the department in implementing a risk-based inspection schedule.

SECTION 24.  Section 203.010(c), Human Resources Code, is amended to read as follows:

(c)  Criminal complaints initially referred to the office of [~~the~~] inspector general relating to juvenile probation programs, services, or facilities shall be sent to the appropriate local law enforcement agency. The office of inspector general has concurrent jurisdiction on agreement with the local law enforcement agency to conduct a criminal investigation under Section 242.102. Any other complaint shall be referred to the appropriate division of the department. The board by rule shall establish policies for the referral of noncriminal complaints.

SECTION 25.  Chapter 203, Human Resources Code, is amended by adding Section 203.0101 to read as follows:

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

(b)  The complaint analysis under this section 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:

(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 26.  Section 203.013, Human Resources Code, is amended by adding Subsection (c) to read as follows:

(c)  The executive director shall acknowledge receipt of and discuss the results of internal audits with the board.

SECTION 27.  Section 203.014(c), Human Resources Code, is amended to read as follows:

(c)  The office of inspector general shall operate the toll-free number required by Subsection (a) and the 24-hour incident reporting center and [~~department~~] shall share the complaints received with the appropriate department entity [~~on the toll-free number with the office of inspector general and the office of the independent ombudsman~~].

SECTION 28.  Section 203.017, Human Resources Code, is amended by adding Subsections (a-1), (a-2), (b-1), and (e-1) and amending Subsection (e) to read as follows:

(a-1)  The department shall update and submit the regionalization plan developed under Subsection (a) to the Sunset Advisory Commission and standing legislative committees with primary jurisdiction over juvenile justice matters by December 1 of each even-numbered year. Before submitting the plan, the department must present an updated draft of the regionalization plan to the board for public comment and board approval.

(a-2)  The department may 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)  In addition to the requirements of Subsection (b), in developing the regionalization plan, the department shall 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 the department;

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

(7)  any other stakeholder the department determines may be helpful.

(e)  The regionalization plan must, as applicable:

(1)  include a budget review, redirection of staff, and funding mechanisms necessary to support the plan;

(2)  create a new division of the department responsible for administering the regionalization plan and monitoring program quality and accountability;

(3)  [~~include sufficient mechanisms to divert at least:~~

[~~(A)  30 juveniles from commitment to secure facilities operated by the department for the state fiscal year beginning September 1, 2015; and~~

[~~(B)  150 juveniles from commitment to secure facilities operated by the department for the state fiscal year beginning September 1, 2016; and~~

[~~(4)~~]  for the state fiscal year beginning September 1, 2017, and each subsequent state fiscal year, include any savings that are generated by the decreases in the population of the secure facilities operated by the department under Subtitle C that exceed the cost of implementing the plan;

(4)  include:

(A)  information on the department's compliance with statutory regionalization requirements;

(B)  information on internal goals for diverting children from commitment to the department; and

(C)  an analysis of rates of commitment to the custody of the department, broken down by region and county, and any relevant recommendations regarding trends in these rates; and

(5)  include specific, actionable steps regarding how the department will enhance regional capacity, coordination, and collaboration among juvenile probation departments to keep children closer to home as an alternative to commitment to the department's facilities while ensuring access to programs and the supervision necessary to maintain public safety.

(e-1)  In developing the steps under Subsection (e)(5), the department shall 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), 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 29.  Section 203.018(e), Human Resources Code, is amended to read as follows:

(e)  The department or any local probation department may [~~not~~] use or contract with a facility that was constructed or previously used for the confinement of adult offenders if the department determines that the facility is appropriately retrofitted to accommodate youth-specific requirements and needs.

SECTION 30.  Chapter 203, Human Resources Code, is amended by adding Section 203.0185 to read as follows:

Sec. 203.0185.  RESOURCE MAPPING. (a) The department shall 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. To determine the types of information the department requires to timely identify and address resource, program, and service gaps in probation regions that result in commitments to department secure facilities, the department shall consult with:

(1)  institutions of higher education;

(2)  the advisory council on juvenile services; and

(3)  other relevant stakeholders.

(b)  The board shall adopt rules requiring juvenile probation departments, at useful and reasonable intervals, to report to the department relevant information on resource, program, and service gaps identified under Subsection (a), including information on:

(1)  the needs of children committed to the department that are not being met with community resources; and

(2)  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 the department.

SECTION 31.  Section 221.002, Human Resources Code, is amended by adding Subsection (d-1) to read as follows:

(d-1)  In adopting rules under Subsection (a)(4), the board shall authorize a juvenile probation department to house a child committed to the department in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility as the child awaits transfer to the department.

SECTION 32.  Section 221.056(a), Human Resources Code, is amended to read as follows:

(a)  The department may contract with a 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. The department may work in cooperation with the local mental health [~~and mental retardation~~] authority to provide mental health residential treatment services for juveniles residing at a facility established under this section.

SECTION 33.  Section 222.001, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows:

(a)  To be eligible for appointment as a probation officer, a person who was not employed as a probation officer before September 1, 1981, must:

(1)  [~~be of good moral character;~~

[~~(2)  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;~~

[~~(3)  have either:~~

[~~(A)  one year of graduate study in criminology, corrections, counseling, law, social work, psychology, sociology, or other field of instruction approved by the department; or~~

[~~(B)  one year of experience in full-time case work, counseling, or community or group work:~~

[~~(i)  in a social service, community, corrections, or juvenile agency that deals with offenders or disadvantaged persons; and~~

[~~(ii)  that the department determines provides the kind of experience necessary to meet this requirement;~~

[~~(4)~~]  have satisfactorily completed the course of preservice training or instruction and any continuing education required by the department;

(2) [~~(5)~~]  have passed the tests or examinations required by the department; and

(3) [~~(6)~~]  possess the level of certification required by the department.

(b-1)  The department by rule shall establish, 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. Rules adopted by the department under this subsection 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.

SECTION 34.  Section 222.002, Human Resources Code, is amended to read as follows:

Sec. 222.002.  MINIMUM STANDARDS FOR DETENTION OFFICERS. To be eligible for appointment as a detention officer, a person who was not employed as a detention officer before September 1, 2005, must:

(1)  [~~be of good moral character;~~

[~~(2)~~]  be at least 21 years of age;

(2) [~~(3)~~]  have acquired a high school diploma or its equivalent;

(3) [~~(4)~~]  have satisfactorily completed the course of preservice training or instruction required by the department;

(4) [~~(5)~~]  have passed the tests or examinations required by the department; and

(5) [~~(6)~~]  possess the level of certification required by the department.

SECTION 35.  Subchapter B, Chapter 222, Human Resources Code, is amended by adding Sections 222.0521 and 222.0522 to read as follows:

Sec. 222.0521.  APPLICATION OF CERTAIN LAW. Chapter 53, Occupations Code, applies to the issuance of a certification issued by the department.

Sec. 222.0522.  PROVISIONAL CERTIFICATION. (a) The department may 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, 222.002, or 222.003, as applicable.

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

SECTION 36.  Section 223.001, Human Resources Code, is amended by adding Subsections (a-1), (a-2), and (d-1) and amending Subsection (c) to read as follows:

(a-1)  The department may incorporate as factors in the basic probation funding formula under Subsection (a) measures that create incentives for diverting children from the juvenile justice system. The department may prioritize factors for which the department collects relevant information. The board may adopt rules establishing and defining the factors under this subsection.

(a-2)  When revising the basic probation funding formula under Subsection (a), the department shall consult and coordinate with relevant stakeholders, including:

(1)  the advisory council on juvenile services; and

(2)  the Legislative Budget Board.

(c)  The department shall set aside a portion of the funds appropriated to the department for discretionary state aid to fund programs designed to address special needs or projects of local juvenile boards, including projects dedicated to specific target populations based on risk and needs, and with established recidivism reduction goals. The department shall develop discretionary grant funding protocols based on documented, data-driven, and research-based practices. The department may incorporate incentives into the discretionary grant funding protocols that encourage collaboration between juvenile probation departments.

(d-1)  The board, in consultation with the advisory council on juvenile services, shall 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 the department's custody under Chapter 54, Family Code. The board by rule may establish exceptions to this requirement for offenses or circumstances the department considers inappropriate for diversion from commitment to state custody.

SECTION 37.  Chapter 241, Human Resources Code, is amended by adding Section 241.009 to read as follows:

Sec. 241.009.  COMMITMENT INFORMATION. (a) Not later than October 1 of each year, the department shall publish on the department's Internet website aggregated information on the number of children committed to the department during the previous fiscal year, categorized by:

(1)  committing offense level;

(2)  sentence type;

(3)  age; and

(4)  sex.

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

(c)  The department shall ensure that information regarding an individual child cannot be identified in any of the aggregated information published under this section.

SECTION 38.  The heading to Section 242.002, Human Resources Code, is amended to read as follows:

Sec. 242.002.  [~~EVALUATION OF~~] TREATMENT PROGRAMS; AVAILABILITY.

SECTION 39.  Sections 242.002(c) and (d), Human Resources Code, are amended to read as follows:

(c)  The department shall offer or make available programs for the rehabilitation and reestablishment in society of children committed to the department, including programs for females and for sex offenders, capital offenders, children who are chemically dependent, and children with mental illness, [~~described by Subsection (a)~~] in an adequate manner so that a child in the custody of the department receives appropriate rehabilitation services recommended for the child by the court committing the child to the department.

(d)  If the department is unable to offer or make available programs described by [~~Subsection (a) in the manner provided by~~] Subsection (c), the department shall, not later than December 31 of each even-numbered year, provide the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities with a report explaining:

(1)  which programs are not offered or are unavailable; and

(2)  the reason the programs are not offered or are unavailable.

SECTION 40.  Section 242.056(a), Human Resources Code, is amended to read as follows:

(a)  The department shall allow advocacy and support groups whose primary functions are to benefit children, inmates, girls and women, persons with mental illness [~~the mentally ill~~], or victims of sexual assault to provide on-site information, support, and other services for children confined in department facilities.

SECTION 41.  Section 242.102, Human Resources Code, is amended by amending Subsections (a), (b), (c), (d), (e), (g), and (h) and adding Subsections (a-1), (a-2), (b-1), (c-1), and (j) to read as follows:

(a)  The office of inspector general is established at the department under the direction of the board as a law enforcement agency for the purpose of:

(1)  preventing, detecting, and investigating:

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

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

(i)  unauthorized or illegal entry into a department facility;

(ii)  the introduction of contraband into a department facility;

(iii)  escape from a secure facility; and

(iv)  organized criminal activity; [~~and~~]

(2)  investigating complaints received under Section 203.010 involving allegations of abuse, neglect, or exploitation of children in juvenile justice programs or facilities under Section 261.405, Family Code;

(3)  investigating complaints of abuse, neglect, or exploitation of:

(A)  juveniles housed in a pre-adjudication or post-adjudication public or private secure or nonsecure facility regardless of licensing entity; and

(B)  juveniles committed to the department;

(4)  apprehending juveniles after escape or violation of release conditions as described by Section 243.051;

(5)  investigating gang-related activity within the juvenile justice system; and

(6)  performing entry security and exterior perimeter security searches for a department-operated secure correctional facility, as defined by Section 51.02, Family Code.

(a-1)  The office of inspector general has concurrent jurisdiction on agreement with the local law enforcement agency to conduct a criminal investigation under Subsection (a)(3).

(a-2)  The office of inspector general shall operate the incident reporting center for the department under Section 203.014.

(b)  The office of inspector general shall prepare an investigative [~~and deliver a~~] report concerning the results of investigations [~~any investigation~~] conducted under this section and may deliver the report to any of the following:

(1)  the department [~~board~~];

(2)  the appropriate district or county attorney [~~executive director~~];

(3)  any applicable advisory board;

(4)  the governor;

(5)  the lieutenant governor;

(6)  the speaker of the house of representatives;

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

(8)  the special prosecution unit;

(9)  the state auditor; or [~~and~~]

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

(b-1)  An individual or entity that receives a report under Subsection (b) may not disclose the information unless otherwise authorized by law.

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

(c-1)  The board by rule shall require any findings related to an administrative investigation under Subsection (a)(2) to be reviewed for legal sufficiency before being made public.

(d)  The office of inspector general may employ investigators and security officers and employ and appoint [~~commission~~] inspectors general as peace officers for the purpose of carrying out the duties described by this section. An inspector general shall have all of the powers and duties given to peace officers under Article 2.13, Code of Criminal Procedure.

(e)  Peace officers employed and appointed [~~commissioned~~] under Subsection (d) must:

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

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

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

(1)  the board;

(2)  the executive director;

(3)  any applicable advisory board;

(4)  the governor;

(5)  the lieutenant governor;

(6)  the speaker of the house of representatives;

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

(8)  the state auditor; [~~and~~]

(9)  the comptroller; and

(10)  the special prosecution unit.

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

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

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

(3)  the number of investigations conducted concerning suicides, deaths, and hospitalizations of children in the custody of the department at secure facilities, on parole, or at other placement locations; and

(4)  the final disposition of any complaint received under Section 203.010 related to juvenile probation departments and Section 261.405, Family Code, that concerns the abuse, neglect, or exploitation of a juvenile.

(j)  The department shall ensure that a peace officer appointed under Subsection (d) is compensated according to Schedule C of the position classification salary schedule prescribed by the General Appropriations Act.

SECTION 42.  Section 243.001, Human Resources Code, is amended by adding Subsection (d) to read as follows:

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

SECTION 43.  The heading to Section 244.011, Human Resources Code, is amended to read as follows:

Sec. 244.011.  CHILDREN WITH MENTAL ILLNESS OR INTELLECTUAL DISABILITIES [~~MENTAL RETARDATION~~].

SECTION 44.  Sections 244.011(a), (b), (e), (f), and (g), Human Resources Code, are amended to read as follows:

(a)  The department shall accept a child with mental illness or intellectual disabilities who is committed to the department [~~who is mentally ill or mentally retarded~~].

(b)  Unless the [~~a~~] child is committed to the department under a determinate sentence under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, the department shall discharge a child with mental illness or intellectual disabilities [~~who is mentally ill or mentally retarded~~] from its custody if:

(1)  the child has completed the minimum length of stay for the child's committing offense; and

(2)  the department determines that the child is unable to progress in the department's rehabilitation programs because of the child's mental illness or intellectual disabilities [~~mental retardation~~].

(e)  If a child who is discharged from the department under Subsection (b) as a result of an intellectual disability [~~mental retardation~~] is not receiving intellectual disability [~~mental retardation~~] services, the child's discharge is effective on the earlier of:

(1)  the date the court enters an order regarding an application for intellectual disability [~~mental retardation~~] services filed under Section 244.012(b); or

(2)  the 30th day after the date that the application is filed.

(f)  If a child who is discharged from the department under Subsection (b) as a result of an intellectual disability [~~mental retardation~~] is receiving intellectual disability [~~mental retardation~~] services, the child's discharge from the department is effective immediately.

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

SECTION 45.  Section 244.012, Human Resources Code, is amended to read as follows:

Sec. 244.012.  EXAMINATION BEFORE DISCHARGE. (a) The department shall establish a system that identifies children with mental illness or intellectual disabilities in the department's custody [~~who are mentally ill or mentally retarded~~].

(b)  Before a child with mental illness [~~who is identified as mentally ill~~] is discharged from the department's custody under Section 244.011(b), a department psychiatrist shall examine the child. The department shall refer a child requiring outpatient psychiatric treatment to the appropriate mental health authority. For a child requiring inpatient psychiatric treatment, the department shall file a sworn application for court-ordered mental health services, as provided in Subchapter C, Chapter 574, Health and Safety Code, if:

(1)  the child is not receiving court-ordered mental health services; and

(2)  the psychiatrist who examined the child determines that the child is a child with mental illness [~~mentally ill~~] and the child meets at least one of the criteria listed in Section 574.034 or 574.0345, Health and Safety Code.

(c)  Before a child who is identified as having an intellectual disability [~~mentally retarded~~] under Chapter 593, Health and Safety Code, is discharged from the department's custody under Section 244.011(b), the department shall refer the child for intellectual disability [~~mental retardation~~] services if the child is not receiving intellectual disability [~~mental retardation~~] services.

SECTION 46.  Sections 245.0535(h) and (i), Human Resources Code, are amended to read as follows:

(h)  The department shall conduct and coordinate research:

(1)  to determine whether the comprehensive reentry and reintegration plan developed under this section reduces recidivism rates; and

(2)  to review the effectiveness of the department's programs for the rehabilitation and reestablishment in society of children committed to the department, including programs for females and for sex offenders, capital offenders, children who are chemically dependent, and children with mental illness.

(i)  Not later than December 31 of each even-numbered year, the department shall 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, the Legislative Budget Board, and the standing committees of each house of the legislature with primary jurisdiction over juvenile justice and corrections.

SECTION 47.  Section 261.002, Human Resources Code, is amended to read as follows:

Sec. 261.002.  ESTABLISHMENT; PURPOSE. The office of independent ombudsman is a state agency established for the purpose of investigating, evaluating, and securing the rights of [~~the~~] children:

(1)  committed to the department, including a child released under supervision before final discharge; 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 48.  Section 261.056(a), Human Resources Code, is amended to read as follows:

(a)  The department shall allow any child committed to the department 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. The communication:

(1)  may be in person, by mail, or by any other means; and

(2)  is confidential and privileged.

SECTION 49.  Section 261.057, Human Resources Code, is amended to read as follows:

Sec. 261.057.  PROMOTION OF AWARENESS OF OFFICE. The independent ombudsman shall promote awareness among the public and the children committed to the department 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:

(1)  how the office may be contacted;

(2)  the purpose of the office; and

(3)  the services the office provides.

SECTION 50.  Section 261.061(c), Human Resources Code, is amended to read as follows:

(c)  The office shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

SECTION 51.  Section 261.101, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a)  The independent ombudsman shall:

(1)  review the procedures established by the board and evaluate the delivery of services to children to ensure that the rights of children are fully observed;

(2)  review complaints filed with the independent ombudsman concerning the actions of the department, 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 the department, 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 [~~department's~~] provision of services to children by the department, juvenile probation departments, or other entities operating facilities in which children adjudicated for conduct that constitutes an offense are placed [~~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 the department or a juvenile probation department, whether public or private, to ensure that the rights of children are fully observed;

(5)  provide assistance to a child or family who the independent ombudsman determines is in need of assistance, including advocating with an agency, provider, or other person in the best interests of the child;

(6)  review court orders as necessary to fulfill its duties;

(7)  recommend changes in any procedure relating to the treatment of children committed to the department 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)  make appropriate referrals under any of the duties and powers listed in this subsection;

(9)  supervise assistants who are serving as advocates in internal administrative and disciplinary hearings by representing [~~in their representation of~~] children committed to the department 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 [~~internal administrative and disciplinary hearings~~];

(10)  review reports received by the department relating to complaints regarding juvenile probation programs, services, or facilities and analyze the data contained in the reports to identify trends in complaints;

(11)  report a possible standards violation by a [~~local~~] juvenile probation department to the appropriate division of the department; and

(12)  immediately report the findings of any investigation related to the operation of a post-adjudication correctional facility in a county to the chief juvenile probation officer and the juvenile board of the county.

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

SECTION 52.  Section 261.102, Human Resources Code, is amended to read as follows:

Sec. 261.102.  TREATMENT OF [~~DEPARTMENT~~] EMPLOYEES WHO COOPERATE WITH INDEPENDENT OMBUDSMAN. The department, a juvenile probation department, or another entity operating a facility in which children adjudicated for conduct that constitutes an offense are placed may not discharge or in any manner discriminate or retaliate against an employee who in good faith makes a complaint to the office of independent ombudsman or cooperates with the office in an investigation.

SECTION 53.  Subchapter C, Chapter 261, Human Resources Code, is amended by adding Sections 261.105 and 261.106 to read as follows:

Sec. 261.105.  RISK FACTORS AND RISK ASSESSMENT TOOLS. (a) The office shall 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) and of department parole offices. The risk factors may 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 the department;

(7)  negative media attention; and

(8)  the number of months since the date of the office's last inspection of the entity.

(b)  The office shall use the risk factors developed under this section to guide the inspections of facilities and entities described by Section 261.101(f), and of department 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)  The office may develop distinct assessment tools under Subsection (b) for different entity types, as appropriate.

(d)  The office shall 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) The office shall adopt a policy prioritizing the inspection of facilities conducted under Section 261.101(f) and of department parole offices based on the relative risk level of each entity.

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

(c)  The policy under Subsection (a) may provide for the office to use alternative inspection methods for entities determined to be low risk, including the following methods:

(1)  desk audits of key documentation;

(2)  abbreviated inspection procedures;

(3)  videoconference technology; and

(4)  other methods that are an alternative to conducting an in-person inspection.

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

SECTION 54.  Section 261.151(c), Human Resources Code, is amended to read as follows:

(c)  A local law enforcement agency shall allow the independent ombudsman access to its records relating to any child in the care or custody of the department 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 55.  Section 261.152, Human Resources Code, is amended to read as follows:

Sec. 261.152.  ACCESS TO INFORMATION OF PRIVATE ENTITIES. The independent ombudsman shall have access to the records of a private entity that relate to a child committed to the department 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 56.  Subchapter D, Chapter 261, Human Resources Code, is amended by adding Section 261.153 to read as follows:

Sec. 261.153.  ACCESS TO INFORMATION OF JUVENILE PROBATION DEPARTMENTS. The independent ombudsman shall 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 57.  The following provisions are repealed:

(1)  Sections 58.009(d), (f), and (g), Family Code;

(2)  Section 221.011, Human Resources Code;

(3)  Section 221.055, Human Resources Code;

(4)  Sections 222.001(b) and (f), Human Resources Code;

(5)  Sections 242.002(a) and (b), Human Resources Code;

(6)  Section 243.052, Human Resources Code; and

(7)  Section 246.002, Human Resources Code.

SECTION 58.  (a) Not later than January 1, 2024, the Texas Juvenile Justice Department shall repeal any rule requiring that an individual must be of good moral character to qualify for a department certification.

(b)  Not later than December 1, 2024, the Texas Juvenile Justice Department shall submit the first updated regionalization plan required by Section 203.017(a-1), Human Resources Code, as added by this Act.

SECTION 59.  (a) Notwithstanding Section 202.001(b), Human Resources Code, as amended by this Act, and except as otherwise provided by this subsection, the term for a member of the Texas Juvenile Justice Board serving on September 1, 2023, expires on that date. A board member serving on that date may 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. A member of the board described by this subsection is eligible for reappointment under Subsection (b) of this section.

(b)  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, the governor shall designate:

(1)  three members to serve terms expiring February 1, 2025;

(2)  four members to serve terms expiring February 1, 2027; and

(3)  four members to serve terms expiring February 1, 2029.

SECTION 60.  (a) Except as provided by Subsection (b) of this section, Section 202.006, Human Resources Code, as amended by this Act, applies to a member of the Texas Juvenile Justice Board appointed before, on, or after the effective date of this Act.

(b)  A member of the Texas Juvenile Justice 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. A board member described by this subsection may not vote, deliberate, or be 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 61.  (a)  The classification officer in the office of the state auditor shall classify the position of appointed peace officer employed by the office of inspector general of the Texas Juvenile Justice Department as a Schedule C position under the Texas Position Classification Plan.

(b)  The change made by the classification officer as required by this section applies beginning with the state fiscal biennium beginning September 1, 2023.

(c)  This section expires September 1, 2025.

SECTION 62.  Section 661.918(a), Government Code, as amended by this Act, applies only to an injury that occurs on or after the effective date of this Act.

SECTION 63.  This Act takes effect September 1, 2023.