

BILL ANALYSIS

C.S.S.B. 2405
By: Parker
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Department of Criminal Justice (TDCJ) works with the Board of Pardons and Paroles (BPP), Windham School District, and the Correctional Managed Health Care Committee (CMHCC) to confine, supervise, and provide services for adults convicted of certain crimes in Texas. The Sunset Advisory Commission has found that some Texas prison locations make it nearly impossible to hire sufficient correctional staff, compounding TDCJ's prison capacity challenges as the agency faces a rising inmate population and significant modernization needs, and has made recommendations accordingly. The sunset commission's recommendations also address deficiencies in TDCJ's approach to rehabilitation programs and seek to improve TDCJ's parole supervision activities to ease burdens on parole staff, who serve a critical public safety role in Texas' communities.

With respect to the Windham School District, the sunset commission has found the district to be well-functioning and has recommended postsecondary education administration transfer from TDCJ to the district and that TDCJ work with the district to create a strategic plan for its rehabilitation and reentry programs. Furthermore, the sunset commission has found CMHCC, which is primarily tasked with developing and approving a managed healthcare plan for inmates, to be functioning adequately, and has only made recommendations to conform statute to standard language generally applied to all state agencies. Finally, the sunset commission has made recommendations to improve the fairness, consistency, and transparency of the decision-making processes of the BPP, which makes clemency recommendations and determines which eligible inmates to release early from TDCJ custody. These recommendations include better collaboration between the BPP and TDCJ to regularly assess the application of special parole conditions and improving BPP's medically recommended intensive supervision process.

TDCJ is subject to abolishment under the Texas Sunset Act on September 1, 2025, unless continued by the legislature; the other three entities are not subject to abolishment and would be reviewed again alongside TDCJ if continued. C.S.S.B. 2405 seeks to continue TDCJ until 2037 and implement the sunset commission's recommendations.

CRIMINAL JUSTICE IMPACT

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

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Board of Criminal Justice in SECTIONS 16, 41, 81, and 82 of this bill, to the Board of Pardons and Paroles in SECTION 85 of this bill, and to the Texas Workforce Commission in SECTIONS 99 and 100 of this bill.

ANALYSIS

Texas Board of Criminal Justice, Texas Department of Criminal Justice Continuation

C.S.S.B. 2405 amends the Government Code to continue the Texas Board of Criminal Justice (TBCJ) and the Texas Department of Criminal Justice (TDCJ) under the Texas Sunset Act until September 1, 2037.

Across-the-Board Policies Recommended by Sunset Commission

C.S.S.B. 2405 revises provisions governing TBCJ, the Correctional Managed Health Care Committee (CMHCC), and the Board of Pardons and Paroles (BPP) to implement across-the-board Sunset Advisory Commission policy recommendations relating to the following:

- specific grounds for removal of a member of CMHCC;
- training for the applicable entities' members;
- maintenance of a complaint system; and
- person-first language.

The bill provides for the transition to the new training requirements for current members of TBCJ, CMHCC, and the BPP and for current parole commissioners.

Oversight and Reporting of the Criminal Justice Information System

C.S.S.B. 2405 amends the Code of Criminal Procedure to remove the Criminal Justice Policy Council, which is inactive, from the advising entities with which the Department of Public Safety (DPS) and TDCJ must develop biennial plans to improve the reporting and accuracy of the criminal justice information system and develop and maintain monitoring systems capable of identifying missing information.

Accordingly, C.S.S.B. 2405 revises provisions relating to the examination of records and operations of the criminal justice system as follows:

- replaces the requirement for the Criminal Justice Policy Council to coordinate an examination of the records and operations of the criminal justice information system to ensure the accuracy and completeness of information in the system and the promptness of information reporting with a requirement for the State Auditor's Office (SAO) to conduct such an examination;
- clarifies that the examining entity subject to the duty to submit a report summarizing findings and recommendations for improving the criminal justice system is the SAO; and
- includes the governor among the recipients of that report and those recommendations and removes the Criminal Justice Policy Council from the recipients.

Reference Updates and Terminology Revisions

C.S.S.B. 2405 amends the Government Code to update certain references for purposes of aligning applicable statute with TDCJ's existing organizational structure, as follows:

- replaces "institutional division," "state jail division," and "community justice assistance division" with "TDCJ";
- replaces "pardons and paroles division" with "parole division";
- replaces "programs and services division" with "rehabilitation and reentry division"; and
- replaces "internal audit division" with "office of the independent auditor."

C.S.S.B. 2405 amends the Education Code to update terminology as follows:

- replaces "inmate" with "student" for purposes of provisions relating to the Windham School District's goals; and

- for purposes of provisions relating to the Windham School District:
 - replaces "GED" with "high school equivalency program";
 - replaces "ESL" with "English as a second language program"; and
 - replaces "vocational training" with "career and technical education."

Windham School District Program Data Collection and Evaluation

C.S.S.B. 2405 revises the requirement for the Windham School District to compile and analyze information for each of its programs for purposes of evaluating the effectiveness of its programs by including postsecondary education programs among the programs for which the district must include performance-based information and data. The bill requires the information for each of the district's programs to be disaggregated by sex and to include the number and percentage of students who completed training in a regulated industry who applied for and were issued or denied a certificate or license by a state agency.

Windham School District Data Sharing

C.S.S.B. 2405 repeals the authorization for the Windham School District to enter into a memorandum of understanding with TDCJ, DPS, and the Texas Workforce Commission (TWC) to obtain and share data necessary to evaluate district programs. Instead, the bill authorizes the Windham School District to enter into an agreement with a governmental entity, including TWC, DPS, the Texas Department of Licensing and Regulation (TDLR), other regulatory entities, or the Texas Higher Education Coordinating Board (THECB), to obtain and share data necessary to support and evaluate district and postsecondary education programs within TDCJ.

Postsecondary Education; Postsecondary Education Advisory Board

C.S.S.B. 2405 requires the Windham School District and TDCJ to enter into a memorandum of understanding for postsecondary education programs to be administered by the district. The bill requires the district to establish a postsecondary education advisory board to advise the district and TDCJ regarding postsecondary education programs. The bill establishes the advisory board is composed of members who are relevant stakeholders, including representatives of the following entities:

- the THECB;
- TDLR;
- TWC;
- public institutions of higher education on a rotating basis;
- an organization that represents the families of students participating in postsecondary education programs administered by the district;
- an organization that advocates for the education of students participating in postsecondary education programs administered by the district; and
- current or former student participants in postsecondary education programs administered by the district.

Composition of the Texas Board of Criminal Justice

C.S.S.B. 2405 amends the Government Code to require at least two TBCJ members to have significant business or corporate experience. This requirement does not affect the entitlement of a member serving on TBCJ before the bill's effective date to continue to serve for the remainder of the member's term. As the terms of members expire, the governor must appoint or reappoint members who have the qualifications required by the bill.

Texas Board of Criminal Justice Powers and Duties; Independent Reporting Entities

C.S.S.B. 2405 requires TBCJ to maintain oversight and supervision of the following independent reporting entities:

- the office of the independent auditor;
- the office of the independent ombudsman;
- the office of the inspector general;
- the office of the ombudsperson appointed by TBCJ under applicable state law; and
- the office providing legal representation under Code of Criminal Procedure provisions relating to indigent inmate defense and applicable Health and Safety Code provisions.

The bill authorizes TBCJ to adopt rules as necessary for operation of the independent reporting entities. TBCJ must employ a director for each independent reporting entity and each director serves at the pleasure of TBCJ.

C.S.S.B. 2405 requires TBCJ to approve the operating budget of and requests for appropriations for those independent reporting entities. The bill expands the requirement for TBCJ to develop and implement policies that clearly separate the policymaking responsibilities of TBCJ and the management responsibilities of the executive director and the staff of TDCJ to include policies that also separate the management responsibilities of the independent reporting entities.

Operation and Management of State Jail Facilities

For purposes of aligning applicable statute with TDCJ's existing organizational structure and practices, C.S.S.B. 2405 repeals the provision requiring the state jail division of TDCJ to operate and manage state jails to confine defendants required by a judge to serve a term of confinement in a state jail felony facility following a grant of deferred adjudication for or conviction of an offense punishable as a state jail felony and transfers that duty to the institutional division of TDCJ instead.

Inventory and Evaluation of Active Programs in TDCJ Facilities

C.S.S.B. 2405 requires TDCJ to develop and maintain a comprehensive inventory of active programs and activities offered in TDCJ facilities that includes the following information for each program:

- program goals;
- program capacity; and
- facilities where the program is offered.

The bill requires TDCJ to make the inventory available to the public on TDCJ's website and continuously update the inventory.

C.S.S.B. 2405 requires TDCJ to collect and analyze data for the programs for purposes of providing oversight of the programs and improving program offerings. In carrying out those duties, TDCJ must do the following:

- for programs claiming rehabilitative or reentry effects:
 - collect results-based performance data;
 - work with qualified internal or external researchers to develop criteria to evaluate the programs; and
 - use those criteria to evaluate the programs, including the results-based performance data;
- create a separate correctional elective programs and activities category for non-evidence-based and non-evidence-informed programs and develop criteria to evaluate the programs;
- collect and analyze relevant data for program participants in programs claiming rehabilitative or reentry effects, such as the following:
 - institutional disciplinary violations;

- subsequent arrests;
- subsequent convictions or confinements;
- employment obtained following release; and
- cost of confinement; and
- use the data collected for program participants to produce and compare recidivism rates and other correctional impact trends and to make changes to the programs as needed.

The bill authorizes TDCJ to make structural or programmatic adjustments to improve program performance in response to a program evaluation under these provisions indicating poor program performance.

C.S.S.B. 2405 requires TDCJ, not later than December 1 of each even-numbered year, to submit a report on TDCJ's analysis of active programs in the inventory to TBCJ, the BPP, the governor, the lieutenant governor, the speaker of the house of representatives, and each standing committee of the legislature with primary jurisdiction over TDCJ. TDCJ may enter into a memorandum of understanding with other entities, including TWC, the Office of Court Administration of the Texas Judicial System (OCA), DPS, TDLR, other regulatory entities, and institutions of higher education, to obtain and share data necessary to evaluate programs under these provisions.

Information of Public Interest; Complaints

C.S.S.B. 2405 replaces the requirement that TDCJ provide a written copy of TDCJ's policies and procedures relating to complaint investigation and resolution to all TDCJ employees and each person filing a complaint with a requirement that TDCJ instead provide notice of those policies and procedures to such TDCJ employees and persons.

Office of the Inspector General

C.S.S.B. 2405 clarifies that the office of the inspector general is established under the direction of TBCJ as an independent law enforcement agency and is responsible for preventing and investigating the following:

- offenses committed by TDCJ employees and inmates; and
- offenses committed at a facility operated by or under contract with TDCJ or at any facility in which an individual in the custody of TDCJ is housed or receives medical or mental health treatment, including:
 - unauthorized or illegal entry into a TDCJ facility;
 - the introduction of contraband into a TDCJ facility;
 - escape from a TDCJ facility and parole absconders;
 - organized criminal activity; and
 - violations of TDCJ policy or procedure.

Accordingly, the bill replaces the authorization for the inspector general to appoint employees who are certified by the Texas Commission on Law Enforcement (TCOLE) as qualified to be peace officers to serve under the inspector general's direction and assist the inspector general in performing the enforcement duties of TDCJ with an authorization for the inspector general to employ and commission peace officers for the purpose of carrying out certain duties. However, the bill provides the following:

- TBCJ must employ a commissioned peace officer as the inspector general, who may be terminated by TBCJ action; and
- peace officers employed and commissioned by the inspector general must be licensed as an officer under Occupations Code provisions governing law enforcement officers and complete advanced courses relating to the duties of peace officers employed and commissioned by the inspector general as part of any continuing education requirements for the peace officers.

C.S.S.B. 2405 requires the office of the inspector general to work cooperatively with other law enforcement agencies while performing its duties under these provisions or other law.

Long-Term Facilities Plan

C.S.S.B. 2405 requires TDCJ to prepare a 10-year plan that identifies TDCJ's facility and capacity needs. In developing its 10-year plan, TDCJ must consider the state's various regional needs, including any ancillary or community benefits associated with TDCJ facilities and may contract with a third party as needed.

C.S.S.B. 2405 requires TDCJ to submit the following not later than December 1, 2026, and every fourth anniversary of that date:

- the 10-year plan prepared by TDCJ to TBCJ for approval; and
- the TBCJ-approved plan to the governor, the lieutenant governor, the speaker of the house of representatives, and each standing legislative committee with jurisdiction over appropriations or TDCJ.

Maximum Capacities of TDCJ Units

C.S.S.B. 2405 removes the statutorily prescribed maximum capacities for the units in TDCJ, requires TBCJ instead by rule to establish maximum capacities for units in TDCJ, and requires TBCJ to adopt those rules as soon as practicable after the bill's effective date.

C.S.S.B. 2405 includes the deputy director for programs among the TDCJ officers who must independently review staff recommendations for an increase in the maximum capacity of a unit and accompanying findings and makes the following clarifications with respect to the officers subject to that duty:

- the deputy director for health services is the division director for health services; and
- the assistant director for classification and treatment is the division director for classification and inmate transportation.

Under current law, TBCJ must review such a recommendation for an increase in the maximum capacity and accompanying findings from TDCJ's executive director, and not later than the 60th day after the date of receipt, must reject or accept or modify the recommendation and forward the recommendation or modified recommendations and findings to the governor for review and recommendation to the attorney general. C.S.S.B. 2405 makes the following changes:

- repeals the provision conditioning TBCJ's establishment of the new maximum capacity on the attorney general's approval of the recommendations and findings and notice;
- authorizes TBCJ instead to establish a new maximum capacity based on TBCJ's acceptance or modification of the recommendation from TDCJ's executive director; and
- retains the requirement for TBCJ to forward the recommendation or modified recommendation and findings to the governor but removes the deadline and repeals provisions requiring the governor to review the recommendation and findings and requiring the attorney general to review the recommendation and findings as forwarded from the governor for purposes of determining whether the recommended new maximum capacity is compliant with state and federal law.

The bill also transfers to TBCJ the attorney general's authority to authorize TDCJ to increase the inmate population of TDCJ above 100 percent under certain conditions.

Pen Packet Submission Training

C.S.S.B. 2405 requires TDCJ to develop and provide annual training for county employees on the submission of documents required before TDCJ takes custody of a person being transferred from a county jail to TDCJ, including documents required under applicable Code of Criminal Procedure provisions relating to the transfer of a defendant from a county to TDCJ. The training may be offered in person or online and the online training may be offered live or prerecorded.

Assault on an Inmate

C.S.S.B. 2405 changes the action the executive director of TDCJ must take if a TDCJ employee assaults an inmate from filing a complaint with the proper official of the county in which the offense occurred to referring the matter to an appropriate law enforcement official.

Volunteer and Faith-Based Organizations

C.S.S.B. 2405 changes from each warden to TDCJ staff the persons who under TDCJ policy must identify volunteer and faith-based organizations that provide programs for inmates housed in facilities operated by TDCJ. Accordingly, the bill revises the requirements under that policy as follows:

- replaces the requirement for the policy to require each warden to actively encourage volunteer and faith-based organizations to provide certain programs for inmates in the warden's facility with a requirement for the policy to instead require TDCJ staff to actively encourage such organizations to provide those programs in TDCJ facilities;
- includes among the policy requirements that the TDCJ staff solicit feedback from the warden and chaplains of each facility on the facility's needs regarding volunteer and faith-based organization provided programs; and
- removes a requirement for the policy to require that each warden submit a report to TBCJ not later than December 31 of each year that includes a summary of certain information for the preceding fiscal year but requires TDCJ to include that summary in the biennial report required under the bill's provisions relating to analysis of TDCJ's comprehensive inventory of active programs.

Funds for Providing Discharged or Released Inmates With Clothing and Money

C.S.S.B. 2405 changes from Huntsville, Texas, to Texas the location of the banks in which the comptroller of public accounts must maintain funds of not less than \$100,000 in a bank or banks for purposes of making prompt payments to inmates released on parole, mandatory supervision, or conditional pardon.

Report on AIDS and HIV Education and Testing

C.S.S.B. 2405 changes the deadline by which TDCJ must report to the legislature concerning the implementation of statutory provisions governing AIDS and HIV education and testing and the participation of inmates and employees of TDCJ in such education programs from not later than January 15 of each odd-numbered year to not later than December 1 of each even-numbered year.

Report of Inmate Death

C.S.S.B. 2405 changes the entity that an employee of the applicable facility in charge of an inmate who dies while in the custody of TDCJ must immediately notify, in addition to the nearest justice of the peace serving in the county in which the inmate died, from the office of internal affairs for TDCJ to the office of inspector general.

Report on Comprehensive Reentry and Reintegration Plan for Offenders

C.S.S.B. 2405 extends from not later than September 1 of each even-numbered year to not later than December 1 of each even-numbered year the deadline by which TDCJ must deliver to the lieutenant governor, the speaker of the house of representatives, and each standing committee of the senate and house of representatives having primary jurisdiction over TDCJ a report of the results of evaluations of the effectiveness of the reentry and reintegration services provided to offenders by collecting, maintaining, and reporting outcome information conducted under applicable statutory provisions.

Strategic Plan for Rehabilitation and Reentry Programs

C.S.S.B. 2405 requires TDCJ and the Windham School District to jointly develop, not later than December 1, 2026, a strategic plan for the provision of rehabilitation and reentry programs to inmates. The strategic plan must include program objectives and timelines intended to do the following:

- increase program efficiencies, including eliminating delays in placing inmates into parole-voted programs;
- reduce program redundancies;
- incorporate new evidence-based and evidence-informed program approaches; and
- incorporate technology-based solutions.

The bill includes a temporary provision, set to expire December 31, 2027, requiring the strategic plan to include clear steps and timelines to reduce, by September 1, 2027, overall parole-voted program placement timelines by at least 50 percent compared to the timelines on August 31, 2023. The bill defines "parole-voted program" as a program or class that TBCJ intends to require an inmate to complete before releasing the inmate on parole or to mandatory supervision.

C.S.S.B. 2405 requires TDCJ, in developing the strategic plan, to evaluate therapeutic service contracts and obligations and renegotiate the contracts and obligations as necessary to meet current and projected program needs. The bill requires TDCJ and the Windham School District to do the following:

- jointly update the strategic plan at least once every five years;
- submit, not later than December 1 of each even-numbered year, a joint report on the implementation of the strategic plan to TBCJ, the BPP, the governor, the lieutenant governor, the speaker of the house of representatives, and each standing committee of the legislature with primary jurisdiction over TDCJ; and
- in preparing that joint report, to consider the most recent report jointly prepared by TDCJ's reentry and integration division and parole division under applicable state law.

Training Program on Medically Recommended Intensive Supervision

C.S.S.B. 2405 requires the BPP to develop and provide a comprehensive training program on the release of inmates on medically recommended intensive supervision under applicable provisions for BPP members and parole commissioners serving on a parole panel under those provisions. The training program must include the following:

- background information on medically recommended intensive supervision; and
- training and education regarding the following:
 - statutory requirements and BPP rules for the consideration and release of inmates on medically recommended intensive supervision;
 - the supervision of persons released on medically recommended intensive supervision, including information on the imposition of graduated sanctions on a releasee for a violation of a condition of release and the imposition and modification of special conditions on a releasee; and
 - how to read and review a written report on an inmate's condition provided by the health care practitioner who reviews the inmate's condition, as required under the bill's provisions relating to medically recommended intensive supervision.

The bill requires the BPP to do the following with respect to the training program:

- in developing the program, use available data on medically recommended intensive supervision and consult with TDCJ and a practicing physician and psychiatrist as needed; and
- develop a condensed version of the program that includes only the training and education included in the program under the bill's provisions.

C.S.S.B. 2405 prohibits a member on a parole panel composed of board members and parole commissioners appointed by the presiding officer from participating in a vote of the panel related to the release of an inmate on medically recommended intensive supervision until the applicable member completes the program. Each member must complete the condensed version of the program biennially after completing the initial training to remain eligible to participate in a vote of the panel related to the release of an inmate on medically recommended intensive supervision. The bill requires the BPP to inform each member on such a panel of any subsequent changes to the comprehensive training program that are made after the member completes the condensed version of the program as required under these provisions.

C.S.S.B. 2405 requires the BPP to make the required training program available to BPP members and parole commissioners not later than December 1, 2025, and establishes that an applicable BPP member or parole commissioner is not required to complete the training until that date.

Parole Panel Data

C.S.S.B. 2405 requires the BPP to coordinate with TDCJ to collect and analyze data on the release of inmates on parole, mandatory supervision, or medically recommended intensive supervision and the use of special conditions and graduated sanctions to evaluate outcomes and trends. Using that data, the BPP must determine a method for evaluating the consistency of revocation decisions across all three-voter parole panels. The bill requires the BPP to use its findings from the data collected in developing the training required under applicable state law for BPP designees and members and parole commissioners.

Parole Officers and Supervisors: Qualifications

C.S.S.B. 2405 authorizes the parole division to establish a waiver procedure for when the director of the division is unable to appoint parole officers and supervisors who meet the necessary qualifications for employment under applicable state law.

Salary Career Ladder for Parole Officers

C.S.S.B. 2405 removes the requirement for TDCJ's executive director to adopt a salary career ladder for parole officers and the requirement for the salary career ladder to base a parole officer's salary on the officer's classification and years of service with TDCJ. Accordingly, the bill repeals the requirement for TDCJ to classify all parole officer positions as Parole Officer I, Parole Officer II, Parole Officer III, Parole Officer IV, or Parole Officer V and the provision entitling a qualified parole officer to an annual salary increase during each of the officer's first 10 years of service in such a designated parole officer classification using a specified formula. The bill provides the following instead:

- requires TBCJ by rule to adopt the salary career ladder for parole officers and requires TBCJ to adopt the rules as soon as practicable after the bill's effective date;
- requires TBCJ, in adopting the salary career ladder, and in consultation with relevant stakeholders, to review the current salary structure and align the salary career ladder with the future needs of TDCJ; and
- authorizes TBCJ to revise the salary career ladder as needed.

Parole Officer Maximum Caseloads

C.S.S.B. 2405 removes the requirement for TDCJ to adopt a policy that establishes guidelines for a maximum caseload for each parole officer according to a specified number of active releasees set by state law and the requirement for TDCJ, if TDCJ is unable to meet those maximum caseload guidelines, to submit a report to the Legislative Budget Board, at the end of each fiscal year in which TDCJ fails to meet the guidelines, stating the amount of money needed by TDCJ to meet the guidelines. The bill provides the following instead:

- requires TBCJ by rule to establish guidelines for a maximum caseload for a parole officer and requires TBCJ to adopt the rules as soon as practicable after the bill's effective date;
- requires TBCJ to periodically review the guidelines to ensure that the guidelines are achievable and informed by research-supported supervision practices; and
- authorizes TBCJ to revise the guidelines as needed.

The bill requires TDCJ to conduct a job task analysis and workload study with respect to parole officers before TBCJ adopts or amends the guidelines.

Report on Parole Supervision Approaches and Maximum Caseloads

C.S.S.B. 2405 requires TDCJ, in consultation with relevant stakeholders, to do the following not later than December 1, 2026:

- review current parole supervision practices and caseload approaches; and
- submit a report on proposed parole supervision practices and caseload approaches, including proposed maximum caseloads for parole officers, to TBCJ, the BPP, the governor, the lieutenant governor, the speaker of the house of representatives, and each standing committee of the legislature with primary jurisdiction over TDCJ.

The report must include an evaluation of TDCJ's practice of assigning parole supervision caseloads where staffing vacancies exist to ensure appropriate supervision of all caseloads by a parole officer and the results of any TDCJ pilot project assessing changes to parole officer supervision practices and caseload approaches. The bill prohibits a pilot project assessing supervision practices and caseload approach changes from being implemented statewide before submission of the report. These provisions relating to a report on parole supervision approaches and maximum caseloads expire September 1, 2027.

Medically Recommended Intensive Supervision

Under current law, an inmate other than an inmate who is serving a sentence of death or life without parole may be released on medically recommended intensive supervision if the inmate's medically recommended intensive supervision plan, prepared by Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) in cooperation with the parole division, is approved by TCOOMMI. However, an inmate whose instant offense is ineligible for judge-ordered community supervision or an inmate who has a reportable conviction or adjudication for which registration is required under the sex offender registration program may currently only be released on such supervision if, in addition to TCOOMMI's approval of their medically recommended intensive supervision plan and a physician's diagnosis of a medical condition of terminal illness or long-term care, the inmate satisfies the following conditions:

- TCOOMMI, in cooperation with CMHCC, identifies the inmates as being:
 - with respect to an inmate whose instant offense is ineligible for judge-ordered community supervision, a person who is elderly or terminally ill, a person with mental illness, an intellectual disability, or a physical disability, or a person who has a condition requiring long-term care; or
 - with respect to an inmate required to register as a sex offender, in a persistent vegetative state or a person with an organic brain syndrome with significant to total mobility impairment; and
- the parole panel determines that, based on the inmate's condition and a medical evaluation, the inmate does not constitute a threat to public safety.

C.S.S.B. 2405 revises provisions relating to the release of an inmate on medically recommended intensive supervision, as follows:

- subjects the release of any inmate other than an inmate who is serving a sentence of death or life without parole to those conditions relating to identification of any such qualifying medical condition and the parole panel's public safety determination, except that being elderly qualifies as a medical condition regardless of whether the inmate has any other qualifying medical condition;

- expands the qualifying medical conditions for an inmate other than an inmate who is serving a sentence of death or life without parole or for an offense that is ineligible for judge-ordered community supervision or for which sex offender registration is required to include any eligible medical condition as prescribed by BPP rule;
- with respect to an inmate whose instant offense is ineligible for judge-ordered community supervision, clarifies that being elderly is not a qualifying medical condition; and
- clarifies that such provisions do not apply to an inmate who is not a U.S. citizen, except as otherwise provided by provisions relating to the release of such an inmate to immigration authorities pending deportation under specified conditions, and subjects the release of such an inmate to immigration authorities to the condition relating to TCOOMMI identification of a qualifying medical condition, including being elderly or having an eligible medical condition as prescribed by BPP rule.

C.S.S.B. 2405 further revises provisions relating to medically recommended intensive supervision, as follows:

- replaces the requirement for TCOOMMI and the Texas Department of Human Services to jointly request proposals from public or private vendors to provide under contract services for inmates released on medically recommended intensive supervision with an authorization for TCOOMMI to do so; and
- changes the composition of the parole panel that may make determinations regarding the release of inmates on medically recommended intensive supervision or inmates released pending deportation from the BPP's presiding officer and two BPP members appointed by the presiding officer to BPP members and parole commissioners appointed by the presiding officer.

C.S.S.B. 2405 requires the BPP to adopt rules to administer provisions relating to medically recommended intensive supervision as soon as practicable after the bill's effective date. The rules must do the following:

- specify the procedures for evaluating the prognosis of inmates who are eligible for medically recommended intensive supervision because of a qualifying medical condition;
- specify the factors, other than an inmate's condition, that are relevant or statutorily required to release an inmate on medically recommended intensive supervision;
- define what constitutes a threat to public safety for purposes of the following determinations:
 - a determination by a parole panel that an inmate may be released on medically recommended intensive supervision; and
 - a determination by a parole panel that an inmate who is not a U.S. citizen may be released to immigration authorities, subject to certain conditions; and
- specify the factors that an applicable parole panel must consider when determining whether an inmate constitutes a threat to public safety.

The procedures for evaluating the prognosis of inmates required by the bill must do the following:

- require a review of the inmate's condition by at least one health care practitioner; and
- require each health care practitioner who reviews an inmate's condition to provide an applicable parole panel, before the panel makes a final determination regarding the release of inmates on medically recommended intensive supervision or of inmates released pending deportation, a written report on the inmate's condition that satisfies the following requirements:
 - is in plain language that is understandable by a nonmedical professional;
 - specifically describes how the inmate's condition and treatment for the condition will affect the inmate's cognitive and physical abilities and limitations; and
 - contains other information as required by the BPP.

C.S.S.B. 2405 authorizes the BPP to consult with other relevant entities for purposes of establishing information required in the written report on an inmate's condition, including the following entities:

- CMHCC;
- the parole division of TDCJ;
- TCOOMMI;
- the Texas Tech University Health Sciences Center; and
- The University of Texas Medical Branch at Galveston.

The bill excepts from disclosure under state public information law information regarding the identity of a health care practitioner providing such a report, other than information relating to the practitioner's specialization, and authorizes the BPP to release the information or redact or otherwise withhold the information from disclosure under that law.

Individual Treatment Plan for Inmates

C.S.S.B. 2405 requires an inmate's individual treatment plan, for purposes of the requirement for TDCJ to include in the plan a record of the inmate's institutional progress that includes the inmate's participation in any program, to include a comprehensive list, in plain language, of the inmate's program participation that does the following:

- includes state-funded programs, intensive volunteer programs, and program enrollment and completion dates; and
- distinguishes between evidence-based programs and correctional elective programs and activities that are non-evidence based or non-evidence informed.

The bill requires TDCJ to revise each inmate's individual treatment plan as necessary to conform to these requirements not later than December 1, 2026.

Required Individual Treatment Plan Programs and Parole-Voted Programs

C.S.S.B. 2405 requires TDCJ, the BPP, and the Windham School District to do the following:

- develop evidence-based program criteria specific to required individual treatment plan programs and parole-voted programs to be used in evaluating and assessing those programs;
- develop and maintain a required individual treatment plan programs list and a parole-voted programs list, provided that a non-evidence-based or non-evidence-informed program may not be included on either list;
- develop procedures for the following:
 - evaluating programs to be added to the required individual treatment plan programs list or the parole-voted programs list;
 - assessing current required individual treatment plan programs and parole-voted programs; and
 - removing programs that do not meet the evidence-based program criteria developed under these provisions from the lists of required individual treatment plan programs and parole-voted programs; and
- coordinate on required individual treatment plan and parole-voted programming options through regular meetings.

The bill defines "required individual treatment plan program" as a program or class that is required to be included in an inmate's individual treatment plan under applicable state law other than a parole-voted program. In developing and maintaining the required individual treatment plan programs list, TDCJ and the Windham School District expressly have joint authority to decide which programs are included on the required individual treatment plan programs list.

C.S.S.B. 2405 requires TDCJ and the Windham School District, in developing and maintaining the parole-voted programs list, to present programming options and program evaluation results to the BPP, provided that the BPP expressly has the sole authority to decide which programs are included on the parole-voted programs list.

C.S.S.B. 2405 requires TDCJ to do the following with respect to the required individual treatment plan programs and parole-voted programs:

- collect and analyze parole-voted program data on a rolling basis, including the following:
 - the number of inmates waiting for placement into a program;
 - the waitlist times for placement into a program;
 - the reasons for program placement delays, other than delays due to a program start date specified by the BPP;
 - vote revision requests related to program ineligibility, placement delays, and other factors that may affect parole release timelines; and
 - the number of inmates unable to complete parole-voted programs before the earliest date on which the inmates would have been eligible to be released following program completion;
- use that parole-voted program data to do the following:
 - calculate parole-voted program waitlist times;
 - track and reduce parole-voted program enrollment timelines; and
 - work to eliminate parole-voted program placement delays;
- include the parole-voted program data and analysis in the strategic plan for rehabilitation and reentry programs required under the bill's provisions; and
- prioritize the placement of inmates into parole-voted programs, ensure parole-voted program capacity meets programming needs, and expand parole-voted program access in accordance with that strategic plan for rehabilitation and reentry programs required under the bill's provisions.

Special Conditions Work Group

C.S.S.B. 2405 requires the BPP and TDCJ to jointly establish a work group consisting of BPP members and parole commissioners who actively serve on a parole panel and staff representatives from the parole division of TDCJ to assess the impact and effectiveness of special conditions. The bill requires the work group to meet annually. The work group must do the following:

- discuss the efficacy of special conditions and in doing so, solicit input from parole officers and relevant parties;
- assess the continuing need for the use of specific special conditions; and
- identify potential modifications to special conditions for the BPP to consider adopting.

Postsecondary Education Reimbursement Program

C.S.S.B. 2405 requires TDCJ, from money appropriated to TDCJ for the purpose, to establish and administer a postsecondary education reimbursement program to provide for the payment of postsecondary education tuition and fees for enrollment in courses by eligible inmates. The bill requires an inmate participating in the program and enrolled in postsecondary education courses during confinement to reimburse TDCJ for the costs of the tuition and fees paid on the inmate's behalf. The bill prohibits TDCJ from charging interest for the repayment of costs related to the program. The bill authorizes a parole panel to require as a condition of parole or mandatory supervision that a releasee who had the costs of tuition and fees paid through the program reimburse TDCJ for those costs.

Overtime Compensation for Employees Subject to the Federal Fair Labor Standards Act of 1938

C.S.S.B. 2405 revises provisions relating to compensatory time off for TDCJ employees, as follows:

- removes the provision establishing that the compensatory time off lapses if not taken during the 24-month period following the end of the workweek in which it was accrued; and
- requires for the compensatory time off, if not taken during the 24-month period, to be credited instead to the employee's accumulated vacation leave.

These provisions apply to compensatory time accrued by a TDCJ employee before, on, or after the bill's effective date.

Advisory Committee to the Texas Board of Criminal Justice on Offenders With Medical or Mental Impairments

C.S.S.B. 2405 amends the Health and Safety Code to revise the composition of the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments by including among the members the executive head of the Texas Veterans Commission.

Biennial Report by the Texas Correctional Office on Offenders With Medical or Mental Impairments

C.S.S.B. 2405 changes from not later than February 1 of each odd-numbered year to not later than December 1 of each even-numbered year the deadline by which TCOOMMI must present to TBCJ and file with the governor, lieutenant governor, and speaker of the house of representatives a report on the details of TCOOMMI's activities during the preceding biennium. The bill repeals the requirement for TCOOMMI to submit an annual report to the legislature on the provision of services to wrongfully imprisoned persons under applicable state law but revises the required contents of the report on TCOOMMI's activities instead to include the information on the provision of such services.

Continuity of Care for Elderly Offenders

C.S.S.B. 2405 includes TWC among the entities that must adopt by rule a memorandum of understanding that establishes the respective responsibilities of TDCJ, the Department of State Health Services (DSHS), the Health and Human Services Commission (HHSC), and TWC for purposes of instituting a continuity of care and service program for elderly offenders in the criminal justice system.

Continuity of Care for Offenders With Physical Disabilities, Terminal Illnesses, or Significant Illnesses

C.S.S.B. 2405 includes TWC among the entities that must adopt by rule a memorandum of understanding that establishes the respective responsibilities of TDCJ, TWC, DSHS, and HHSC for purposes of instituting a continuity of care and service program for offenders in the criminal justice system who are persons with physical disabilities, terminal illnesses, or significant illnesses.

Civil Commitment of Certain Sexually Violent Predators

C.S.S.B. 2405 changes from the Office of State Counsel for Offenders to TBCJ the entity that must represent an indigent person subject to a civil commitment proceeding for sexually violent predators. The bill provides for the following with respect to such representation:

- TBCJ may employ attorneys, support staff, and any other personnel required to provide the representation;
- employed personnel are directly responsible to TBCJ in the performance of their duties; and
- TBCJ must pay all fees and costs associated with providing such representation.

Legislative Intent Regarding Harmonization With Nonsubstantive Changes to Codes

C.S.S.B. 2405 establishes that it is the intent of the 89th Legislature, Regular Session, 2025, that the bill be harmonized with another Act of the 89th Legislature, Regular Session, 2025, relating to nonsubstantive additions to and corrections in enacted codes.

Repealed Provisions

C.S.S.B. 2405 repeals the following provisions:

- the requirement for the institutional division of TDCJ to assess not less than once every three years the division's long-term administrative segregation and maximum security needs in order to ensure that the division is managed effectively and the related requirement for the division to report the results of each assessment to the Legislative Criminal Justice Board;
- provisions creating the Advisory Committee on Agriculture to the institutional division of TDCJ and providing for its administration, operation, and duties;
- the requirement for TDCJ, before each regular session of the legislature, to submit to the legislature a report that compares the rate of recidivism of sex offenders released from the institutional division who have undergone an orchiectomy to the rate of recidivism of those sex offenders who have not;
- the requirement for TBCJ to designate not fewer than nine regions in Texas for the purpose of providing regional state jail felony facilities and provisions setting out additional conditions regarding the designation of such regions; and
- the requirement for TBCJ to adopt and enforce a regional allocation policy and, under certain circumstances, an intra-regional allocation policy for each region.

C.S.S.B. 2405 repeals the following provisions:

- Article 66.352(b), Code of Criminal Procedure;
- Section 19.0041(c), Education Code;
- Section 491.001(a)(8), Government Code;
- Section 493.0051, Government Code;
- Section 494.011, Government Code;
- Section 497.111, Government Code;
- Section 499.106, Government Code;
- Section 499.107, Government Code;
- Section 501.062(c), Government Code;
- Section 507.003, Government Code;
- Section 507.004, Government Code;
- Sections 508.1131(b) and (c), Government Code; and
- Section 614.021(c), Health and Safety Code.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 2405 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes the following provisions absent from the engrossed:

- a requirement for the Windham School District and TDCJ to enter into a memorandum of understanding for postsecondary programs to be administered by the district; and
- a requirement for the district to establish a postsecondary education advisory board.

The substitute includes the following changes for purposes of aligning applicable statute with TDCJ's existing organizational structure, whereas the engrossed did not:

- replaces "pardons and paroles division" with "parole division"; and
- replaces "internal audit division" with "office of the independent auditor."

The substitute includes a specification absent from the engrossed that the entities with which TDCJ may enter into a memorandum of understanding for purposes of obtaining and sharing data necessary to evaluate active programs offered in TDCJ facilities includes TWC, OCA, DPS, TDLR, other regulatory entities, and institutions of higher education.

The substitute postpones the initial deadline and the date the fourth anniversary of which TDCJ must submit the 10-year plan that identifies TDCJ's facility and staffing needs to TBCJ for approval and to submit the approved plan to certain recipients from not later than September 1, 2026, as in the engrossed, to not later than December 1, 2026.

The substitute transfers to TBCJ the attorney general's authority to authorize TDCJ to increase the inmate population of the TDCJ above 100 percent only under certain conditions, which the engrossed did not do.

The substitute changes the location of the banks in which the comptroller must maintain funds for purposes of making prompt payments to inmates released on parole, mandatory supervision, or conditional pardon to Texas, which the engrossed did not change.

With respect to the bill's requirement for the BPP to develop and provide a comprehensive training program on the release of inmates on medically recommended intensive supervision for BPP members and parole commissioners serving on an applicable parole panel, the substitute makes the following revisions:

- does not include the requirement of the engrossed for the training program to include training and education regarding the medical conditions affecting inmates who are eligible for medically recommended intensive supervision; and
- includes a requirement absent from the engrossed for the training program to include training and education regarding how to read and review a written report on an inmate's condition provided by the health care practitioner who reviews the inmate's condition.

The substitute revises provisions of the engrossed relating to a report on parole supervision approaches and maximum caseloads as follows:

- postpones the deadline by which TDCJ must review current parole supervision practices and caseload approaches and submit a report on proposed parole supervision practices and caseload approaches from not later than September 1, 2026, as in the engrossed, to not later than December 1, 2026; and
- whereas the engrossed required the report to include an evaluation of the current caseload identified as not being actively worked on by a parole officer, considering the assessed parole officer staffing needs, the substitute requires the report to include an evaluation of TDCJ's practice of assigning parole supervision caseloads where staffing vacancies exist to ensure appropriate supervision of all caseloads by a parole officer.

Whereas the engrossed required an inmate's individual treatment plan to include a comprehensive list, in plain language, of the inmate's program participation that distinguishes between required evidence-based programs and correctional elective programs and activities that are non-evidence based or non-evidence informed, the substitute requires an inmate's individual treatment plan to include, for those purposes, such a list that distinguishes between evidence-based programs and correctional elective programs and activities that are non-evidence based or non-evidence informed.

While the engrossed and substitute both provide for a postsecondary education reimbursement program, the versions differ as follows:

- whereas the engrossed required a parole panel to require as a condition of parole or mandatory supervision that a releasee who had the cost of tuition and fees paid through a postsecondary education reimbursement program for enrollment in courses during the releasee's confinement in TDCJ reimburse TDCJ for those costs, the substitute instead authorizes a parole panel to require such a condition;
- the substitute does not include provisions of the engrossed establishing as an affirmative defense to revocation, in a parole or mandatory supervision revocation hearing under applicable state law at which it is alleged only that the releasee failed to make such a reimbursement payment to TDCJ, that the releasee is unable to pay the amount required by TDCJ, and requiring the releasee to prove the affirmative defense by a preponderance of the evidence;
- the substitute includes a requirement absent from the engrossed for TDCJ, from money appropriated to TDCJ for the purpose, to establish and administer the program to provide for the payment of postsecondary education tuition and fees for enrollment in courses by eligible inmates; and
- the substitute includes a requirement absent from the engrossed for an inmate participating in the program and enrolled in postsecondary education courses during confinement to reimburse TDCJ for the costs of the tuition and fees paid on the inmate's behalf.

The substitute repeals the provision authorizing the Windham School District to enter into a memorandum of understanding with TDCJ, DPS, and TWC to obtain and share data necessary to evaluate district programs, whereas the engrossed did not repeal that provision.

The substitute postpones the deadlines with respect to the following bill provisions from not later than September 1, 2026, as in the engrossed, to not later than December 1, 2026:

- the requirement for TDCJ and the Windham School District to develop the strategic plan for rehabilitation and reentry programs; and
- the requirement for TDCJ to revise each inmate's individual treatment plan as necessary to conform to the bill's requirements.