

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 19, 2023

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1727 by Schwertner (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.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1727, As Passed 2nd House : a negative impact of (\$5,233,280) through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	(\$2,616,640)
2025	(\$2,616,640)
2026	(\$2,616,640)
2027	(\$2,616,640)
2028	(\$2,616,640)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable (Cost) from General Revenue Fund 1</i>
2024	(\$2,616,640)
2025	(\$2,616,640)
2026	(\$2,616,640)
2027	(\$2,616,640)
2028	(\$2,616,640)

Fiscal Analysis

The bill would amend various Codes as they relate to the functions of the Texas Juvenile Justice Department (TJJD) and the Office of the Independent Ombudsman (OIO). Based on information provided by the Sunset Commission and TJJD, this analysis assumes that most of the duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources. However, the provisions of the bill related to risk-based assessments and inspections, the reduction in the number of board members, requirements related to university partnerships, reduction of certain juveniles' minimum length of

stay, certain types of leave, and requirement to accept custody of youth within 45 days would have an indeterminate fiscal impact. According to the Office of Court Administration, the Texas Department of Criminal Justice, and the Texas Commission on Law Enforcement, any fiscal impact associated with the bill could be absorbed within existing resources.

The bill would amend the Family Code to remove the annual inspection requirement of certain facilities. The bill would also amend the Human Resources Code to require TJJD and the OIO to establish risk-based assessment tools and risk-based inspections of certain facilities under TJJD and the OIO's purview. Based on information provided by the Sunset Commission and TJJD, the fiscal impact cannot be determined because any increases or decreases in inspection costs or savings cannot be estimated until the establishment of risk assessments and risk-based inspection protocol.

The bill would amend the Human Resources Code to reduce the size of TJJD's board, alter composition requirements, update conflict-of-interest and recusal requirements and training for board members, clarify oversight duties and the delegation of certain duties to the executive director. The bill would also require the board to adopt certain rules related to juvenile probation departments, administrative investigations, and placement procedures. According to the Sunset Commission, there may be cost savings resulting from decreased reimbursements to board members for incurred expenses.

The bill would abolish one advisory committee, allow the board to appoint advisory committees in rule, and create the Youth Career and Technical Education committee. The bill would also alter the composition of the advisory council on juvenile services to include the commissioner of the Department of Family and Protective Services (DFPS) or their designee and require the adoption of certain rules related to council operations. DFPS indicates that no significant fiscal impact is anticipated.

The bill would require TJJD to update and submit the regionalization plan in consultation with stakeholders as outlined in the provisions of the bill. The bill would also require TJJD to partner with institutions of higher education to review resources for justice involved youth and identify resource and service gaps in each probation region. Based on information provided by the Sunset Commission and TJJD, the fiscal impact of the university partnerships would be determined by which university TJJD partners with and what resource and service gaps are identified.

The bill would require TJJD to publish certain information related to complaints against certified officers and juvenile commitments on the agency website. The bill would also consolidate reports related to the rehabilitation and re-entry of youth committed to TJJD. The bill would also amend the Human Resources Code as it relates to qualifications and provisional certification of Juvenile Probation Officers. The bill would update statute to reflect the current scope of the OIO's duties as it relates to oversight of facilities housing post adjudicated youth and permits the OIO access to certain records. The bill would also permit the use of retrofitted facilities constructed for adult offenders with TJJD approval.

The bill would classify officers appointed by the Office of the Inspector General (OIG) as peace officers and would amend various codes to include peace officers appointed by the OIG, outline certain duties, reporting requirements, and jurisdiction of the OIG. The bill would also direct TJJD to compensate these staff according to Schedule C Classification Salary Schedule prescribed by the General Appropriations Act. According to TJJD, the cost to comply with the provisions of the bill related to Schedule C Classification Salary Schedule would be \$2,616,640 in General Revenue per fiscal year.

The bill would amend the Government Code as it relates to injury leave for peace officers and compensatory paid time off for OIG peace officers and certain other TJJD employees. Based on information provided by the Sunset Commission, there may be costs resulting from reduced staff availability; however the fiscal impact cannot be determined.

The bill would amend the Family Code as it relates to certain identifiable juvenile justice information. The bill would also allow TJJD to reduce the minimum length of stay for certain youth committed to TJJD. Based on information provided by the Sunset Commission, there may be cost savings resulting from reduced length of stay for youth; however any fiscal impact would be dependent on how much TJJD reduces the minimum length of stay and cannot be determined.

The bill would also amend the Family Code to require the Texas Juvenile Justice Department (TJJD) to accept custody of a youth committed to TJJD no later than 45 days after the disposition order. TJJD indicates that it will not be able to absorb the youth pending TJJD admission in local facilities before the bill's effective date and would be required to prioritize new commitments to TJJD. The ability to admit these youth would be dependent on the number of youth committed to TJJD and state secure facility capacity and staffing levels. Based on data reported by TJJD, a daily average of approximately 123 youth were pending admission to TJJD between September 2022 and February 2023. During that period, 233 youth were committed to TJJD and placed in a local facility pending admission, and 247 youth were admitted to TJJD custody after being placed in a local facility pending admission. The average wait time for youth admitted during this period was 94 days. Based on the February 2023 *Criminal and Juvenile Justice Uniform Cost Report*, the state uniform costs per day for a youth in a local facility were \$22.45 for a pre-adjudication detention facility and \$71.03 for a post-adjudication facility.

While it is assumed that any impact on adult state correctional populations or on the demand for adult state correctional resources would not be significant, the impact on juvenile state correctional populations or on the demand for juvenile state correctional resources cannot be determined due to the lack of data necessary to identify the prevalence of conduct that would qualify for an increased penalty under the bill.

The bill would extend the continuation of TJJD and the OIO until September 1, 2029.

This bill would take effect September 1, 2023.

Methodology

According to TJJD, additional funding is needed to provide for increased salaries for current positions at OIG that would be reclassified to the Schedule C classification salary schedule. Based on information provided by the agency, this analysis assumes an additional \$2,616,640 in General Revenue is needed each fiscal year to reclassify 55 positions from Schedule B Classification Salary Schedule and 25 positions from Schedule A Classification Salary Schedule to Schedule C Classification Salary Schedule.

Local Government Impact

Local juvenile probation boards and departments may experience a fiscal impact due to additional reporting requirements and increased collaboration with TJJD on newly required initiatives, but the extent of that impact cannot be determined. There may also be a fiscal impact to local juvenile probation departments related to TJJD's ability to admit youth into agency custody. Based on the February 2023 *Criminal and Juvenile Justice Uniform Cost Report*, the local uniform costs per day for a youth in a local facility were \$325.38 for a pre-adjudication detention facility and \$311.46 for a post-adjudication facility. It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant. No significant fiscal impact to other units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 407 Commission on Law Enforcement, 530 Family and Protective Services, Department of, 644 Juvenile Justice Department, 696 Department of Criminal Justice

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