

in
one

AN ACT

relating to the Texas Youth Commission and the prosecution of certain offenses and delinquent conduct in the Texas Youth Commission and certain other criminal justice agencies; providing penalties.

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 and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

(5) investigators of the district attorneys', criminal

1 district attorneys', and county attorneys' offices;

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

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

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

8 (9) officers commissioned by the General Services
9 Commission;

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

12 (11) airport police officers commissioned by a city
13 with a population of more than 1.18 million that operates an airport
14 that serves commercial air carriers;

15 (12) airport security personnel commissioned as peace
16 officers by the governing body of any political subdivision of this
17 state, other than a city described by Subdivision (11), that
18 operates an airport that serves commercial air carriers;

19 (13) municipal park and recreational patrolmen and
20 security officers;

21 (14) security officers and investigators commissioned
22 as peace officers by the comptroller;

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

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

27 (17) investigators commissioned by the Texas Medical

1.4.2

S.B. No. 103

1 [~~State~~] Board [~~of Medical Examiners~~];

2 (18) officers commissioned by the board of managers of
3 the Dallas County Hospital District, the Tarrant County Hospital
4 District, or the Bexar County Hospital District under Section
5 281.057, Health and Safety Code;

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

8 (20) investigators employed by the Texas Racing
9 Commission;

10 (21) officers commissioned under Chapter 554,
11 Occupations Code;

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

16 (23) investigators commissioned by the attorney
17 general under Section 402.009, Government Code;

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

20 (25) an officer employed by the [~~Texas~~] Department of
21 State Health Services under Section 431.2471, Health and Safety
22 Code;

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

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

27 (28) an investigator commissioned by the commissioner

S.B. No. 103

of insurance under Section 701.104 [~~Article 1.10D~~], Insurance Code;

(29) apprehension specialists and inspectors general commissioned by the Texas Youth Commission as officers under Sections 61.0451 and [~~Section~~] 61.0931, Human Resources Code;

(30) officers appointed by the executive director of the Texas Department of Criminal Justice under Section 493.019, Government Code;

(31) investigators commissioned by the Commission on Law Enforcement Officer Standards and Education under Section 1701.160, Occupations Code;

(32) commission investigators commissioned by the Texas [~~Commission on~~] Private Security Board under Section 1702.061(f), Occupations Code;

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

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

SECTION 2. Subsection (c), Article 61.06, Code of Criminal Procedure, is amended to read as follows:

(c) In determining whether information is required to be removed from an intelligence database under Subsection (b), the three-year period does not include any period during which the individual who is the subject of the information is:

(1) confined in the institutional division or the state jail division of the Texas Department of Criminal Justice;

1 (2) committed to a secure correctional facility
2 operated by or under contract with the Texas Youth Commission, as
3 defined by Section 51.02, Family Code; or

4 (3) committed to a facility operated by a juvenile
5 board in lieu of being committed to a secure correctional facility
6 operated by or under contract with the Texas Youth Commission.

7 SECTION 3. Subsection (a), Article 104.003, Code of
8 Criminal Procedure, is amended to read as follows:

9 (a) In a prosecution of a criminal offense or delinquent
10 conduct [felony] committed on property owned or operated by or
11 under contract with [while the actor was a prisoner in the custody
12 of] the Texas Department of Criminal Justice or the Texas Youth
13 Commission, or committed by or against a person in the custody of
14 the department or commission while the person is performing a duty
15 away from department or commission property [Corrections or a
16 prosecution of an offense committed in the department by any person
17 under Chapter 21, Acts of 55th Legislature, Regular Session, 1957
18 (Article 6184m, Vernon's Texas Civil Statutes), or Chapter 481,
19 Health and Safety Code, or Sections 485.031 through 485.035, Health
20 and Safety Code], the state shall reimburse the county for expenses
21 incurred by the county, in an amount that the court determines to be
22 reasonable, for payment of:

23 (1) salaries and expenses of foreign language
24 interpreters and interpreters for deaf persons whose services are
25 necessary to the prosecution;

26 (2) consultation fees of experts whose assistance is
27 directly related to the prosecution;

S.B. No. 103

- 1 (3) travel expenses for witnesses;
- 2 (4) expenses for the food, lodging, and compensation
3 of jurors;
- 4 (5) compensation of witnesses;
- 5 (6) the cost of preparation of a statement of facts and
6 a transcript of the trial for purposes of appeal;
- 7 (7) if the death of a person is an element of the
8 offense, expenses of an inquest relating to the death;
- 9 (8) food, lodging, and travel expenses incurred by the
10 prosecutor's staff during travel essential to the prosecution of
11 the offense;
- 12 (9) court reporter's fees; and
- 13 (10) the cost of special security officers.

14 SECTION 4. Subsection (a), Section 37.203, Education Code,
15 is amended to read as follows:

16 (a) The center is advised by a board of directors composed
17 of:

- 18 (1) the attorney general, or the attorney general's
19 designee;
- 20 (2) the commissioner, or the commissioner's designee;
- 21 (3) the executive director of the Texas Juvenile
22 Probation Commission, or the executive director's designee;
- 23 (4) the executive commissioner [~~director~~] of the Texas
24 Youth Commission, or the executive commissioner's [~~director's~~]
25 designee;
- 26 (5) the commissioner of the Texas Department of Mental
27 Health and Mental Retardation, or the commissioner's designee; and

S.B. No. 103

(6) the following members appointed by the governor with the advice and consent of the senate:

- (A) a juvenile court judge;
- (B) a member of a school district's board of trustees;
- (C) an administrator of a public primary school;
- (D) an administrator of a public secondary school;
- (E) a member of the state parent-teacher association;
- (F) a teacher from a public primary or secondary school;
- (G) a public school superintendent who is a member of the Texas Association of School Administrators;
- (H) a school district police officer or a peace officer whose primary duty consists of working in a public school; and
- (I) two members of the public.

SECTION 5. Section 51.12, Family Code, is amended by adding Subsections (b-1), (c-1), and (m) and amending Subsections (c) and (1) to read as follows:

(b-1) A pre-adjudication secure detention facility may be operated only by:

(1) a governmental unit in this state as defined by Section 101.001, Civil Practice and Remedies Code; or

(2) a private entity under a contract with a governmental unit in this state.

(c) In each county, each judge of the juvenile court and a majority of the members of the juvenile board shall personally inspect all public or private ~~[the]~~ juvenile pre-adjudication secure detention facilities ~~[and any public or private juvenile secure correctional facilities used for post-adjudication confinement]~~ that are located in the county ~~[and operated under authority of the juvenile board]~~ at least annually and shall certify in writing to the authorities responsible for operating and giving financial support to the facilities and to the Texas Juvenile Probation Commission that the facilities ~~[they]~~ are suitable or unsuitable for the detention of children. In determining whether a facility is suitable or unsuitable for the detention of children, the juvenile court judges and juvenile board members shall consider:

(1) current monitoring and inspection reports and any noncompliance citation reports issued by the Texas Juvenile Probation Commission, including the report provided under Subsection (c-1), and the status of any required corrective actions;

(2) current governmental inspector certification regarding the facility's compliance with local fire codes;

(3) current building inspector certification regarding the facility's compliance with local building codes;

(4) for the 12-month period preceding the inspection, the total number of allegations of abuse, neglect, or exploitation reported by the facility and a summary of the findings of any investigations of abuse, neglect, or exploitation conducted by the

S.B. No. 103

1 facility, a local law enforcement agency, and the Texas Juvenile
2 Probation Commission;

3 (5) the availability of health and mental health
4 services provided to facility residents;

5 (6) the availability of educational services provided
6 to facility residents; and

7 (7) the overall physical appearance of the facility,
8 including the facility's security, maintenance, cleanliness, and
9 environment.

10 (c-1) The Texas Juvenile Probation Commission shall
11 annually inspect each public or private juvenile pre-adjudication
12 secure detention facility. The Texas Juvenile Probation Commission
13 shall provide a report to each juvenile court judge presiding in the
14 same county as an inspected facility indicating whether the
15 facility is suitable or unsuitable for the detention of children in
16 accordance with:

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

19 (2) minimum professional standards for the detention
20 of children in pre-adjudication [~~or post-adjudication~~] secure
21 confinement promulgated by the Texas Juvenile Probation Commission
22 or, at the election of the juvenile board of the county in which the
23 facility is located, the current standards promulgated by the
24 American Correctional Association.

25 (1) Except for [~~a facility operated or certified by the~~
26 ~~Texas Youth Commission or~~] a facility as provided by Subsection
27 (1), a governmental unit or private entity that operates or

contracts for the operation of a juvenile pre-adjudication secure detention facility under Subsection (b-1) [~~or a juvenile post-adjudication secure correctional facility~~] in this state shall:

(1) register the facility annually with the Texas Juvenile Probation Commission; and

(2) adhere to all applicable minimum standards for the facility.

(m) The Texas Juvenile Probation Commission may deny, suspend, or revoke the registration of any facility required to register under Subsection (1) if the facility fails to:

(1) adhere to all applicable minimum standards for the facility; or

(2) timely correct any notice of noncompliance with minimum standards.

SECTION 6. Chapter 51, Family Code, is amended by adding Section 51.125 to read as follows:

Sec. 51.125. POST-ADJUDICATION CORRECTIONAL FACILITIES.

(a) A post-adjudication secure correctional facility for juvenile offenders may be operated only by:

(1) a governmental unit in this state as defined by Section 101.001, Civil Practice and Remedies Code; or

(2) a private entity under a contract with a governmental unit in this state.

(b) In each county, each judge of the juvenile court and a majority of the members of the juvenile board shall personally inspect all public or private juvenile post-adjudication secure

for
B.H.C.

S.B. No. 103

correctional facilities that are not operated by the Texas Youth
Commission and that are located in the county at least annually and
shall certify in writing to the authorities responsible for
operating and giving financial support to the facilities and to the
Texas Juvenile Probation Commission that the facility or facilities
are suitable or unsuitable for the confinement of children. In
determining whether a facility is suitable or unsuitable for the
confinement of children, the juvenile court judges and juvenile
board members shall consider:

(1) current monitoring and inspection reports and any
noncompliance citation reports issued by the Texas Juvenile
Probation Commission, including the report provided under
Subsection (c), and the status of any required corrective actions;
and

(2) the other factors described under Sections
51.12(c)(2)-(7).

(c) The Texas Juvenile Probation Commission shall annually
inspect each public or private juvenile post-adjudication secure
correctional facility that is not operated by the Texas Youth
Commission. The Texas Juvenile Probation Commission 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 Texas Juvenile Probation Commission or, at the election of the
juvenile board of the county in which the facility is located, the

1 current standards promulgated by the American Correctional
 2 Association.

3 (d) A governmental unit or private entity that operates or
 4 contracts for the operation of a juvenile post-adjudication secure
 5 correctional facility in this state under Subsection (a), except
 6 for a facility operated by or under contract with the Texas Youth
 7 Commission, shall:

8 (1) register the facility annually with the Texas
 9 Juvenile Probation Commission; and

10 (2) adhere to all applicable minimum standards for the
 11 facility.

12 (e) The Texas Juvenile Probation Commission may deny,
 13 suspend, or revoke the registration of any facility required to
 14 register under Subsection (d) if the facility fails to:

15 (1) adhere to all applicable minimum standards for the
 16 facility; or

17 (2) timely correct any notice of noncompliance with
 18 minimum standards.

19 SECTION 7. Subsections (d) and (u), Section 54.04, Family
 20 Code, are amended to read as follows:

21 (d) If the court or jury makes the finding specified in
 22 Subsection (c) allowing the court to make a disposition in the case:

23 (1) the court or jury may, in addition to any order
 24 required or authorized under Section 54.041 or 54.042, place the
 25 child on probation on such reasonable and lawful terms as the court
 26 may determine:

27 (A) in the child's own home or in the custody of a

Amel

S.B. No. 103

1 relative or other fit person; or

2 (B) subject to the finding under Subsection (c)
3 on the placement of the child outside the child's home, in:

4 (1) a suitable foster home; or

5 (11) a suitable public or private
6 institution or agency, except the Texas Youth Commission;

7 (2) if the court or jury found at the conclusion of the
8 adjudication hearing that the child engaged in delinquent conduct
9 that violates a penal law of this state or the United States of the
10 grade of felony ~~[or, if the requirements of Subsection (s) or (t)~~
11 ~~are met, of the grade of misdemeanor,]~~ and if the petition was not
12 approved by the grand jury under Section 53.045, the court may
13 commit the child to the Texas Youth Commission without a
14 determinate sentence;

15 (3) if the court or jury found at the conclusion of the
16 adjudication hearing that the child engaged in delinquent conduct
17 that included a violation of a penal law listed in Section 53.045(a)
18 and if the petition was approved by the grand jury under Section
19 53.045, the court or jury may sentence the child to commitment in
20 the Texas Youth Commission with a possible transfer to the
21 ~~[institutional division or the pardons and paroles division of the]~~
22 Texas Department of Criminal Justice for a term of:

23 (A) not more than 40 years if the conduct
24 constitutes:

25 (1) a capital felony;

26 (11) a felony of the first degree; or

27 (111) an aggravated controlled substance

1 felony;

2 (B) not more than 20 years if the conduct
3 constitutes a felony of the second degree; or

4 (C) not more than 10 years if the conduct
5 constitutes a felony of the third degree;

6 (4) the court may assign the child an appropriate
7 sanction level and sanctions as provided by the assignment
8 guidelines in Section 59.003; or

9 (5) if applicable, the court or jury may make a
10 disposition under Subsection (m).

11 (u) For the purposes of disposition under Subsection
12 (d)(2), delinquent conduct that violates a penal law of this state
13 of the grade of felony [~~or misdemeanor~~] does not include conduct
14 that violates a lawful order of a county, municipal, justice, or
15 juvenile court under circumstances that would constitute contempt
16 of that court.

17 SECTION 8. Chapter 54, Family Code, is amended by adding
18 Section 54.0401 to read as follows:

19 Sec. 54.0401. COMMUNITY-BASED PROGRAMS. (a) This section
20 applies only to a county that has a population of at least 335,000.

21 (b) A juvenile court of a county to which this section
22 applies may require a child who is found to have engaged in
23 delinquent conduct that violates a penal law of the grade of
24 misdemeanor and for whom the requirements of Subsection (c) are met
25 to participate in a community-based program administered by the
26 county's juvenile board.

27 (c) A juvenile court of a county to which this section

applies may make a disposition under Subsection (b) for delinquent
conduct that violates a penal law of the grade of misdemeanor:

(1) if:

(A) the child has been adjudicated as having
engaged in delinquent conduct violating a penal law of the grade of
misdemeanor on at least two previous occasions;

(B) of the previous adjudications, the conduct
that was the basis for one of the adjudications occurred after the
date of another previous adjudication; and

(C) the conduct that is the basis of the current
adjudication occurred after the date of at least two previous
adjudications; or

(2) if:

(A) the child has been adjudicated as having
engaged in delinquent conduct violating a penal law of the grade of
felony on at least one previous occasion; and

(B) the conduct that is the basis of the current
adjudication occurred after the date of that previous adjudication.

(d) The Texas Juvenile Probation Commission shall establish
guidelines for the implementation of community-based programs
described by this section. The juvenile board of each county to
which this section applies shall implement a community-based
program that complies with those guidelines.

(e) The Texas Juvenile Probation Commission shall provide
grants to selected juvenile boards to assist with the
implementation of a system of community-based programs under this
section.

S.B. No. 103

1 (f) Not later than January 1, 2009, the Texas Juvenile
2 Probation Commission shall prepare and deliver to the governor, the
3 lieutenant governor, and each member of the legislature a report
4 describing the implementation and effectiveness of the
5 community-based programs described by this section. The report
6 must include information relating to the cost of requiring a child
7 to participate in a community-based program. This subsection
8 expires February 1, 2009.

9 SECTION 9. Subsection (f), Section 54.05, Family Code, is
10 amended to read as follows:

11 (f) Except as provided by Subsection (j), a disposition
12 based on a finding that the child engaged in delinquent conduct that
13 violates a penal law of this state or the United States of the grade
14 of felony ~~[or, if the requirements of Subsection (k) are met, of the~~
15 ~~grade of misdemeanor,~~] may be modified so as to commit the child to
16 the Texas Youth Commission if the court after a hearing to modify
17 disposition finds by a preponderance of the evidence that the child
18 violated a reasonable and lawful order of the court. A disposition
19 based on a finding that the child engaged in habitual felony conduct
20 as described by Section 51.031 or in delinquent conduct that
21 included a violation of a penal law listed in Section 53.045(a) may
22 be modified to commit the child to the Texas Youth Commission with a
23 possible transfer to the ~~[institutional division or the pardons and~~
24 ~~parole division of the]~~ Texas Department of Criminal Justice for a
25 definite term prescribed by Section 54.04(d)(3) if the original
26 petition was approved by the grand jury under Section 53.045 and if
27 after a hearing to modify the disposition the court finds that the

Amel

S.B. No. 103

1 child violated a reasonable and lawful order of the court.

2 SECTION 10. Chapter 54, Family Code, is amended by adding
3 Section 54.052 to read as follows:

4 Sec. 54.052. CREDIT FOR TIME SPENT IN DETENTION FACILITY
5 FOR CHILD WITH DETERMINATE SENTENCE. (a) This section applies
6 only to a child who is committed to the Texas Youth Commission under
7 a determinate sentence under Section 54.04(d)(3) or (m) or Section
8 54.05(f).

9 (b) The judge of the court in which a child is adjudicated
10 shall give the child credit on the child's sentence for the time
11 spent by the child, in connection with the conduct for which the
12 child was adjudicated, in a secure detention facility before the
13 child's transfer to a Texas Youth Commission facility.

14 (c) If a child appeals the child's adjudication and is
15 retained in a secure detention facility pending the appeal, the
16 judge of the court in which the child was adjudicated shall give the
17 child credit on the child's sentence for the time spent by the child
18 in a secure detention facility pending disposition of the child's
19 appeal. The court shall endorse on both the commitment and the
20 mandate from the appellate court all credit given the child under
21 this subsection.

22 (d) The Texas Youth Commission shall grant any credit under
23 this section in computing the child's eligibility for parole and
24 discharge.

25 SECTION 11. Subsection (a), Section 58.106, Family Code, is
26 amended to read as follows:

27 (a) Except as otherwise provided by this section,

Qwed

S.B. No. 103

1 information contained in the juvenile justice information system is
2 confidential information for the use of the department and may not
3 be disseminated by the department except:

4 (1) with the permission of the juvenile offender, to
5 military personnel of this state or the United States;

6 (2) to a person or entity to which the department may
7 grant access to adult criminal history records as provided by
8 Section 411.083, Government Code;

9 (3) to a juvenile justice agency; ~~and~~

10 (4) to ~~[the Criminal Justice Policy Council,]~~ the
11 Texas Youth Commission~~[,]~~ and the Texas Juvenile Probation
12 Commission for analytical purposes; and

13 (5) to the office of independent ombudsman of the
14 Texas Youth Commission.

15 SECTION 12. Section 261.201, Family Code, is amended by
16 adding Subsections (i) and (j) to read as follows:

17 (i) Notwithstanding Subsection (a), the Texas Youth
18 Commission shall release a report of alleged or suspected abuse or
19 neglect made under this chapter if:

20 (1) the report relates to a report of abuse or neglect
21 involving a child committed to the commission during the period
22 that the child is committed to the commission; and

23 (2) the commission is not prohibited by Chapter 552,
24 Government Code, or other law from disclosing the report.

25 (j) The Texas Youth Commission shall edit any report
26 disclosed under Subsection (i) to protect the identity of:

27 (1) a child who is the subject of the report of alleged

or suspected abuse or neglect;

(2) the person who made the report; and

(3) any other person whose life or safety may be
endangered by the disclosure.

SECTION 13. Section 41.102, Government Code, is amended by
adding Subsection (c) to read as follows:

(c) The attorney general may offer to assist a prosecuting
attorney in the prosecution of criminal offenses concerning the
Texas Youth Commission.

SECTION 14. Chapter 41, Government Code, is amended by
adding Subchapter E to read as follows:

SUBCHAPTER E. SPECIAL PROSECUTION UNIT

Sec. 41.301. DEFINITIONS. In this subchapter:

(1) "Board of directors" means the board of directors
of the unit.

(2) "Commission" means the Texas Youth Commission.

(3) "Department" means the Texas Department of
Criminal Justice.

(4) "Executive board" means the executive board
governing the board of directors of the unit.

(5) "Prosecuting attorney" means a district attorney,
a criminal district attorney, or a county attorney representing the
state in criminal matters before the district or inferior courts of
the county.

(6) "Unit" means the special prosecution unit.

Sec. 41.302. GENERAL FUNCTION OF SPECIAL PROSECUTION UNIT.

The special prosecution unit is an independent unit that cooperates

1 with and supports prosecuting attorneys in prosecuting offenses and
2 delinquent conduct described by Article 104.003(a), Code of
3 Criminal Procedure.

4 Sec. 41.303. BOARD OF DIRECTORS. (a) The unit is governed
5 by a board of directors composed of each prosecuting attorney who
6 represents the state in criminal matters before a court in a county
7 in which one or more facilities owned or operated by or under
8 contract with the department or the commission are located.

9 (b) A prosecuting attorney described by Subsection (a)
10 shall serve on the board of directors in addition to the other
11 duties of the prosecuting attorney assigned by law.

12 Sec. 41.304. EXECUTIVE BOARD. (a) The board of directors
13 is governed by an executive board composed of 11 members elected by
14 the membership of the board of directors on a majority vote from
15 among that membership, as follows:

16 (1) one member of the executive board who represents
17 the state in criminal matters before a court in a county in which
18 one or more facilities owned or operated by or under contract with
19 the commission are located shall be elected on a majority vote of
20 the members of the board of directors to serve a term expiring in an
21 even-numbered year;

22 (2) an additional four members of the executive board
23 shall be elected on a majority vote of the members of the board of
24 directors to serve terms expiring in even-numbered years;

25 (3) one member of the executive board who represents
26 the state in criminal matters before a court in a county in which
27 one or more facilities owned or operated by or under contract with

S.B. No. 103

1 the commission are located shall be elected on a majority vote of
2 the members of the board of directors to serve a term expiring in an
3 odd-numbered year; and

4 (4) an additional five members of the executive board
5 shall be elected on a majority vote of the members of the board of
6 directors to serve terms expiring in odd-numbered years.

7 (b) If a vacancy on the executive board occurs, the board of
8 directors shall elect a person to serve the remainder of the
9 vacating member's term in the manner provided by Subsection (a). To
10 be eligible for election under this subsection, a person must meet
11 any qualifications required of the vacating member for service on
12 the executive board.

13 Sec. 41.305. OFFICERS. (a) The members of the board of
14 directors, on a majority vote, shall elect from among the
15 membership of the executive board a presiding officer and an
16 assistant presiding officer. The presiding officer serves as the
17 presiding officer of the board of directors and the executive
18 board, and the assistant presiding officer serves as the assistant
19 presiding officer of the board of directors and the executive
20 board.

21 (b) The presiding officer and the assistant presiding
22 officer serve terms of one year.

23 (c) The assistant presiding officer serves as presiding
24 officer of the board of directors and the executive board in the
25 presiding officer's absence or if a vacancy occurs in that office
26 until a new presiding officer is elected as provided by Subsection
27 (d).

1 (d) If a vacancy occurs in the office of presiding officer
2 or assistant presiding officer, the board of directors shall elect
3 a person to serve the remainder of the vacating officer's term in
4 the manner provided by Subsection (a).

5 Sec. 41.306. MEMBERSHIP ON BOARD OF DIRECTORS OR EXECUTIVE
6 BOARD NOT A CIVIL OFFICE OF EMOLUMENT. A position on the board of
7 directors or the executive board may not be construed to be a civil
8 office of emolument for any purpose, including those purposes
9 described in Section 40, Article XVI, Texas Constitution.

10 Sec. 41.307. REIMBURSEMENT FOR EXPENSES. A member of the
11 board of directors or executive board is not entitled to
12 compensation for service on the board of directors or executive
13 board, if applicable, but is entitled to be reimbursed for
14 necessary expenses incurred in carrying out the duties and
15 responsibilities of a member of the board of directors and the
16 executive board, if applicable, as provided by the General
17 Appropriations Act.

18 Sec. 41.308. CHIEF OF SPECIAL PROSECUTION UNIT; ADDITIONAL
19 EMPLOYEES. The board of directors, on a majority vote, shall employ
20 a person to serve as chief of the unit and additional persons to
21 accomplish the unit's purposes. The board of directors may
22 determine the compensation of the unit's employees.

23 Sec. 41.309. ELECTION OF COUNSELLOR. (a) The executive
24 board, on a majority vote, shall elect a counsellor.

25 (b) To be eligible to serve as a counsellor, a person must:
26 (1) be certified in criminal law by the Texas Board of
27 Legal Specialization;

S.B. No. 103

1 (2) have at least five years of experience as a lawyer
2 assisting prosecuting attorneys in prosecuting offenses or
3 delinquent conduct committed on state property used for the custody
4 of persons charged with or convicted of offenses or used for the
5 custody of children charged with or adjudicated as having engaged
6 in delinquent conduct or conduct indicating a need for supervision;
7 or

8 (3) have served for at least five years as a
9 prosecuting attorney or as a judge of a district court, a court of
10 appeals, or the court of criminal appeals.

11 Sec. 41.310. DUTIES OF COUNSELLOR. (a) The counsellor
12 elected in accordance with Section 41.309:

13 (1) shall coordinate prosecution issues in and monitor
14 each case involving an offense or delinquent conduct described by
15 Article 104.003(a), Code of Criminal Procedure, that concerns the
16 commission;

17 (2) shall work with criminal justice analysts employed
18 by the Legislative Budget Board and other persons who monitor cases
19 involving offenses or delinquent conduct described by Article
20 104.003(a), Code of Criminal Procedure; and

21 (3) may conduct an investigation of any alleged
22 illegal or improper conduct by commission officers, employees, or
23 contractors that the counsellor reasonably believes:

24 (A) jeopardizes the health, safety, and welfare
25 of children in the custody of the commission; and

26 (B) could constitute an offense described by
27 Article 104.003(a), Code of Criminal Procedure.

S.B. No. 103

1 (b) In addition to the duties prescribed by Subsection (a),
2 the counsellor shall on a quarterly basis provide the board of
3 directors and the standing committees of the senate and house of
4 representatives with primary jurisdiction over matters concerning
5 correctional facilities with a report concerning offenses or
6 delinquent conduct prosecuted by the unit on receiving a request
7 for assistance under Section 61.098, Human Resources Code, or a
8 request for assistance otherwise from a prosecuting attorney. A
9 report under this subsection is public information under Chapter
10 552, Government Code, and the board of directors shall request that
11 the commission publish the report on the commission's Internet
12 website. A report must be both aggregated and disaggregated by
13 individual facility and include information relating to:

14 (1) the number of requests for assistance received
15 under Section 61.098, Human Resources Code, and requests for
16 assistance otherwise received from prosecuting attorneys;

17 (2) the number of cases investigated and the number of
18 cases prosecuted;

19 (3) the types and outcomes of cases prosecuted, such
20 as whether the case concerned narcotics or an alleged incident of
21 sexual abuse; and

22 (4) the relationship of a victim to a perpetrator, if
23 applicable.

24 (c) The counsellor, in consultation with the board of
25 directors, shall notify the foreman of the appropriate grand jury,
26 in the manner provided by Article 20.09, Code of Criminal
27 Procedure, if:

1 (1) the counsellor receives credible evidence of
2 illegal or improper conduct by commission officers, employees, or
3 contractors that the counsellor reasonably believes jeopardizes
4 the health, safety, and welfare of children in the custody of the
5 commission;

6 (2) the counsellor reasonably believes the conduct:

7 (A) could constitute an offense described by
8 Article 104.003(a), Code of Criminal Procedure; and

9 (B) involves the alleged physical or sexual abuse
10 of a child in the custody of a commission facility or an
11 investigation related to the alleged abuse; and

12 (3) the counsellor has reason to believe that
13 information concerning the conduct has not previously been
14 presented to the appropriate grand jury.

15 SECTION 15. Chapter 325, Government Code, is amended by
16 adding Sections 325.0121 and 325.0122 to read as follows:

17 Sec. 325.0121. STUDY ON TRANSITION TOWARD REGIONALIZED
18 JUVENILE CORRECTIONS. (a) As part of its review of juvenile
19 corrections for the 81st Legislature, the commission shall study
20 the merits of moving the Texas Youth Commission toward a
21 regionalized structure of smaller facilities and more diversified
22 treatment and placement options, taking into consideration the
23 likely effects of this regionalized structure on:

24 (1) recidivism;

25 (2) juvenile and family access to services; and

26 (3) costs to this state and the counties of this state.

27 (b) In conducting the study, the commission shall determine

1 whether the existing Texas Youth Commission facilities meet their
2 intended purposes.

3 (c) The commission shall take into consideration the
4 findings and conclusions of the study in its report to the 81st
5 Legislature and shall include any recommendations it considers
6 appropriate resulting from its consideration of the study.

7 (d) The commission, in conducting the study, may seek the
8 assistance of nationally recognized experts in the field of
9 juvenile justice.

10 (e) This section expires September 1, 2009.

11 Sec. 325.0122. STUDY ON GOVERNANCE OF TEXAS YOUTH
12 COMMISSION. (a) The commission shall study the merits of an
13 executive commissioner governing the Texas Youth Commission as
14 compared to a citizen board.

15 (b) The commission shall make recommendations concerning
16 the governance of the Texas Youth Commission in its report to the
17 legislature under Section 325.012 as part of its review of the Texas
18 Youth Commission, which, as provided by Section 61.020, Human
19 Resources Code, is abolished September 1, 2009, unless continued in
20 existence as provided by this chapter.

21 (c) This section expires September 1, 2009.

22 SECTION 16. Subsection (a), Section 411.1141, Government
23 Code, is amended to read as follows:

24 (a) The Texas Youth Commission is entitled to obtain from
25 the department criminal history record information maintained by
26 the department that relates to a person described by Section
27 61.0357(b), Human Resources Code ~~[who is]~~

1 ~~[(1) an applicant for a position with the Texas Youth~~
2 ~~Commission,~~

3 ~~[(2) a volunteer or an intern, or an applicant~~
4 ~~volunteer or intern, with the Texas Youth Commission,~~

5 ~~[(3) a business entity or person who contracts with~~
6 ~~the Texas Youth Commission to provide direct delivery services to~~
7 ~~youth,~~

8 ~~[(4) an employee of, or an applicant for employment~~
9 ~~with, a business entity or person who contracts with the Texas Youth~~
10 ~~Commission to provide direct delivery of services to youth, or~~

11 ~~[(5) a volunteer or an intern, or an applicant~~
12 ~~volunteer or intern, with a business entity or person who contracts~~
13 ~~with the Texas Youth Commission to provide direct delivery of~~
14 ~~services to youth].~~

15 SECTION 17. Chapter 493, Government Code, is amended by
16 adding Section 493.026 to read as follows:

17 Sec. 493.026. INSPECTOR GENERAL REPORT ON CRIMINAL
18 OFFENSES. (a) In this section, "special prosecution unit" means
19 the special prosecution unit established under Subchapter E,
20 Chapter 41.

21 (b) The inspector general of the department shall on a
22 quarterly basis prepare and deliver to the board of directors of the
23 special prosecution unit a report concerning any alleged criminal
24 offense concerning the department and described by Article
25 104.003(a), Code of Criminal Procedure, that occurred during the
26 preceding calendar quarter.

27 SECTION 18. Subsection (b), Section 497.052, Government

1 Code, is amended to read as follows:

2 (b) The following individuals shall serve as ex officio
3 members of the authority:

4 (1) a member of the house of representatives
5 designated by the speaker of the house;

6 (2) a member of the senate designated by the
7 lieutenant governor;

8 (3) the executive director of the Texas Department of
9 Criminal Justice or the designee of the executive director;

10 (4) the executive director of the Texas Workforce
11 Commission or the designee of the executive director; and

12 (5) the executive commissioner [~~director~~] of the Texas
13 Youth Commission or the designee of the executive commissioner
14 [~~director~~].

15 SECTION 19. Subsection (a), Section 508.156, Government
16 Code, is amended to read as follows:

17 (a) Before the release of a person who is transferred under
18 Section 61.081(f) or 61.084(g) [~~61.084(f) or (g)~~], Human Resources
19 Code, to the division for release on parole, a parole panel shall
20 review the person's records and may interview the person or any
21 other person the panel considers necessary to determine the
22 conditions of parole. The panel may impose any reasonable
23 condition of parole on the person that the panel may impose on an
24 adult inmate under this chapter.

25 SECTION 20. Subchapter A, Chapter 531, Government Code, is
26 amended by adding Section 531.016 to read as follows:

27 Sec. 531.016. EQUAL ACCESS TO FACILITIES, SERVICES, AND

1 TREATMENT. (a) The commission, the Texas Youth Commission, and
2 the Texas Juvenile Probation Commission shall periodically review,
3 document, and compare the accessibility and funding of facilities,
4 services, and treatment provided to females under 18 years of age to
5 the accessibility and funding of facilities, services, and
6 treatment provided to males in the same age group.

7 (b) The commission shall coordinate the review,
8 documentation, and comparison required by Subsection (a).

9 (c) The areas of review required by Subsection (a) must
10 include:

11 (1) the nature, extent, and effectiveness of services
12 offered for females under 18 years of age within the areas of teen
13 pregnancy, physical and sexual abuse, and alcohol and drug abuse,
14 services for runaway and homeless females, and services for females
15 involved in gangs or other delinquent activity; and

16 (2) the equity of services offered to persons under 18
17 years of age with respect to gender within the areas of physical and
18 sexual abuse, alcohol and drug abuse, and services offered to
19 runaway and homeless youth.

20 (d) Each health and human services agency or other state
21 agency that provides facilities, services, treatment, or funding
22 subject to the review required by Subsection (a) shall identify
23 existing differences within the agency in the allocation and
24 expenditures of money and services for males under 18 years of age
25 in comparison to females in the same age group. Each agency shall
26 submit a report to the commission describing any differences
27 identified.

1 (e) Each agency described by Subsection (d) shall:

2 (1) develop a plan to address any lack of services for
3 females under 18 years of age reported by the agency; and

4 (2) submit a report to the commission on the progress
5 made under the plan.

6 (f) The commission shall assemble the agency reports
7 submitted under Subsections (d) and (e) and prepare an executive
8 summary to be delivered to the members of the legislature not later
9 than July 1 of each even-numbered year.

10 (g) This section expires September 1, 2011.

11 SECTION 21. Subdivision (9), Section 811.001, Government
12 Code, is amended to read as follows:

13 (9) "Law enforcement officer" means a member of the
14 retirement system who:

15 (A) has been commissioned as a law enforcement
16 officer by the Department of Public Safety, the Texas Alcoholic
17 Beverage Commission, ~~[or]~~ the Parks and Wildlife Department, or the
18 office of inspector general at the Texas Youth Commission; and

19 (B) is recognized as a commissioned law
20 enforcement officer by the Commission on Law Enforcement Officer
21 Standards and Education.

22 SECTION 22. Subsection (b), Section 814.104, Government
23 Code, is amended to read as follows:

24 (b) A member who is at least 55 years old and who has at
25 least 10 years of service credit as a commissioned peace officer
26 engaged in criminal law enforcement activities of the Department of
27 Public Safety, the Texas Alcoholic Beverage Commission, ~~[or]~~ the

Amel
Lae

S.B. No. 103

1 Parks and Wildlife Department, or the office of inspector general
2 at the Texas Youth Commission, or as a custodial officer, is
3 eligible to retire and receive a service retirement annuity.

4 SECTION 23. Section 815.505, Government Code, is amended to
5 read as follows:

6 Sec. 815.505. CERTIFICATION OF NAMES OF LAW ENFORCEMENT AND
7 CUSTODIAL OFFICERS. Not later than the 12th day of the month
8 following the month in which a person begins or ceases employment as
9 a law enforcement officer or custodial officer, the Public Safety
10 Commission, the Texas Alcoholic Beverage Commission, the Parks and
11 Wildlife Commission, the office of inspector general at the Texas
12 Youth Commission, the Board of Pardons and Paroles, or the Texas
13 Board of Criminal Justice, as applicable, shall certify to the
14 retirement system, in the manner prescribed by the system, the name
15 of the employee and such other information as the system determines
16 is necessary for the crediting of service and financing of benefits
17 under this subtitle.

18 SECTION 24. Subsection (a), Section 551.008, Health and
19 Safety Code, is amended to read as follows:

20 (a) The department may transfer the South Campus of the
21 Vernon State Hospital to the Texas Youth Commission contingent upon
22 the agreement of the governing board of the department and the
23 executive commissioner [~~governing board~~] of the Texas Youth
24 Commission.

25 SECTION 25. Subsection (b), Section 42.041, Human Resources
26 Code, is amended to read as follows:

27 (b) This section does not apply to:

S.B. No. 103

- 1 (1) a state-operated facility;
- 2 (2) an agency foster home or agency foster group home;
- 3 (3) a facility that is operated in connection with a
- 4 shopping center, business, religious organization, or
- 5 establishment where children are cared for during short periods
- 6 while parents or persons responsible for the children are attending
- 7 religious services, shopping, or engaging in other activities on or
- 8 near the premises, including but not limited to retreats or classes
- 9 for religious instruction;
- 10 (4) a school or class for religious instruction that
- 11 does not last longer than two weeks and is conducted by a religious
- 12 organization during the summer months;
- 13 (5) a youth camp licensed by the Department of State
- 14 Health Services [~~Texas Department of Health~~];
- 15 (6) a facility licensed, operated, certified, or
- 16 registered by another state agency;
- 17 (7) an educational facility accredited by the Texas
- 18 Education Agency or the Southern Association of Colleges and
- 19 Schools that operates primarily for educational purposes in grades
- 20 kindergarten and above, an after-school program operated directly
- 21 by an accredited educational facility, or an after-school program
- 22 operated by another entity under contract with the educational
- 23 facility, if the Texas Education Agency or Southern Association of
- 24 Colleges and Schools has approved the curriculum content of the
- 25 after-school program operated under the contract;
- 26 (8) an educational facility that operates solely for
- 27 educational purposes in grades kindergarten through at least grade

1 two, that does not provide custodial care for more than one hour
2 during the hours before or after the customary school day, and that
3 is a member of an organization that promulgates, publishes, and
4 requires compliance with health, safety, fire, and sanitation
5 standards equal to standards required by state, municipal, and
6 county codes;

7 (9) a kindergarten or preschool educational program
8 that is operated as part of a public school or a private school
9 accredited by the Texas Education Agency, that offers educational
10 programs through grade six, and that does not provide custodial
11 care during the hours before or after the customary school day;

12 (10) a family home, whether registered or listed;

13 (11) an educational facility that is integral to and
14 inseparable from its sponsoring religious organization or an
15 educational facility both of which do not provide custodial care
16 for more than two hours maximum per day, and that offers educational
17 programs for children age five and above in one or more of the
18 following: kindergarten through at least grade three, elementary,
19 or secondary grades;

20 (12) an emergency shelter facility providing shelter
21 to minor mothers who are the sole support of their natural children
22 under Section 32.201, Family Code, unless the facility would
23 otherwise require a license as a child-care facility under this
24 section;

25 (13) a juvenile detention facility certified under
26 Section 51.12, Family Code, a juvenile correctional facility
27 certified under Section 51.125, Family Code [~~or Section~~]

1 ~~141.042(d)]~~, a juvenile facility providing services solely for the
2 Texas Youth Commission, or any other correctional facility for
3 children operated or regulated by another state agency or by a
4 political subdivision of the state;

5 (14) an elementary-age (ages 5-13) recreation program
6 operated by a municipality provided the governing body of the
7 municipality annually adopts standards of care by ordinance after a
8 public hearing for such programs, that such standards are provided
9 to the parents of each program participant, and that the ordinances
10 shall include, at a minimum, staffing ratios, minimum staff
11 qualifications, minimum facility, health, and safety standards,
12 and mechanisms for monitoring and enforcing the adopted local
13 standards; and further provided that parents be informed that the
14 program is not licensed by the state and the program may not be
15 advertised as a child-care facility; or

16 (15) an annual youth camp held in a municipality with a
17 population of more than 1.5 million that operates for not more than
18 three months and that has been operated for at least 10 years by a
19 nonprofit organization that provides care for the homeless.

20 SECTION 26. Subsection (h), Section 42.052, Human Resources
21 Code, is amended to read as follows:

22 (h) The certification requirements of this section do not
23 apply to a juvenile detention facility certified under Section
24 51.12, Family Code, or a juvenile correctional facility certified
25 under Section 51.125, Family Code [~~or Section 141.042(d)]~~.

26 SECTION 27. Section 61.001, Human Resources Code, is
27 amended by amending Subdivisions (2) and (4) and adding Subdivision

(7) to read as follows:

(2) "Advisory board" [~~"Board"~~] means the advisory [~~governing~~] board of the commission.

(4) "Executive commissioner" [~~director~~] means the executive commissioner [~~director~~] of the commission.

(7) "Office of inspector general" means the office of inspector general established under Section 61.0451.

SECTION 28. Sections 61.012 and 61.0121, Human Resources Code, are amended to read as follows:

Sec. 61.012. EXECUTIVE COMMISSIONER [~~MEMBERS OF THE GOVERNING BOARD~~]. (a) The [~~governing board of the~~] Texas Youth Commission is governed by an executive commissioner [~~consists of seven members~~] appointed by the governor with the consent of the senate. The appointment of the executive commissioner [~~Appointments to the board~~] shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee [~~appointees~~].

(b) [~~Members of the board must be citizens who are recognized within their communities for their interest in youth.~~]

[~~(c)~~] The executive commissioner holds [~~board members hold~~] office for a term of not more than two years expiring February 1 of odd-numbered [~~staggered terms of six years, with the terms of two or three members expiring every two~~] years.

(c) The executive commissioner [~~(d) A member~~] is eligible for reappointment with the consent of the senate.

(d) The executive commissioner is a full-time state officer who is entitled to a salary and reimbursement for actual expenses

1 incurred while on commission business.

2 (e) This section expires September 1, 2009.

3 Sec. 61.0121. QUALIFICATIONS FOR EXECUTIVE COMMISSIONER,
4 ADVISORY BOARD MEMBERS, AND EMPLOYEES. (a) A person is not
5 eligible for appointment as executive commissioner or as a member
6 of [to] the advisory board if the person or the person's spouse:

7 (1) is employed by or participates in the management
8 of a business entity or other organization receiving funds from the
9 commission;

10 (2) owns or controls, directly or indirectly, more
11 than a 10 percent interest in a business entity or other
12 organization receiving funds from the commission; or

13 (3) uses or receives a substantial amount of tangible
14 goods, services, or funds from the commission, other than
15 compensation or reimbursement authorized by law [~~for board~~
16 ~~membership, attendance, or expenses~~].

17 (b) An officer, employee, or paid consultant of a Texas
18 trade association in the field of criminal or juvenile justice may
19 not be the executive commissioner, a member of the advisory board,
20 or an employee of the commission who is exempt from the state's
21 position classification plan or is compensated at or above the
22 amount prescribed by the General Appropriations Act for step 1,
23 salary group 17, of the position classification salary schedule.

24 (c) A person who is the spouse of an officer, manager, or
25 paid consultant of a Texas trade association in the field of
26 criminal justice or juvenile justice may not be the executive
27 commissioner, a member of the advisory board, or [~~and may not be~~] an

1 employee of the commission who is exempt from the state's position
2 classification plan or is compensated at or above the amount
3 prescribed by the General Appropriations Act for step 1, salary
4 group 17, of the position classification salary schedule.

5 (d) For the purposes of this section, a Texas trade
6 association is a nonprofit, cooperative, and voluntarily joined
7 association of business or professional competitors in this state
8 designed to assist its members and its industry or profession in
9 dealing with mutual business or professional problems and in
10 promoting their common interest.

11 (e) A person may not be appointed as executive commissioner,
12 serve as a member of the advisory board, or act as the general
13 counsel to the executive commissioner, the advisory board, or the
14 commission if the person is required to register as a lobbyist under
15 Chapter 305, Government Code, because of the person's activities
16 for compensation on behalf of a profession related to the operation
17 of the commission.

18 (f) This section expires September 1, 2009.

19 SECTION 29. Subchapter B, Chapter 61, Human Resources Code,
20 is amended by adding Section 61.0123 to read as follows:

21 Sec. 61.0123. REMOVAL OF EXECUTIVE COMMISSIONER FROM
22 OFFICE. (a) It is a ground for removal from office as executive
23 commissioner if the executive commissioner:

24 (1) does not have at the time of appointment the
25 qualifications required by Section 61.0121(a) for appointment;

26 (2) does not maintain while serving as executive
27 commissioner the qualifications required by Section 61.0121(a) for

1 appointment; or

2 (3) violates a prohibition established by Section
3 61.0121(b) or (c).

4 (b) The validity of an action of the executive commissioner
5 is not affected by the fact that it was taken when a ground for
6 removal existed.

7 (c) If the advisory board has knowledge that a potential
8 ground for removal exists under this section, the chairman of the
9 advisory board shall notify the executive commissioner, the
10 governor, and the attorney general of the potential ground for
11 removal.

12 (d) This section expires September 1, 2009.

13 SECTION 30. Section 61.013, Human Resources Code, is
14 amended to read as follows:

15 Sec. 61.013. ADVISORY BOARD [~~PRESIDING OFFICER, MEETINGS~~].

16 (a) An advisory board for the commission is established to:

17 (1) advise the executive commissioner on matters
18 concerning the commission; and

19 (2) assist the executive commissioner in the
20 performance of the executive commissioner's duties [~~The governor~~
21 ~~shall designate a member of the board as the chairman of the board~~
22 ~~to serve in that capacity at the pleasure of the governor~~].

23 (b) The advisory board is composed of nine members. Three
24 members shall be appointed by the governor, three members shall be
25 appointed by the lieutenant governor, and three members shall be
26 appointed by the speaker of the house of representatives. The
27 governor, lieutenant governor, and speaker of the house of

1 representatives shall coordinate to ensure that the membership of
 2 the advisory board meets the requirements of Subsection (d). The
 3 governor shall designate a member of the advisory board as the
 4 chairman of the advisory board to serve in that capacity at the
 5 pleasure of the governor [~~The board shall meet at least four times~~
 6 ~~each year~~].

7 (c) The appointment of a member of the advisory board shall
 8 be made without regard to the race, color, disability, sex,
 9 religion, age, or national origin of the appointee [~~A meeting shall~~
 10 ~~be held on the call of the chairman or on the request of four members~~
 11 ~~at the time and place designated by the chairman~~].

12 (d) Members of the advisory board must be citizens who are
 13 recognized within their communities for their interest in youth.
 14 The board shall be composed of at least one physician, an
 15 experienced member of a victims advocacy organization, a mental
 16 health professional, and a current or former prosecutor or judge. A
 17 majority of the members of the advisory board must be qualified, by
 18 experience or education, in the development and administration of
 19 programs for the rehabilitation and reestablishment in society of
 20 children in the custody of agencies similar in mission and scope to
 21 the commission. At least two of the members of the advisory board
 22 must have primary experience in a field other than the field of
 23 criminal or juvenile justice.

24 (e) The advisory board shall meet at least four times each
 25 year. A meeting shall be held at the call of the chairman or on the
 26 request of five members at a time and place designated by the
 27 chairman.

1 (f) Advisory board members are entitled to receive a per
2 diem in the amount provided in the General Appropriations Act for
3 not more than 90 days in any fiscal year, plus reimbursement for
4 actual expenses incurred while on advisory board business.

5 (g) A member of the advisory board serves at the pleasure of
6 the person who appointed the member.

7 (h) This section expires September 1, 2009.

8 SECTION 31. Sections 61.019 and 61.0191, Human Resources
9 Code, are amended to read as follows:

10 Sec. 61.019. DELEGATION OF POWERS AND DUTIES. (a) Any
11 power, duty, or function of the commission that is not assigned by
12 statute to the chief inspector general of the office of inspector
13 general [~~or of the board~~] may be exercised and performed by the
14 executive commissioner.

15 (b) The executive commissioner may delegate to [~~director~~
16 ~~or~~] any [~~member or~~] employee designated or assigned by the [~~board or~~
17 ~~by the~~] executive commissioner a power, duty, or function of the
18 executive commissioner or the commission that is not already
19 assigned by statute to the chief inspector general of the office of
20 inspector general [~~director~~].

21 (c) This section expires September 1, 2009.

22 Sec. 61.0191. AUDIT; AUTHORITY OF STATE AUDITOR. (a) The
23 [~~financial transactions of the~~] commission is [~~are~~] subject to
24 audit by the state auditor in accordance with Chapter 321,
25 Government Code.

26 (b) The state auditor, on request of the office of inspector
27 general, may provide information or other assistance to the office

S.B. No. 103

1 of inspector general that the state auditor determines is
2 appropriate. The office of inspector general may coordinate with
3 the state auditor to review or schedule a plan for an investigation
4 under Section 61.0451 or share other information.

5 (c) The state auditor may access all information maintained
6 by the office of inspector general, such as vouchers, electronic
7 data, and internal records, including information that is otherwise
8 confidential under law. Information obtained by the state auditor
9 under this subsection is confidential and is not subject to
10 disclosure under Chapter 552, Government Code.

11 (d) Any provision of this chapter relating to the operations
12 of the office of inspector general does not:

13 (1) supersede the authority of the state auditor to
14 conduct an audit under Chapter 321, Government Code; or

15 (2) prohibit the state auditor from:
16 (A) conducting an audit, investigation, or other
17 review; or

18 (B) having full and complete access to all
19 records and other information concerning the commission, including
20 any witness statement or electronic data, that the state auditor
21 considers necessary for the audit, investigation, or review.

22 SECTION 32. Section 61.022, Human Resources Code, is
23 amended to read as follows:

24 Sec. 61.022. ACCESSIBILITY TO PROGRAMS AND FACILITIES. The
25 commission shall comply with federal and state laws related to
26 program and facility accessibility. The executive commissioner
27 [~~director~~] shall also prepare and maintain a written plan that

describes how a person who does not speak English can be provided reasonable access to the commission's programs and services.

SECTION 33. Subchapter B, Chapter 61, Human Resources Code, is amended by adding Sections 61.023 and 61.024 to read as follows:

Sec. 61.023. ACCREDITATION BY AMERICAN CORRECTIONAL ASSOCIATION. Not later than September 1, 2007, the commission shall adopt a plan for and begin the process of receiving accreditation by the American Correctional Association for each correctional facility operated by or under contract with the commission.

Sec. 61.024. GOVERNANCE OF COMMISSION.
(a) Notwithstanding any other provision of this chapter, effective September 1, 2009, the commission is governed by a board that consists of seven members appointed by the governor with the advice and consent of the senate. Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(b) Members of the board must be citizens who are recognized within their communities for their interest in youth. The board shall be composed of at least one physician, an experienced member of a victims advocacy organization, a mental health professional, and a current or former prosecutor or judge. A majority of the members of the board must be qualified, by experience or education, in the development and administration of programs for the rehabilitation and reestablishment in society of children in the custody of agencies similar in mission and scope to the commission. At least two of the members of the board must have primary

1 experience in a field other than the field of criminal or juvenile
2 justice.

3 (c) The board shall meet at least four times each year. A
4 meeting shall be held at the call of the chairman or on the request
5 of five members at a time and place designated by the chairman.
6 Board members are entitled to receive a per diem in the amount
7 provided in the General Appropriations Act for not more than 90 days
8 in any fiscal year, plus reimbursement for actual expenses incurred
9 while on board business.

10 (d) Effective September 1, 2009, the commission shall
11 employ an executive director, selected by the board, to serve at the
12 will of the board. The executive director shall devote full time to
13 the work of the commission. The executive director is entitled to
14 actual expenses while on commission business.

15 (e) Effective September 1, 2009:

16 (1) a reference in law to the executive commissioner
17 is a reference to the board in matters concerning the governance of
18 the commission, policymaking functions of the commission, or
19 rulemaking functions of the commission; and

20 (2) a reference in law to the executive commissioner
21 is a reference to the executive director in matters concerning the
22 administrative functions of the commission.

23 SECTION 34. Section 61.0315, Human Resources Code, is
24 amended to read as follows:

25 Sec. 61.0315. [~~REVIEW OF~~] TREATMENT PROGRAMS. (a) The
26 commission shall annually review the effectiveness of the
27 commission's programs for the rehabilitation and reestablishment

in society of children committed to the commission, including programs for sex offenders, capital offenders, children who are chemically dependent, ~~[and]~~ emotionally disturbed children, and females.

(b) On or before December 31 of each year, the commission shall make a report on the effectiveness of the programs to the Legislative Budget Board.

(c) The commission shall offer or make available programs described by Subsection (a) in an adequate manner so that a child in the custody of the commission receives appropriate rehabilitation services recommended for the child by the court committing the child to the commission.

(d) If the commission is unable to offer or make available programs described by Subsection (a) in the manner provided by Subsection (c), the commission shall, not later than January 10 of each odd-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.

(e) The commission shall periodically review, document, and compare the accessibility and funding of treatment programs provided to female children committed to the commission to the accessibility and funding of treatment provided to male children

1 committed to the commission.

2 SECTION 35. Subchapter C, Chapter 61, Human Resources Code,
3 is amended by adding Sections 61.0331, 61.0332, and 61.0345 to read
4 as follows:

5 Sec. 61.0331. INTERNAL AUDIT; REPORT. (a) The commission
6 shall regularly conduct internal audits of the commission,
7 including audits of:

8 (1) correctional facilities operated by and under
9 contract with the commission; and

10 (2) medical services provided to children in the
11 custody of the commission.

12 (b) The commission shall on a quarterly basis report the
13 results of the audits to:

14 (1) the committees of the senate and house of
15 representatives with primary jurisdiction over matters concerning
16 correctional facilities; and

17 (2) the state auditor.

18 Sec. 61.0332. COMPLIANCE REPORTS. (a) The commission
19 shall provide the Joint Select Committee on the Operation and
20 Management of the Texas Youth Commission with reports concerning
21 the progress of the commission in complying with the requirements
22 of S.B. No. 103, Acts of the 80th Legislature, Regular Session,
23 2007. The commission shall prepare and deliver the first report to
24 the joint select committee on December 1, 2007, the second report to
25 the joint select committee on June 1, 2008, and the final report to
26 the joint select committee on December 1, 2008.

27 (b) This section expires January 1, 2009.

S.B. No. 103

1 Sec. 61.0345. MISSION STATEMENT. The commission shall
2 develop and adopt a statement regarding the role and mission of the
3 commission.

4 SECTION 36. Section 61.034, Human Resources Code, is
5 amended to read as follows:

6 Sec. 61.034. POLICIES AND RULES. (a) The executive
7 commissioner [~~The commission~~] is responsible for the adoption of
8 all policies and shall make rules appropriate to the proper
9 accomplishment of the commission's [~~its~~] functions.

10 (b) The executive commissioner [~~commission~~] shall adopt
11 rules for the government of the schools, facilities, and programs
12 under the commission's [~~its~~] authority and shall see that the
13 schools, facilities, and programs are conducted according to law
14 and to the executive commissioner's [~~commission's~~] rules. The
15 purpose of the rules and of all education, work, training,
16 discipline, recreation, and other activities in the schools,
17 facilities, and programs is to restore and increase the
18 self-respect and self-reliance of the youth under the authority of
19 the commission and to qualify them for good citizenship and
20 honorable employment.

21 SECTION 37. Section 61.035, Human Resources Code, is
22 amended by amending Subsection (b) and adding Subsection (c) to
23 read as follows:

24 (b) Except as otherwise provided by this chapter, an
25 employee of the commission is employed on an at-will basis [~~The~~
26 ~~commission may remove any employee for cause, and a decision by the~~
27 ~~commission is final~~].

(c) The commission shall establish procedures and practices governing:

(1) employment-related grievances submitted by commission employees; and

(2) disciplinary actions within the commission, including a procedure allowing a commission employee to elect to participate in an independent dismissal mediation if the employee is recommended for dismissal.

SECTION 38. Sections 61.0351, 61.0352, and 61.0354, Human Resources Code, are amended to read as follows:

Sec. 61.0351. PROFESSIONAL INFORMATION FOR ADVISORY BOARD MEMBERS AND EMPLOYEES. The executive commissioner [~~director or the executive director's designee~~] shall provide to members of the advisory board and to commission employees, as often as is necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 61.0352. DIVISION OF RESPONSIBILITY. The executive commissioner [~~board~~] shall develop and implement policies that clearly separate the policymaking responsibilities of the executive commissioner [~~board~~] and the management responsibilities of the [~~executive director and the~~] staff of the commission.

Sec. 61.0354. JOB PERFORMANCE EVALUATIONS. The executive commissioner [~~director or the executive director's designee~~] shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for commission

S.B. No. 103

1 employees must be based on the system established under this
2 section.

3 SECTION 39. Subsection (a), Section 61.0355, Human
4 Resources Code, is amended to read as follows:

5 (a) The executive commissioner [~~director or the executive~~
6 ~~director's designee~~] shall prepare and maintain a written policy
7 statement to assure implementation of a program of equal employment
8 opportunity under which all personnel transactions are made without
9 regard to race, color, disability, sex, religion, age, or national
10 origin. The policy statement shall include:

11 (1) personnel policies, including policies relating
12 to recruitment, evaluation, selection, appointment, training, and
13 promotion of personnel that are in compliance with requirements of
14 Chapter 21, Labor Code;

15 (2) a comprehensive analysis of the commission's work
16 force that meets federal or state laws, rules, and regulations and
17 instructions promulgated directly from those laws, rules, and
18 regulations;

19 (3) procedures by which a determination can be made
20 about the extent of underuse in the commission's work force of all
21 persons of whom federal or state laws, rules, and regulations and
22 instructions promulgated directly from those laws, rules, and
23 regulations encourage a more equitable balance; and

24 (4) reasonable methods to appropriately address those
25 areas of underuse.

26 SECTION 40. Subchapter C, Chapter 61, Human Resources Code,
27 is amended by adding Sections 61.0356, 61.0357, and 61.0386 to read

as follows:

Sec. 61.0356. JUVENILE CORRECTIONAL OFFICERS; STAFFING.

(a) In this section, "juvenile correctional officer" means an employee whose primary duty includes the custodial supervision of children in the custody of the commission.

(b) The commission shall provide each juvenile correctional officer employed by the commission with at least 300 hours of training, which must include on-the-job training, before the officer independently commences the officer's duties at the facility. The training must provide the officer with information and instruction related to the officer's duties, including information and instruction concerning:

(1) the juvenile justice system of this state, including the juvenile correctional facility system;

(2) security procedures;

(3) the supervision of children committed to the commission;

(4) signs of suicide risks and suicide precautions;

(5) signs and symptoms of the abuse, assault, neglect, and exploitation of a child, including sexual abuse and sexual assault, and the manner in which to report the abuse, assault, neglect, or exploitation of a child;

(6) the neurological, physical, and psychological development of adolescents;

(7) commission rules and regulations, including rules, regulations, and tactics concerning the use of force;

(8) appropriate restraint techniques;

S.B. No. 103

(9) the Prison Rape Elimination Act of 2003 (42 U.S.C. Section 15601, et seq.);

(10) the rights and responsibilities of children in the custody of the commission;

(11) interpersonal relationship skills;

(12) the social and cultural lifestyles of children in the custody of the commission;

(13) first aid and cardiopulmonary resuscitation;

(14) counseling techniques;

(15) conflict resolution and dispute mediation, including de-escalation techniques;

(16) behavior management;

(17) mental health issues; and

(18) employee rights, employment discrimination, and sexual harassment.

(c) The commission may employ part-time juvenile correctional officers. A part-time juvenile correctional officer is subject to the training requirements of this section.

(d) In each correctional facility operated by the commission that has a dormitory, including an open-bay dormitory, the commission must maintain a ratio of not less than one juvenile correctional officer performing direct supervisory duties for every 12 persons committed to the facility.

(e) The commission shall consider the age of a juvenile correctional officer or other commission employee who performs direct supervisory duties when determining the placement of the officer or employee in a commission facility so that, to the extent

S.B. No. 103

practicable, an officer or employee is not supervising a child who is not more than three years younger than the officer or employee or is otherwise a similar age to the officer or employee.

(f) The commission shall rotate the assignment of each juvenile correctional officer at an interval determined by the commission so that a juvenile correctional officer is not assigned to the same station for an extended period of time.

(g) The commission shall ensure that at least one juvenile correctional officer is assigned to supervise in or near a classroom or other location in which children receive education services or training at the time the children are receiving the education services or training.

(h) The commission shall adopt rules necessary to administer this section.

Sec. 61.0357. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) In this section:

(1) "Department" means the Department of Public Safety.

(2) "National criminal history record information" means criminal history record information obtained from the department under Subchapter F, Chapter 411, Government Code, and from the Federal Bureau of Investigation under Section 411.087, Government Code.

(b) The executive commissioner shall review the national criminal history record information, state criminal history record information maintained by the department, and previous and current employment references of each person who:

1 (1) is an employee, contractor, volunteer, ombudsman,
2 or advocate working for the commission or working in a commission
3 facility or a facility under contract with the commission;

4 (2) provides direct delivery of services to children
5 in the custody of the commission; or

6 (3) has access to records in commission facilities or
7 offices.

8 (c) To enable the executive commissioner to conduct the
9 review, the commission shall adopt rules requiring a person
10 described by Subsection (b) to electronically provide the
11 department with a complete set of the person's fingerprints in a
12 form and of a quality acceptable to the department and the Federal
13 Bureau of Investigation.

14 (d) For each person described by Subsection (b), the
15 executive commissioner shall review on an annual basis the person's
16 national criminal history record information.

17 (e) The commission shall ensure that the system used to
18 check state criminal history record information maintained by the
19 department is capable of providing real time arrest information.

20 (f) The commission by rule may require a person described by
21 Subsection (b) to pay a fee related to the first national criminal
22 history record information review conducted under this section.
23 The amount of the fee may not exceed the administrative costs
24 incurred by the commission in conducting the initial review,
25 including the costs of obtaining the person's fingerprints.

26 (g) The commission shall adopt rules necessary to
27 administer this section.

1 Sec. 61.0386. ADVOCACY AND SUPPORT GROUPS. (a) The
 2 commission shall allow advocacy and support groups whose primary
 3 functions are to benefit children, inmates, girls and women, the
 4 mentally ill, and victims of sexual assault to provide on-site
 5 information, support, and other services for children confined in
 6 commission facilities.

7 (b) The commission shall adopt security and privacy
 8 procedures for advocacy and support groups that provide on-site
 9 information, support, and other services under this section. The
 10 security and privacy procedures may not be designed to deny an
 11 advocacy or support group access to children confined in commission
 12 facilities.

13 (c) The commission shall adopt standards consistent with
 14 standards adopted by the Texas Department of Criminal Justice
 15 regarding the confidential correspondence of children confined in
 16 commission facilities with external entities, including advocacy
 17 and support groups.

18 SECTION 41. Section 61.0423, Human Resources Code, is
 19 amended to read as follows:

20 Sec. 61.0423. PUBLIC HEARINGS. (a) The executive
 21 commissioner [board] shall develop and implement policies that
 22 provide the public with a reasonable opportunity to appear before
 23 the executive commissioner or the executive commissioner's
 24 designee [board] and to speak on any issue under the jurisdiction of
 25 the commission.

26 (b) The executive commissioner shall ensure that the
 27 location of public hearings held in accordance with this section is

S.B. No. 103

1 rotated between municipalities in which a commission facility is
2 located or that are in proximity to a commission facility.

3 SECTION 42. Subchapter C, Chapter 61, Human Resources Code,
4 is amended by adding Sections 61.0451, 61.0452, and 61.0461 to read
5 as follows:

6 Sec. 61.0451. OFFICE OF INSPECTOR GENERAL. (a) The office
7 of inspector general is established at the commission for the
8 purpose of investigating:

9 (1) crimes committed by commission employees,
10 including parole officers employed by or under a contract with the
11 commission; and

12 (2) crimes committed at a facility operated by the
13 commission or at a residential facility operated by another entity
14 under a contract with the commission.

15 (b) The office of inspector general shall prepare and
16 deliver a report concerning the results of any investigation
17 conducted under this section to:

- 18 (1) the executive commissioner;
19 (2) the advisory board;
20 (3) the governor;
21 (4) the lieutenant governor;
22 (5) the speaker of the house of representatives;
23 (6) the standing committees of the senate and house of
24 representatives with primary jurisdiction over matters concerning
25 correctional facilities;
26 (7) the special prosecution unit;
27 (8) the state auditor; and

1 (9) any other appropriate state agency responsible for
2 licensing or certifying commission employees or facilities.

3 (c) The report prepared under Subsection (b) must include a
4 summary of the actions performed by the office of inspector general
5 in conducting the investigation, a statement of whether the
6 investigation resulted in a finding that a criminal offense
7 occurred, and a description of the finding. The report is public
8 information under Chapter 552, Government Code, only to the extent
9 authorized under that chapter and other law.

10 (d) The office of inspector general may employ and
11 commission inspectors general as peace officers for the purpose of
12 carrying out the duties described by this section. An inspector
13 general shall have all of the powers and duties given to peace
14 officers under Article 2.13, Code of Criminal Procedure.

15 (e) Peace officers employed and commissioned under
16 Subsection (d) must:

17 (1) be certified by the Commission on Law Enforcement
18 Officer Standards and Education under Chapter 1701, Occupations
19 Code; and

20 (2) complete advanced courses relating to the duties
21 of peace officers employed and commissioned under Subsection (d) as
22 part of any continuing education requirements for the peace
23 officers.

24 (f) The executive commissioner shall select a commissioned
25 peace officer as chief inspector general. The chief inspector
26 general is subject to the requirements of this section and may only
27 be discharged for cause.

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

- 4 (1) the executive commissioner;
5 (2) the advisory board;
6 (3) the governor;
7 (4) the lieutenant governor;
8 (5) the speaker of the house of representatives;
9 (6) the standing committees of the senate and house of
10 representatives with primary jurisdiction over correctional
11 facilities;
12 (7) the state auditor; and
13 (8) the comptroller.

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

- 20 (1) the types of investigations conducted by the
21 office of inspector general, such as whether an investigation
22 concerned narcotics or an alleged incident of sexual abuse;
23 (2) the relationship of a victim to a perpetrator, if
24 applicable; and
25 (3) the number of investigations conducted concerning
26 suicides, deaths, and hospitalizations of children in the custody
27 of the commission.

1 (1) The office of inspector general shall immediately
2 report to the executive commissioner, the advisory board, the
3 governor's general counsel, and the state auditor any particularly
4 serious or flagrant problem concerning the administration of a
5 commission program or operation or any interference by the
6 executive commissioner or an employee of the commission with an
7 investigation conducted by the office.

8 Sec. 61.0452. TOLL-FREE NUMBER. (a) The commission shall
9 establish a permanent, toll-free number for the purpose of
10 receiving any information concerning the abuse, neglect, or
11 exploitation of children in the custody of the commission.

12 (b) The office of inspector general shall ensure that:

13 (1) the toll-free number is prominently displayed in
14 each commission facility; and

15 (2) children in the custody of the commission and
16 commission employees have confidential access to telephones for the
17 purpose of calling the toll-free number.

18 Sec. 61.0461. EMPLOYMENT OR DESIGNATION OF CHAPLAIN AT
19 CERTAIN COMMISSION FACILITIES. The commission shall ensure that a
20 chaplain is employed or formally designated for each commission
21 correctional facility that is an institution.

22 SECTION 43. Subchapter D, Chapter 61, Human Resources Code,
23 is amended by adding Sections 61.061, 61.062, and 61.0651 to read as
24 follows:

25 Sec. 61.061. PLACEMENT IN COMMISSION FACILITIES. (a) The
26 commission may not assign a child younger than 15 years of age to
27 the same correctional facility dormitory as a person who is at least

S.B. No. 103

17 years of age unless the commission determines that the placement is necessary to ensure the safety of children in the custody of the commission. This subsection does not apply to a dormitory that is used exclusively for short-term assessment and orientation purposes.

(b) The commission by rule shall adopt scheduling, housing, and placement procedures for the purpose of protecting vulnerable children in the custody of the commission. The procedures must address the age, physical condition, and treatment needs of a child as well as any other relevant factor.

(c) The commission shall consider the proximity of the residence of a child's family in determining the appropriate commission facility in which to place a child.

Sec. 61.062. ESTABLISHMENT OF MINIMUM LENGTH OF STAY.

(a) The commission shall establish a minimum length of stay for each child committed to the commission without a determinate sentence.

(b) In establishing a minimum length of stay for a child, the commission shall consider:

(1) the nature of and seriousness of the conduct engaged in by the child; and

(2) the danger the child poses to the community.

Sec. 61.0651. INFORMATION PROVIDED BY COMMITTING COURT. In addition to the information provided under Section 61.065, a court that commits a child to the commission shall provide the commission with a copy of the following documents:

(1) the petition and the adjudication and disposition

1 orders for the child, including the child's thumbprint;

2 (2) if the commitment is a result of revocation of
3 probation, a copy of the conditions of probation and the revocation
4 order;

5 (3) the social history report for the child;

6 (4) any psychological or psychiatric reports
7 concerning the child;

8 (5) the contact information sheet for the child's
9 parents or guardian;

10 (6) any law enforcement incident reports concerning
11 the offense for which the child is committed;

12 (7) any sex offender registration information
13 concerning the child;

14 (8) any juvenile probation department progress
15 reports concerning the child;

16 (9) any assessment documents concerning the child;

17 (10) the computerized referral and case history for
18 the child, including case disposition;

19 (11) the child's birth certificate;

20 (12) the child's social security number or social
21 security card, if available;

22 (13) the name, address, and telephone number of the
23 court administrator in the committing county;

24 (14) Title IV-E eligibility screening information for
25 the child, if available;

26 (15) the address in the committing county for
27 forwarding funds collected to which the committing county is

1 entitled;

2 (16) any of the child's school or immunization records
3 that the committing county possesses;

4 (17) any victim information concerning the case for
5 which the child is committed; and

6 (18) any of the child's pertinent medical records that
7 the committing court possesses.

8 SECTION 44. Section 61.044, Human Resources Code, is
9 amended to read as follows:

10 Sec. 61.044. BIENNIAL BUDGET. [~~DUTIES OF EXECUTIVE~~
11 ~~DIRECTOR.~~ (a) ~~The executive director shall perform the duties~~
12 ~~assigned by the commission.~~

13 [(b)] The executive commissioner [~~director~~] shall prepare
14 [~~and submit to the commission for its approval~~] a biennial budget of
15 all funds necessary to be appropriated by the legislature to the
16 commission to carry out the purposes of this chapter. The budget
17 shall be submitted and filed by the executive commissioner
18 [~~commission~~] in the form and manner and within the time prescribed
19 by law.

20 SECTION 45. Subchapter C, Chapter 61, Human Resources Code,
21 is amended by adding Section 61.055 to read as follows:

22 Sec. 61.055. ZERO-TOLERANCE POLICY. (a) The commission
23 shall adopt a zero-tolerance policy concerning the detection,
24 prevention, and punishment of the sexual abuse, including
25 consensual sexual contact, of children in the custody of the
26 commission.

27 (b) The commission shall establish standards for reporting

1 and collecting data on the sexual abuse of children in the custody
2 of the commission.

3 (c) The commission shall establish a procedure for children
4 in the custody of the commission and commission employees to report
5 incidents of sexual abuse involving a child in the custody of the
6 commission. The procedure must designate a person employed at the
7 commission facility in which the abuse is alleged to have occurred
8 as well as a person who is employed at the commission's headquarters
9 to whom a person may report an incident of sexual abuse.

10 (d) The commission shall prominently display the following
11 notice in the office of the chief administrator of each commission
12 facility, the employees' break room of each commission facility,
13 the cafeteria of each commission facility, and at least six
14 additional locations in each commission facility:

15 THE TEXAS LEGISLATURE HAS ADOPTED A ZERO-TOLERANCE POLICY
16 REGARDING THE SEXUAL ABUSE, INCLUDING CONSENSUAL SEXUAL CONTACT, OF
17 A CHILD IN THE CUSTODY OF THE COMMISSION. ANY SUCH VIOLATION MUST
18 BE REPORTED TO _____.

19 SECTION 46. Sections 61.071 and 61.072, Human Resources
20 Code, are amended to read as follows:

21 Sec. 61.071. INITIAL EXAMINATION. (a) The commission
22 shall examine and make a study of each child committed to it as soon
23 as possible after commitment. The study shall be made according to
24 rules established by the commission and shall include:

- 25 (1) long-term planning for the child; and
26 (2) consideration of the child's medical, substance
27 abuse, and treatment history, including the child's psychiatric

1 history and substance abuse history [~~a determination of whether the~~
2 ~~child will need long-term residential care~~].

3 (b) For a child for whom a minimum length of stay is
4 established under Section 61.062 of one year or longer, the initial
5 examination must include a comprehensive psychiatric evaluation.

6 (c) The commission shall administer comprehensive
7 psychological assessments to a child as part of the child's initial
8 examination, including assessments designed to identify whether a
9 child is in need of a psychiatric evaluation. If the results of a
10 child's psychological assessments indicate that the child is in
11 need of a psychiatric evaluation, the commission shall as soon as
12 practicable conduct a psychiatric evaluation of the child.

13 Sec. 61.072. REEXAMINATION. The commission shall
14 periodically reexamine each child under its control, except those
15 on release under supervision or in foster homes, for the purpose of
16 determining whether a rehabilitation plan made by the commission
17 concerning the child should be modified or continued. The
18 examination must include a study of all current circumstances of a
19 child's personal and family situation and an evaluation of the
20 progress made by the child since the child's last examination. The
21 examination of a child may be made as frequently as the commission
22 considers necessary [~~desirable~~], but shall be made at intervals not
23 exceeding six months [~~one year~~].

24 SECTION 47. Subchapter E, Chapter 61, Human Resources Code,
25 is amended by adding Section 61.0711 to read as follows:

26 Sec. 61.0711. HEALTH CARE DELIVERY SYSTEM. (a) In
27 providing medical care, behavioral health care, or rehabilitation

1 services, the commission shall integrate the provision of those
2 services in an integrated comprehensive delivery system.

3 (b) The delivery system may be used to deliver any medical,
4 behavioral health, or rehabilitation services provided to a child
5 in the custody of the commission, including:

6 (1) health care;

7 (2) dental care;

8 (3) behavioral health care;

9 (4) substance abuse treatment;

10 (5) nutrition;

11 (6) programming;

12 (7) case management; and

13 (8) general rehabilitation services, including
14 educational, spiritual, daily living, recreational, and security
15 services.

16 SECTION 48. Section 61.0731, Human Resources Code, is
17 amended by adding Subsection (c) to read as follows:

18 (c) The commission may disclose to a peace officer or law
19 enforcement agency images of children recorded by an electronic
20 recording device and incident reporting and investigation
21 documents containing the names of children if the information is
22 relevant to the investigation of a criminal offense alleged to have
23 occurred in a facility operated by or under contract with the
24 commission.

25 SECTION 49. Subchapter E, Chapter 61, Human Resources Code,
26 is amended by adding Sections 61.0763 and 61.0764 to read as
27 follows:

1 Sec. 61.0763. RIGHTS OF PARENTS. (a) The commission, in
2 consultation with advocacy and support groups such as those
3 described in Section 61.0386(a), shall develop a parent's bill of
4 rights for distribution to the parent or guardian of a child who is
5 under 18 years of age and committed to the commission. The parent's
6 bill of rights must include:

7 (1) a description of the commission's grievance
8 policies and procedures, including contact information for the
9 office of inspector general and the office of the independent
10 ombudsman established under Chapter 64;

11 (2) a list of possible incidents that require parental
12 notification;

13 (3) policies concerning visits and telephone
14 conversations with a child committed to the commission;

15 (4) a description of commission caseworker
16 responsibilities;

17 (5) a statement that the commission caseworker
18 assigned to a child may assist the child's parent or guardian in
19 obtaining information and services from the commission and other
20 resources concerning:

21 (A) counseling, including substance abuse and
22 mental health counseling;

23 (B) assistance programs, including financial and
24 travel assistance programs for visiting a child committed to the
25 commission;

26 (C) workforce preparedness programs;

27 (D) parenting programs; and

1 (E) commission seminars; and

2 (6) information concerning the indeterminate
3 sentencing structure at the commission, an explanation of reasons
4 that a child's commitment at the commission could be extended, and
5 an explanation of the review process under Sections 61.0815 and
6 61.0816 for a child committed to the commission without a
7 determinate sentence.

8 (b) Not later than 48 hours after the time a child is
9 admitted to a commission facility, the commission shall mail to the
10 child's parent or guardian at the last known address of the parent
11 or guardian:

12 (1) the parent's bill of rights; and

13 (2) the contact information of the commission
14 caseworker assigned to the child.

15 (c) The commission shall on a quarterly basis provide to the
16 parent, guardian, or designated advocate of a child who is in the
17 custody of the commission a report concerning the progress of the
18 child at the commission, including:

19 (1) the academic and behavioral progress of the child;
20 and

21 (2) the results of any reexamination of the child
22 conducted under Section 61.072.

23 (d) The commission shall ensure that written information
24 provided to a parent or guardian regarding the rights of a child in
25 the custody of the commission or the rights of a child's parent or
26 guardian, including the parent's bill of rights, is clear and easy
27 to understand.

S.B. No. 103

1 Sec. 61.0764. COMMISSION CASEWORKERS. (a) The commission
2 shall assign a caseworker to a child committed to the commission. A
3 commission caseworker shall:

4 (1) explore family issues and needs with the parent or
5 guardian of a child committed to the commission;

6 (2) as needed, provide the parent or guardian of a
7 child committed to the commission with information concerning
8 programs and services provided by the commission or another
9 resource; and

10 (3) perform other duties required by the commission.

11 (b) A commission caseworker shall:

12 (1) at least once a month, attempt to contact the
13 child's parent or guardian by phone, in person while the parent or
14 guardian is visiting the facility, or, if necessary, by mail;

15 (2) if unsuccessful in contacting the child's parent
16 or guardian under Subdivision (1), attempt at least one additional
17 time each month to contact the child's parent or guardian; and

18 (3) document successful as well as unsuccessful
19 attempts to contact the child's parent or guardian.

20 (c) To the extent practicable, a caseworker or another
21 facility administrator shall attempt to communicate with a parent
22 or guardian who does not speak English in the language of choice of
23 the parent or guardian.

24 SECTION 50. Subsection (a), Section 61.079, Human Resources
25 Code, is amended to read as follows:

26 (a) After a child sentenced to commitment under Section
27 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 16 years

S.B. No. 103

of age but before the child becomes 19 [21] years of age, the commission may refer the child to the juvenile court that entered the order of commitment for approval of the child's transfer to the ~~[institutional division of the]~~ Texas Department of Criminal Justice for confinement if:

(1) the child has not completed the sentence; and

(2) the child's conduct, regardless of whether the child was released under supervision under Section 61.081, indicates that the welfare of the community requires the transfer.

SECTION 51. Subchapter E, Chapter 61, Human Resources Code, is amended by adding Section 61.0791 to read as follows:

Sec. 61.0791. EVALUATION OF CERTAIN CHILDREN SERVING DETERMINATE SENTENCES. (a) When a child who is sentenced to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 18 years of age, the commission shall evaluate whether the child is in need of additional services that can be completed in the six-month period after the child's 18th birthday to prepare the child for release from the custody of the commission or transfer to the Texas Department of Criminal Justice.

(b) This section does not apply to a child who is released from the custody of the commission or who is transferred to the Texas Department of Criminal Justice before the child's 18th birthday.

SECTION 52. Subchapter F, Chapter 61, Human Resources Code, is amended by adding Sections 61.0814, 61.0815, and 61.0816 to read as follows:

Sec. 61.0814. REENTRY AND REINTEGRATION PLAN. (a) The

S.B. No. 103

commission shall develop a reentry and reintegration plan for each
child committed to the custody of the commission. The plan for a
child must be designed to ensure that the child receives an
extensive continuity of care in services from the time the child is
committed to the commission to the time of the child's final
discharge from the commission. The plan for a child must include,
as applicable:

- (1) housing assistance;
- (2) a step-down program, such as placement in a
halfway house;
- (3) family counseling;
- (4) academic and vocational mentoring;
- (5) trauma counseling for a child who is a victim of
abuse while in the custody of the commission; and
- (6) other specialized treatment services appropriate
for the child.

(b) If a program or service in the child's reentry and
reintegration plan is not available at the time the child is to be
released, the commission shall find a suitable alternative program
or service so that the child's release is not postponed.

Sec. 61.0815. COMPLETION OF MINIMUM LENGTH OF STAY.

(a) After a child who is committed to the commission without a
determinate sentence completes the minimum length of stay
established by the commission for the child under Section 61.062,
the commission shall, in the manner provided by this section:

- (1) discharge the child from the custody of the
commission;

1 (2) release the child under supervision under Section
2 61.081; or

3 (3) extend the length of the child's stay in the
4 custody of the commission.

5 (b) The commission by rule shall establish a panel whose
6 function is to review and determine whether a child who has
7 completed the child's minimum length of stay should be discharged
8 from the custody of the commission as provided by Subsection
9 (a)(1), be released under supervision under Section 61.081 as
10 provided by Subsection (a)(2), or remain in the custody of the
11 commission for an additional period of time as provided by
12 Subsection (a)(3).

13 (c) The executive commissioner shall determine the size of
14 the panel and the length of the members' terms of service on the
15 panel. The panel must consist of an odd number of members and the
16 terms of the panel's members must last for at least two years. The
17 executive commissioner shall adopt policies that ensure the
18 transparency, consistency, and objectivity of the panel's
19 composition, procedures, and decisions. The executive
20 commissioner shall appoint persons to serve as members of the
21 panel. A person appointed to the panel must be a commission
22 employee who works at the commission's central office. A member of
23 the panel may not be involved in any supervisory decisions
24 concerning children in the custody of the commission.

25 (d) The panel may extend the length of the child's stay as
26 provided by Subsection (a)(3) only if the panel determines by
27 majority vote and on the basis of clear and convincing evidence that

1 the child is in need of additional rehabilitation from the
 2 commission and that the commission will provide the most suitable
 3 environment for that rehabilitation. In extending the length of a
 4 child's stay, the panel must specify the additional period of time
 5 that the child is to remain in the custody of the commission and
 6 must conduct an additional review and determination as provided by
 7 this section on the child's completion of the additional term of
 8 stay. If the panel determines that the child's length of stay
 9 should not be extended, the commission must discharge the child
 10 from the custody of the commission as provided by Subsection (a)(1)
 11 or release the child under supervision under Section 61.081 as
 12 provided by Subsection (a)(2).

13 (e) The commission shall maintain statistics of the number
 14 of extensions granted by the panel. The statistics must include
 15 aggregated information concerning:

16 (1) the race, age, sex, specialized treatment needs,
 17 and county of origin for each child for whom an extension order is
 18 requested;

19 (2) the facility in which the child is confined; and

20 (3) if applicable, any allegations concerning the
 21 abuse, mistreatment, or neglect of the child, aggregated by the
 22 type of misconduct to which the child was subjected.

23 (f) To the extent authorized under law, the statistics
 24 maintained under Subsection (e) are public information under
 25 Chapter 552, Government Code, and the commission shall post the
 26 statistics on the commission's Internet website. The commission
 27 shall prepare and deliver to the standing committees of the senate

See
the

S.B. No. 103

1 and house of representatives with primary jurisdiction over matters
2 concerning correctional facilities a report concerning the
3 statistics maintained under Subsection (e).

4 (g) The commission shall provide a report to the parent,
5 guardian, or designated advocate of a child whose length of stay is
6 extended under this section explaining the panel's reason for the
7 extension.

8 Sec. 61.0816. REQUEST FOR RECONSIDERATION OF EXTENSION
9 ORDER. (a) The commission by rule shall establish a process to
10 request the reconsideration of an extension order issued by the
11 panel established under Section 61.0815.

12 (b) The process to request reconsideration must provide
13 that:

14 (1) a child, a parent, guardian, or designated
15 advocate of a child, an employee of the commission, or a person who
16 provides volunteer services at a commission facility may submit a
17 request for reconsideration of an extension order;

18 (2) the person submitting the request for
19 reconsideration of an extension order must state in the request the
20 reason for the request;

21 (3) after receiving a request for reconsideration of
22 an extension order, the panel shall reconsider an extension order
23 that:

24 (A) extends the child's stay in the custody of
25 the commission by six months or more; or

26 (B) combined with previous extension orders will
27 result in an extension of the child's stay in the custody of the

commission by six months or more;

(4) the panel's reconsideration of an extension order includes consideration of the information submitted in the request; and

(5) the panel shall send a written reply to the child, the parent, guardian, or designated advocate of the child, and the person who made the request for reconsideration of an extension order that includes an explanation of the panel's decision after reconsidering the extension order, including an indication that the panel has considered the information submitted in the request.

(c) The commission shall create a form for a request for reconsideration of an extension order that is clear and easy to understand. The commission shall ensure that a child may request assistance in completing a request for reconsideration of an extension order.

(d) The commission shall maintain statistics of the number of requests for reconsideration of an extension order that are submitted and the action taken on reconsideration of the extension order. The statistics must include aggregated information concerning:

(1) the race, age, sex, specialized treatment needs, and county of origin for each child for whom a request for reconsideration of an extension order is submitted;

(2) whether a request for reconsideration of an extension order results in:

(A) a discharge or release under supervision; or

(B) the original extension order being upheld;

1 (3) the facility in which the child is confined; and

2 (4) if applicable, any allegations concerning the
3 abuse, mistreatment, or neglect of the child, aggregated by the
4 type of misconduct to which the child was subjected.

5 (e) To the extent authorized under law, the statistics
6 maintained under Subsection (d) are public information under
7 Chapter 552, Government Code, and the commission shall post the
8 statistics on the commission's Internet website. The commission
9 shall prepare and deliver to the standing committees of the senate
10 and house of representatives with primary jurisdiction over matters
11 concerning correctional facilities a report concerning the
12 statistics maintained under Subsection (d).

13 SECTION 53. Subsections (e) and (g), Section 61.084, Human
14 Resources Code, are amended to read as follows:

15 (e) Except as provided by Subsection [~~(f)~~ ~~or~~] (g), the
16 commission shall discharge from its custody a person not already
17 discharged on the person's 19th [~~21st~~] birthday.

18 (g) The commission shall transfer a person who has been
19 sentenced under a determinate sentence to commitment under Section
20 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, or who has been
21 returned to the commission under Section 54.11(i)(1), Family Code,
22 to the custody of the [~~pardons and paroles division of the~~] Texas
23 Department of Criminal Justice on the person's 19th [~~21st~~]
24 birthday, if the person has not already been discharged or
25 transferred, to serve the remainder of the person's sentence on
26 parole as provided by Section 508.156, Government Code.

27 SECTION 54. Section 61.0841, Human Resources Code, is

S.B. No. 103

1 amended by amending Subsection (a) and adding Subsection (c) to
2 read as follows:

3 (a) Not later than the 90th day before the date the
4 commission transfers a person to the custody of [~~the pardons and~~
5 ~~parole division of~~] the Texas Department of Criminal Justice for
6 release on parole under Section 61.081(f) or 61.084(g) [~~61.084(f)~~
7 ~~or (g)~~], the commission shall submit to the department all
8 pertinent information relating to the person, including:

- 9 (1) the juvenile court judgment;
- 10 (2) the circumstances of the person's offense;
- 11 (3) the person's previous social history and juvenile
12 court records;
- 13 (4) the person's physical and mental health record;
- 14 (5) a record of the person's conduct, employment
15 history, and attitude while committed to the commission;
- 16 (6) a record of the sentence time served by the person
17 at the commission and in a juvenile detention facility in
18 connection with the conduct for which the person was adjudicated;
19 and
- 20 (7) any written comments or information provided by
21 the commission, local officials, family members of the person, [~~or~~]
22 victims of the offense, or the general public.

23 (c) The Texas Department of Criminal Justice shall grant
24 credit for sentence time served by a person at the commission and in
25 a juvenile detention facility, as recorded by the commission under
26 Subsection (a)(6), in computing the person's eligibility for parole
27 and discharge from the department.

1 SECTION 55. Subsection (a), Section 61.093, Human Resources
2 Code, is amended to read as follows:

3 (a) If a child who has been committed to the commission and
4 placed by it in any institution or facility has escaped or has been
5 released under supervision and broken the conditions of release:

6 (1) a sheriff, deputy sheriff, constable, or police
7 officer may, without a warrant, arrest the child; or

8 (2) a [~~parole officer or other~~] commission employee
9 designated by the executive commissioner [~~director~~] may, without a
10 warrant or other order, take the child into the custody of the
11 commission.

12 SECTION 56. Subchapter G, Chapter 61, Human Resources Code,
13 is amended by adding Sections 61.098 and 61.099 to read as follows:

14 Sec. 61.098. CERTAIN CRIMES CONCERNING THE COMMISSION.

15 (a) In this section, "special prosecution unit" means the special
16 prosecution unit established under Subchapter E, Chapter 41,
17 Government Code.

18 (b) As appropriate, the district attorney, criminal
19 district attorney, or county attorney representing the state in
20 criminal matters before the district or inferior courts of the
21 county who would otherwise represent the state in the prosecution
22 of an offense or delinquent conduct concerning the commission and
23 described by Article 104.003(a), Code of Criminal Procedure, may
24 request that the special prosecution unit prosecute the offense or
25 delinquent conduct.

26 (c) The office of inspector general shall on a quarterly
27 basis prepare and deliver to the board of directors of the special

1 prosecution unit a report concerning:

2 (1) any alleged criminal offense or delinquent conduct
3 concerning the commission and described by Article 104.003(a), Code
4 of Criminal Procedure, that occurred during the preceding calendar
5 quarter; and

6 (2) the disposition of any case involving a criminal
7 offense or delinquent conduct concerning the commission and
8 described by Article 104.003(a), Code of Criminal Procedure, that
9 occurred during the preceding calendar quarter.

10 (d) Notwithstanding Subsection (c), the office of inspector
11 general shall immediately provide the special prosecution unit with
12 a report concerning an alleged criminal offense or delinquent
13 conduct concerning the commission and described by Article
14 104.003(a), Code of Criminal Procedure, if the chief inspector
15 general reasonably believes the offense or conduct is particularly
16 serious and egregious.

17 (e) The chief inspector general of the office of inspector
18 general, at the direction of the board of directors of the special
19 prosecution unit, shall notify the foreman of the appropriate grand
20 jury, in the manner provided by Article 20.09, Code of Criminal
21 Procedure, if:

22 (1) the chief inspector general receives credible
23 evidence of illegal or improper conduct by commission officers,
24 employees, or contractors that the inspector general reasonably
25 believes jeopardizes the health, safety, and welfare of children in
26 the custody of the commission;

27 (2) the chief inspector general reasonably believes

1 the conduct:

2 (A) could constitute an offense under Article
3 104.003(a), Code of Criminal Procedure; and

4 (B) involves the alleged physical or sexual abuse
5 of a child in the custody of a commission facility or an
6 investigation related to the alleged abuse; and

7 (3) the chief inspector general has reason to believe
8 that information concerning the conduct has not previously been
9 presented to the appropriate grand jury.

10 Sec. 61.099. DUTY TO FILE COMPLAINT WITH LAW ENFORCEMENT
11 AGENCY. If the executive commissioner has reasonable cause to
12 believe that a child in the custody of the commission is the victim
13 of a crime committed at a commission facility, the executive
14 commissioner shall immediately file a complaint with the
15 appropriate law enforcement agency.

16 SECTION 57. Subtitle A, Title 3, Human Resources Code, is
17 amended by adding Chapter 64 to read as follows:

18 CHAPTER 64. OFFICE OF INDEPENDENT OMBUDSMAN OF THE TEXAS YOUTH
19 COMMISSION

20 SUBCHAPTER A. GENERAL PROVISIONS

21 Sec. 64.001. DEFINITIONS. In this chapter:

22 (1) "Commission" means the Texas Youth Commission.

23 (2) "Independent ombudsman" means the individual who
24 has been appointed under this chapter to the office of independent
25 ombudsman.

26 (3) "Office" means the office of independent ombudsman
27 created under this chapter.

1 Sec. 64.002. ESTABLISHMENT; PURPOSE. The office of
2 independent ombudsman is a state agency established for the purpose
3 of investigating, evaluating, and securing the rights of the
4 children committed to the commission, including a child released
5 under supervision before final discharge.

6 Sec. 64.003. INDEPENDENCE. (a) The independent ombudsman
7 in the performance of its duties and powers under this chapter acts
8 independently of the commission.

9 (b) Funding for the independent ombudsman is appropriated
10 separately from funding for the commission.

11 [Sections 64.004-64.050 reserved for expansion]

12 SUBCHAPTER B. APPOINTMENT AND MANAGEMENT OF OFFICE

13 Sec. 64.051. APPOINTMENT OF INDEPENDENT OMBUDSMAN.

14 (a) The governor shall appoint the independent ombudsman with the
15 advice and consent of the senate for a term of two years, expiring
16 February 1 of odd-numbered years.

17 (b) A person appointed as independent ombudsman is eligible
18 for reappointment but may not serve more than three terms in that
19 capacity.

20 (c) Notwithstanding Subsection (a), as soon as practicable
21 after the effective date of this section, the executive
22 commissioner of the commission shall appoint the independent
23 ombudsman for a term of office expiring February 1, 2009. As
24 provided by Subsection (a), the governor shall appoint the
25 independent ombudsman with the advice and consent of the senate for
26 each of the independent ombudsman's subsequent terms of office.
27 This subsection expires March 1, 2009.

1 Sec. 64.052. ASSISTANTS. The independent ombudsman may
2 hire assistants to perform, under the direction of the independent
3 ombudsman, the same duties and exercise the same powers as the
4 independent ombudsman.

5 Sec. 64.053. CONFLICT OF INTEREST. (a) A person may not
6 serve as independent ombudsman or as an assistant to the
7 independent ombudsman if the person or the person's spouse:

8 (1) is employed by or participates in the management
9 of a business entity or other organization receiving funds from the
10 commission;

11 (2) owns or controls, directly or indirectly, any
12 interest in a business entity or other organization receiving funds
13 from the commission; or

14 (3) uses or receives any amount of tangible goods,
15 services, or funds from the commission.

16 (b) A person may not serve as independent ombudsman or as an
17 assistant to the independent ombudsman if the person or the
18 person's spouse is required to register as a lobbyist under Chapter
19 305, Government Code, because of the person's activities for
20 compensation on behalf of a profession related to the operation of
21 the commission.

22 (c) A person may not serve as independent ombudsman or as an
23 assistant to the independent ombudsman if the person or the
24 person's spouse is an officer, employee, manager, or paid
25 consultant of a Texas trade association in the field of criminal or
26 juvenile justice.

27 (d) For the purposes of this section, a Texas trade

700
600

S.B. No. 103

1 association is a nonprofit, cooperative, and voluntarily joined
2 association of business or professional competitors in this state
3 designed to assist its members and its industry or profession in
4 dealing with mutual business or professional problems and in
5 promoting their common interest.

6 Sec. 64.054. SUNSET PROVISION. The office is subject to
7 review under Chapter 325, Government Code (Texas Sunset Act), but
8 is not abolished under that chapter. The office shall be reviewed
9 during the periods in which state agencies abolished in 2009 and
10 every 12th year after 2009 are reviewed.

11 Sec. 64.055. REPORT. (a) The independent ombudsman shall
12 submit on a quarterly basis to the governor, the lieutenant
13 governor, the state auditor, and each member of the legislature a
14 report that is both aggregated and disaggregated by individual
15 facility and describes:

16 (1) the work of the independent ombudsman;
17 (2) the results of any review or investigation
18 undertaken by the independent ombudsman, including reviews or
19 investigation of services contracted by the commission; and

20 (3) any recommendations that the independent
21 ombudsman has in relation to the duties of the independent
22 ombudsman.

23 (b) The independent ombudsman shall immediately report to
24 the governor, the lieutenant governor, the speaker of the house of
25 representatives, the state auditor, and the office of the inspector
26 general of the commission any particularly serious or flagrant:

27 (1) case of abuse or injury of a child committed to the

1 commission;

2 (2) problem concerning the administration of a
3 commission program or operation;

4 (3) problem concerning the delivery of services in a
5 facility operated by or under contract with the commission; or

6 (4) interference by the commission with an
7 investigation conducted by the office.

8 Sec. 64.056. COMMUNICATION AND CONFIDENTIALITY. (a) The
9 commission shall allow any child committed to the commission to
10 communicate with the independent ombudsman or an assistant to the
11 ombudsman. The communication:

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

14 (2) is confidential and privileged.

15 (b) The records of the independent ombudsman are
16 confidential, except that the independent ombudsman shall:

17 (1) share with the office of inspector general of the
18 commission a communication with a child that may involve the abuse
19 or neglect of the child; and

20 (2) disclose its nonprivileged records if required by
21 a court order on a showing of good cause.

22 (c) The independent ombudsman may make reports relating to
23 an investigation public after the investigation is complete but
24 only if the names of all children, parents, and employees are
25 redacted from the report and remain confidential.

26 (d) The name, address, or other personally identifiable
27 information of a person who files a complaint with the office of

independent ombudsman, information generated by the office of independent ombudsman in the course of an investigation, and confidential records obtained by the office of independent ombudsman are confidential and not subject to disclosure under Chapter 552, Government Code, except that the information and records, other than confidential information and records concerning a pending law enforcement investigation or criminal action, may be disclosed to the appropriate person if the office determines that disclosure is:

- (1) in the general public interest;
- (2) necessary to enable the office to perform the responsibilities provided under this section; or
- (3) necessary to identify, prevent, or treat the abuse or neglect of a child.

Sec. 64.057. PROMOTION OF AWARENESS OF OFFICE. The independent ombudsman shall promote awareness among the public and the children committed to the commission of:

- (1) how the office may be contacted;
- (2) the purpose of the office; and
- (3) the services the office provides.

Sec. 64.058. RULEMAKING AUTHORITY. The office by rule shall establish policies and procedures for the operations of the office of independent ombudsman.

Sec. 64.059. AUTHORITY OF STATE AUDITOR. The office is subject to audit by the state auditor in accordance with Chapter 321, Government Code.

[Sections 64.060-64.100 reserved for expansion]

File
see

SUBCHAPTER C. DUTIES AND POWERS

Sec. 64.101. DUTIES AND POWERS. (a) The independent ombudsman shall:

(1) review the procedures established by the commission 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 commission 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 commission or the child's family may be in need of assistance from the office; or

(B) a systemic issue in the commission's provision of services is raised by a complaint;

(4) review or inspect periodically the facilities and procedures of any institution or residence in which a child has been placed by the commission, 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;

1 (7) recommend changes in any procedure relating to the
2 treatment of children committed to the commission;

3 (8) make appropriate referrals under any of the duties
4 and powers listed in this subsection; and

5 (9) supervise assistants who are serving as advocates
6 in their representation of children committed to the commission in
7 internal administrative and disciplinary hearings.

8 (b) The independent ombudsman may apprise persons who are
9 interested in a child's welfare of the rights of the child.

10 (c) To assess if a child's rights have been violated, the
11 independent ombudsman may, in any matter that does not involve
12 alleged criminal behavior, contact or consult with an
13 administrator, employee, child, parent, expert, or any other
14 individual in the course of its investigation or to secure
15 information.

16 (d) Notwithstanding any other provision of this chapter,
17 the independent ombudsman may not investigate alleged criminal
18 behavior.

19 Sec. 64.102. TREATMENT OF COMMISSION EMPLOYEES WHO
20 COOPERATE WITH INDEPENDENT OMBUDSMAN. The commission may not
21 discharge or in any manner discriminate or retaliate against an
22 employee who in good faith makes a complaint to the office of
23 independent ombudsman or cooperates with the office in an
24 investigation.

25 Sec. 64.103. TRAINING. The independent ombudsman shall
26 attend annual sessions, including the training curriculum for
27 juvenile correctional officers required under Section 61.0356, and

See
file

S.B. No. 103

1 may participate in other appropriate professional training.

2 [Sections 64.104-64.150 reserved for expansion]

3 SUBCHAPTER D. ACCESS TO INFORMATION

4 Sec. 64.151. ACCESS TO INFORMATION OF GOVERNMENTAL
5 ENTITIES. (a) The commission shall allow the independent
6 ombudsman access to its records relating to the children committed
7 to the commission.

8 (b) The Department of Public Safety shall allow the
9 independent ombudsman access to the juvenile justice information
10 system established under Subchapter B, Chapter 58, Family Code.

11 (c) A local law enforcement agency shall allow the
12 independent ombudsman access to its records relating to any child
13 in the care or custody of the commission.

14 Sec. 64.152. ACCESS TO INFORMATION OF PRIVATE ENTITIES.
15 The independent ombudsman shall have access to the records of a
16 private entity that relate to a child committed to the commission.

17 SECTION 58. Subsection (a), Section 141.022, Human
18 Resources Code, is amended to read as follows:

- 19 (a) The advisory council on juvenile services consists of:
- 20 (1) two juvenile court judges, appointed by the
- 21 commission;
- 22 (2) three juvenile probation officers, appointed by
- 23 the commission;
- 24 (3) two citizens who are knowledgeable of juvenile
- 25 services, appointed by the commission;
- 26 (4) the executive commissioner [~~director~~] of the Texas
- 27 Youth Commission or the commissioner's [~~director's~~] designee;

S.B. No. 103

1 (5) the commissioner of education or the
2 commissioner's designee; and

3 (6) the commissioner of human services or the
4 commissioner's designee.

5 SECTION 59. Subsection (b), Section 141.047, Human
6 Resources Code, is amended to read as follows:

7 (b) The director, the executive commissioner [~~director~~] of
8 the Texas Youth Commission, and the commissioners of education,
9 mental health and mental retardation, and human services shall meet
10 in Austin at least quarterly to:

- 11 (1) discuss mutual problems;
12 (2) resolve conflicts in providing services to
13 juveniles; and
14 (3) make recommendations to the governor and
15 legislature.

16 SECTION 60. Subsection (c), Section 141.0471, Human
17 Resources Code, is amended to read as follows:

18 (c) The governing board of the Texas Juvenile Probation
19 Commission and the executive commissioner of the Texas Youth
20 Commission [~~each agency~~] shall adopt the coordinated strategic plan
21 on or before December 1st of each odd-numbered year, or before the
22 adoption of the agency's individual strategic plan, whichever is
23 earlier.

24 SECTION 61. Subsection (c), Section 110.302, Occupations
25 Code, is amended to read as follows:

26 (c) The Texas Board of Criminal Justice [~~or the governing~~
27 ~~board of the Texas Youth Commission~~] may vote to exempt employees of

the Texas Department of Criminal Justice [~~or the Texas Youth Commission, as appropriate,~~] from a specific licensing requirement imposed under this section if the board determines that the requirement causes financial or operational hardship on the agency. The Texas Youth Commission may not exempt any employee of the commission from a licensing requirement imposed by this section for any reason.

SECTION 62. Subsections (a) and (b), Section 39.04, Penal Code, are amended to read as follows:

(a) An official of a correctional facility, an employee of a correctional facility, a person other than an employee who works for compensation at a correctional facility, a volunteer at a correctional facility, or a peace officer commits an offense if the person intentionally:

(1) denies or impedes a person in custody in the exercise or enjoyment of any right, privilege, or immunity knowing his conduct is unlawful; or

(2) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual in custody or, in the case of an individual in the custody of the Texas Youth Commission, employs, authorizes, or induces the individual to engage in sexual conduct or a sexual performance.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor. An offense under Subsection (a)(2) is a state jail felony, except that an offense under Subsection (a)(2) is a felony of the second degree if the individual is in the custody of the Texas Youth Commission.

S.B. No. 103

1 SECTION 63. Subsection (e), Section 39.04, Penal Code, is
2 amended by adding Subdivisions (4) and (5) to read as follows:

3 (4) "Sexual conduct" and "performance" have the
4 meanings assigned by Section 43.25.

5 (5) "Sexual performance" means any performance or part
6 thereof that includes sexual conduct by an individual.

7 SECTION 64. The following laws are repealed:

8 (1) Subsections (s) and (t), Section 54.04, Family
9 Code;

10 (2) Subsection (k), Section 54.05, Family Code; and

11 (3) Subdivision (3), Section 61.001, Sections
12 61.0122, 61.014, 61.015, 61.0151, and 61.017, and Subsection (f),
13 Section 61.084, and Subsection (d), Section 141.042, Human
14 Resources Code.

15 SECTION 65. A person committed to the Texas Youth
16 Commission on the basis of conduct constituting the commission of
17 an offense of the grade of misdemeanor under Subdivision (2),
18 Subsection (d), Section 54.04, Family Code, as it existed before
19 the effective date of this Act, must be discharged from the custody
20 of the Texas Youth Commission not later than the person's 19th
21 birthday.

22 SECTION 66. (a) Not later than November 1, 2007, the Texas
23 Juvenile Probation Commission shall issue guidelines for the
24 creation of community-based programs required by Section 54.0401,
25 Family Code, as added by this Act.

26 (b) Not later than January 1, 2008, the juvenile board of a
27 county to which Section 54.0401, Family Code, as added by this Act,

S.B. No. 103

1 applies shall implement a community-based program that complies
2 with the guidelines established by the Texas Juvenile Probation
3 Commission.

4 SECTION 67. The change in law made by Section 54.052, Family
5 Code, as added by this Act, and Subsection (c), Section 61.0841,
6 Human Resources Code, as added by this Act, applies only to conduct
7 for which a child is adjudicated on or after the effective date of
8 this Act. A child who is adjudicated before the effective date of
9 this Act is governed by the law in effect when the child was
10 adjudicated, and the former law is continued in effect for that
11 purpose.

12 SECTION 68. The change in law made by this Act to Section
13 39.04, Penal Code, applies only to an offense committed on or after
14 September 1, 2007. An offense committed before September 1, 2007,
15 is governed by the law in effect when the offense was committed, and
16 the former law is continued in effect for that purpose. For
17 purposes of this section, an offense was committed before September
18 1, 2007, if any element of the offense occurred before that date.

19 SECTION 69. The Texas Youth Commission shall develop and
20 adopt a mission statement, as required by Section 61.0345, Human
21 Resources Code, as added by this Act, on or before October 1, 2007.

22 SECTION 70. (a) Subsection (b), Section 61.0356, Human
23 Resources Code, as added by this Act, applies only to a juvenile
24 correctional officer hired by the Texas Youth Commission on or
25 after the effective date of this Act. As soon as practicable but
26 not later than six months after the effective date of this Act, the
27 Texas Youth Commission shall complete providing the training to

S.B. No. 103

1 juvenile correctional officers hired before the effective date of
2 this Act that is necessary to conform to the requirements of
3 Subsection (b), Section 61.0356, Human Resources Code, as added by
4 this Act.

5 (b) As soon as practicable after the effective date of this
6 Act, the Texas Youth Commission shall ensure that:

7 (1) each correctional facility operated by the
8 commission that has a dormitory, including an open-bay dormitory,
9 has a ratio of not less than one juvenile correctional officer
10 performing direct supervisory duties for every 12 children
11 committed to the facility, as required by Subsection (d), Section
12 61.0356, Human Resources Code, as added by this Act; and

13 (2) children younger than 15 years of age are assigned
14 to separate correctional facility dorms from persons who are at
15 least 17 years of age as required by Section 61.061, Human Resources
16 Code, as added by this Act.

17 SECTION 71. As soon as practicable after the effective date
18 of this Act, the governor shall appoint the executive commissioner
19 of the Texas Youth Commission, as required by Section 61.012, Human
20 Resources Code, as amended by this Act, with a term of office
21 expiring February 1, 2009.

22 SECTION 72. As soon as practicable after the effective date
23 of this Act:

24 (1) the governor shall appoint three members of the
25 advisory board of the Texas Youth Commission, as required by
26 Section 61.013, Human Resources Code, as amended by this Act;

27 (2) the speaker of the house of representatives shall

file
cel

S.B. No. 103

1 appoint three members of the advisory board of the Texas Youth
2 Commission, as required by Section 61.013, Human Resources Code, as
3 amended by this Act; and

4 (3) the lieutenant governor shall appoint three
5 members of the advisory board of the Texas Youth Commission, as
6 required by Section 61.013, Human Resources Code, as amended by
7 this Act.

8 SECTION 73. A rule adopted by the Texas Youth Commission
9 before the effective date of this Act is a rule of the executive
10 commissioner of the Texas Youth Commission until superseded,
11 modified, or repealed by the executive commissioner.

12 SECTION 74. The Health and Human Services Commission, the
13 Texas Youth Commission, and the Texas Juvenile Probation Commission
14 shall jointly establish a timetable for the submission of agency
15 reports required by Section 531.016, Government Code, as added by
16 this Act, as soon as practicable after the effective date of this
17 Act.

18 SECTION 75. Before October 1, 2007, the Texas Youth
19 Commission shall certify to the Employees Retirement System of
20 Texas, in the manner prescribed by the retirement system, the name
21 of each person employed by the office of inspector general at the
22 Texas Youth Commission as a law enforcement officer, as defined by
23 Section 811.001, Government Code, as amended by this Act, and any
24 other information the system determines is necessary for the
25 crediting of service and financing of benefits under Subtitle B,
26 Title 8, Government Code.

27 SECTION 76. As soon as practicable after the effective date

3-14
KCR

S.B. No. 103

1 of this Act, the Texas Youth Commission shall, in the manner
2 prescribed by Section 61.0357, Human Resources Code, as added by
3 this Act, begin obtaining national criminal history record
4 information for each person who is described by Subsection (b),
5 Section 61.0357, Human Resources Code, as added by this Act.

6 SECTION 77. (a) Not later than September 30, 2007, the
7 board of directors of the special prosecution unit established by
8 Subchapter E, Chapter 41, Government Code, as added by this Act,
9 shall elect the initial members of the executive board of the board
10 of directors as required by Section 41.304, Government Code, as
11 added by this Act. In electing those members, the board of
12 directors shall specify:

13 (1) which members serve terms expiring in
14 even-numbered years and which serve terms expiring in odd-numbered
15 years; and

16 (2) the beginning and end dates of the terms served by
17 the members of the executive board.

18 (b) Not later than September 30, 2007, the board of
19 directors of the special prosecution unit established by Subchapter
20 E, Chapter 41, Government Code, as added by this Act, shall elect
21 the presiding officer and the assistant presiding officer of the
22 board of directors and the executive board of the board of directors
23 as required by Section 41.305, Government Code, as added by this
24 Act. In electing those officers, the board of directors shall
25 specify the beginning and end dates of the terms served by the
26 officers.

27 (c) As soon as possible after the effective date of this

S.B. No. 103

1 Act, the executive board of the board of directors of the special
 2 prosecution unit established by Subchapter E, Chapter 41,
 3 Government Code, as added by this Act, shall elect the counsellor as
 4 required by Section 41.309, Government Code, as added by this Act.

5 SECTION 78. This Act takes effect immediately if it
 6 receives a vote of two-thirds of all the members elected to each
 7 house, as provided by Section 39, Article III, Texas Constitution.
 8 If this Act does not receive the vote necessary for immediate
 9 effect, this Act takes effect September 1, 2007.

David Dewhurst

President of the Senate

Tom Craddick

Speaker of the House

I hereby certify that S.B. No. 103 passed the Senate on April 19, 2007, by the following vote: Yeas 30, Nays 0; May 10, 2007, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 14, 2007, House granted request of the Senate; May 24, 2007, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

Datsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 103 passed the House, with amendments, on May 8, 2007, by the following vote: Yeas 141, Nays 0, three present not voting; May 14, 2007, House granted request of the Senate for appointment of Conference Committee; May 25, 2007, House adopted Conference Committee Report by the following vote: Yeas 137, Nays 0, one present not voting.

Robert Hamey
Chief Clerk of the House

Approved:

8 JUN 07

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
6:50 PM O'CLOCK
JUN 08 2007

Roger Whinnif