Chapter 263

S.B. No. 103

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
district attorneys', and county attorneys' offices;

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

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

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

(9) officers commissioned by the General Services Commission;

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

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

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

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

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

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

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

(17) investigators commissioned by the Texas Medical
[State] Board [of Medical Examiners];

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

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

(20) investigators employed by the Texas Racing
Commission;

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

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

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

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

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

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

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

(28) an investigator commissioned by the commissioner
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;
S.B. No. 103

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

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

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

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

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

(2) consultation fees of experts whose assistance is
directly related to the prosecution;
S.B. No. 103

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

SECTION 4. Subsection (a), Section 37.203, Education Code,
is amended to read as follows:
(a) The center is advised by a board of directors composed
of:
(1) the attorney general, or the attorney general's
designee;
(2) the commissioner, or the commissioner's designee;
(3) the executive director of the Texas Juvenile
Probation Commission, or the executive director's designee;
(4) the executive commissioner [director] of the Texas
Youth Commission, or the executive commissioner's [director's]
designee;
(5) the commissioner of the Texas Department of Mental
Health and Mental Retardation, or the commissioner's designee; and
S.B. No. 103

1 (6) the following members appointed by the governor
2 with the advice and consent of the senate:
3 (A) a juvenile court judge;
4 (B) a member of a school district's board of
5 trustees;
6 (C) an administrator of a public primary school;
7 (D) an administrator of a public secondary
8 school;
9 (E) a member of the state parent-teacher
10 association;
11 (F) a teacher from a public primary or secondary
12 school;
13 (G) a public school superintendent who is a
14 member of the Texas Association of School Administrators;
15 (H) a school district police officer or a peace
16 officer whose primary duty consists of working in a public school;
17 and
18 (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 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 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

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

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

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

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

(c-1) The Texas Juvenile Probation Commission shall
annually inspect each public or private juvenile pre-adjudication
secure detention facility. 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 detention of children in
accordance with:

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

and

(2) minimum professional standards for the detention
of children in pre-adjudication or 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 current standards promulgated by the
American Correctional Association.

(1) Except for [a facility operated or certified by the
Texas Youth Commission or] a facility as provided by Subsection
(1), a governmental unit or private entity that operates or
S.B. No. 103

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
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
current standards promulgated by the American Correctional Association.

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

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

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

(e) The Texas Juvenile Probation Commission may deny, suspend, or revoke the registration of any facility required to register under Subsection (d) 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 7. Subsections (d) and (u), Section 54.04, Family Code, are amended to read as follows:

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

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

(A) in the child's own home or in the custody of a
relative or other fit person; or

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

   (1) a suitable foster home; or

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

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

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

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

       (1) a capital felony;

       (ii) a felony of the first degree; or

       (iii) an aggravated controlled substance
felony;

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

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

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

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

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

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

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

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

(c) A juvenile court of a county to which this section
S.B. No. 103

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

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

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

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

16
child violated a reasonable and lawful order of the court.

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

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

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

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

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

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

(a) Except as otherwise provided by this section,
S.B. No. 103

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

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

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

(3) to a juvenile justice agency; [and]

(4) to the Criminal Justice Policy Council[,] the
Texas Youth Commission[7] and the Texas Juvenile Probation
Commission for analytical purposes; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 41.305. OFFICERS. (a) The members of the board of
directors, on a majority vote, shall elect from among the
membership of the executive board a presiding officer and an
assistant presiding officer. The presiding officer serves as the
presiding officer of the board of directors and the executive
board, and the assistant presiding officer serves as the assistant
presiding officer of the board of directors and the executive
board.

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

(c) The assistant presiding officer serves as presiding
officer of the board of directors and the executive board in the
presiding officer's absence or if a vacancy occurs in that office
until a new presiding officer is elected as provided by Subsection
(d).
(d) If a vacancy occurs in the office of presiding officer or assistant presiding officer, the board of directors shall elect a person to serve the remainder of the vacating officer's term in the manner provided by Subsection (a).

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

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

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

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

(b) To be eligible to serve as a counsellor, a person must:

(1) be certified in criminal law by the Texas Board of Legal Specialization.
(2) have at least five years of experience as a lawyer assisting prosecuting attorneys in prosecuting offenses or delinquent conduct committed on state property used for the custody of persons charged with or convicted of offenses or used for the custody of children charged with or adjudicated as having engaged in delinquent conduct or conduct indicating a need for supervision; or

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

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

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

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

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

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

(B) could constitute an offense described by Article 104.003(a), Code of Criminal Procedure.
(b) In addition to the duties prescribed by Subsection (a), the counsellor shall on a quarterly basis provide the board of directors and the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities with a report concerning offenses or delinquent conduct prosecuted by the unit on receiving a request for assistance under Section 61.098, Human Resources Code, or a request for assistance otherwise from a prosecuting attorney. A report under this subsection is public information under Chapter 552, Government Code, and the board of directors shall request that the commission publish the report on the commission's Internet website. A report must be both aggregated and disaggregated by individual facility and include information relating to:

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

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

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

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

(c) The counsellor, in consultation with the board of directors, shall notify the foreman of the appropriate grand jury, in the manner provided by Article 20.09, Code of Criminal Procedure, if:
S.B. No. 103

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

(2) the counsellor reasonably believes the conduct:

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

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

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

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

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

(1) recidivism;

(2) juvenile and family access to services; and

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

(b) In conducting the study, the commission shall determine
whether the existing Texas Youth Commission facilities meet their intended purposes.

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

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

(e) This section expires September 1, 2009.

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

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

(c) This section expires September 1, 2009.

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

(a) The Texas Youth Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person described by Section 61.0357(b), Human Resources Code [who is+
S.B. No. 103

[(1) an applicant for a position with the Texas Youth Commission;

(2) a volunteer or an intern, or an applicant volunteer or intern, with the Texas Youth Commission;

(3) a business entity or person who contracts with the Texas Youth Commission to provide direct delivery services to youth;

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

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

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

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

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

SECTION 18. Subsection (b), Section 497.052, Government
Code, is amended to read as follows:

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

(1) a member of the house of representatives designated by the speaker of the house;
(2) a member of the senate designated by the lieutenant governor;
(3) the executive director of the Texas Department of Criminal Justice or the designee of the executive director;
(4) the executive director of the Texas Workforce Commission or the designee of the executive director; and
(5) the executive commissioner [director] of the Texas Youth Commission or the designee of the executive commissioner [director].

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

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

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

Sec. 531.016. EQUAL ACCESS TO FACILITIES, SERVICES, AND
TREATMENT. (a) The commission, the Texas Youth Commission, and the Texas Juvenile Probation Commission shall periodically review, document, and compare the accessibility and funding of facilities, services, and treatment provided to females under 18 years of age to the accessibility and funding of facilities, services, and treatment provided to males in the same age group.

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

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

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

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

(d) Each health and human services agency or other state agency that provides facilities, services, treatment, or funding subject to the review required by Subsection (a) shall identify existing differences within the agency in the allocation and expenditures of money and services for males under 18 years of age in comparison to females in the same age group. Each agency shall submit a report to the commission describing any differences identified.
S.B. No. 103

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

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

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

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

(g) This section expires September 1, 2011.

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

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

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

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

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

(b) A member who is at least 55 years old and who has at least 10 years of service credit as a commissioned peace officer engaged in criminal law enforcement activities of the Department of Public Safety, the Texas Alcoholic Beverage Commission, [●] the
Parks and Wildlife Department, or the office of inspector general
at the Texas Youth Commission, or as a custodial officer, is
eligible to retire and receive a service retirement annuity.

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

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

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

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

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

(b) This section does not apply to:
S.B. No. 103

(1) a state-operated facility;
(2) an agency foster home or agency foster group home;
(3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities on or near the premises, including but not limited to retreats or classes for religious instruction;
(4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;
(5) a youth camp licensed by the Department of State Health Services [Texas Department of Health];
(6) a facility licensed, operated, certified, or registered by another state agency;
(7) an educational facility accredited by the Texas Education Agency or the Southern Association of Colleges and Schools that operates primarily for educational purposes in grades kindergarten and above, an after-school program operated directly by an accredited educational facility, or an after-school program operated by another entity under contract with the educational facility, if the Texas Education Agency or Southern Association of Colleges and Schools has approved the curriculum content of the after-school program operated under the contract;
(8) an educational facility that operates solely for educational purposes in grades kindergarten through at least grade
two, that does not provide custodial care for more than one hour
during the hours before or after the customary school day, and that
is a member of an organization that promulgates, publishes, and
requires compliance with health, safety, fire, and sanitation
standards equal to standards required by state, municipal, and
county codes;

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

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

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

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

(13) a juvenile detention facility certified under
Section 51.12, Family Code, a juvenile correctional facility
certified under Section 51.125, Family Code
S.B. No. 103

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

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

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

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

(h) The certification requirements of this section do not
apply to a juvenile detention facility certified under Section
51.12, Family Code, or a juvenile correctional facility certified
under Section 51.125, Family Code (or Section 141.042(4)).

SECTION 27. Section 61.001, Human Resources Code, is
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 [appointee].

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

(4a) 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
incurred while on commission business.

(e) This section expires September 1, 2009.

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

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

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

(3) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law.

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

(c) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of criminal justice or juvenile justice may not be the executive commissioner, a member of the advisory board, or [and may not be] an
S.B. No. 103

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

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

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

(f) This section expires September 1, 2009.

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

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

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

(2) does not maintain while serving as executive
commissioner the qualifications required by Section 61.0121(a) for
appointment; or

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

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

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

(d) This section expires September 1, 2009.

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

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

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

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

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

(b) The advisory board is composed of nine members. Three members shall be appointed by the governor, three members shall be appointed by the lieutenant governor, and three members shall be appointed by the speaker of the house of representatives. The governor, lieutenant governor, and speaker of the house of
S.B. No. 103

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

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

(d) Members of the advisory 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 advisory 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 advisory board
must have primary experience in a field other than the field of
criminal or juvenile justice.

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

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

(h) This section expires September 1, 2009.

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

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

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

(c) This section expires September 1, 2009.

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

(b) The state auditor, on request of the office of inspector general, may provide information or other assistance to the office
of inspector general that the state auditor determines is appropriate. The office of inspector general may coordinate with the state auditor to review or schedule a plan for an investigation under Section 61.0451 or share other information.

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

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

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

(2) prohibit the state auditor from:

(A) conducting an audit, investigation, or other review; or

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

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

Sec. 61.022. ACCESSIBILITY TO PROGRAMS AND FACILITIES. The commission shall comply with federal and state laws related to program and facility accessibility. The executive commissioner [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
experience in a field other than the field of criminal or juvenile justice.

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

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

(e) Effective September 1, 2009:

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

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

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

Sec. 61.0315. [REVIEW OF] TREATMENT PROGRAMS. (a) The commission shall annually review the effectiveness of the 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.
S.B. No. 103

committed to the commission.

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

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

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

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

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

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

(2) the state auditor.

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

(b) This section expires January 1, 2009.
S.B. No. 103

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

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

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

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

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

(b) Except as otherwise provided by this chapter, an employee of the commission is employed on an at-will basis [the commission may remove any employee for cause, and a decision by the commission is final].
S.B. No. 103

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

SECTION 39. Subsection (a), Section 61.0355, Human
Resources Code, is amended to read as follows:
(a) The executive commissioner [director of the executive
director's designee] shall prepare and maintain a written policy
statement to assure implementation of a program of equal employment
opportunity under which all personnel transactions are made without
regard to race, color, disability, sex, religion, age, or national
origin. The policy statement shall include:
(1) personnel policies, including policies relating
to recruitment, evaluation, selection, appointment, training, and
promotion of personnel that are in compliance with requirements of
Chapter 21, Labor Code;
(2) a comprehensive analysis of the commission's work
force that meets federal or state laws, rules, and regulations and
instructions promulgated directly from those laws, rules, and
regulations;
(3) procedures by which a determination can be made
about the extent of underuse in the commission's work force of all
persons of whom federal or state laws, rules, and regulations and
instructions promulgated directly from those laws, rules, and
regulations encourage a more equitable balance; and
(4) reasonable methods to appropriately address those
areas of underuse.

SECTION 40. Subchapter C, Chapter 61, Human Resources Code,
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;
(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
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) is an employee, contractor, volunteer, ombudsman, or advocate working for the commission or working in a commission facility or a facility under contract with the commission;

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

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

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

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

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

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

(g) The commission shall adopt rules necessary to administer this section.
Sec. 61.0386. ADVOCACY AND SUPPORT GROUPS. (a) The commission shall allow advocacy and support groups whose primary functions are to benefit children, inmates, girls and women, the mentally ill, and victims of sexual assault to provide on-site information, support, and other services for children confined in commission facilities.

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

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

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

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

(b) The executive commissioner shall ensure that the location of public hearings held in accordance with this section is
rotated between municipalities in which a commission facility is located or that are in proximity to a commission facility.

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

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

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

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

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

(1) the executive commissioner;

(2) the advisory board;

(3) the governor;

(4) the lieutenant governor;

(5) the speaker of the house of representatives;

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

(7) the special prosecution unit;

(8) the state auditor; and
(9) any other appropriate state agency responsible for licensing or certifying commission employees or facilities.

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

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

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

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

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

(f) The executive commissioner shall select a commissioned peace officer as chief inspector general. The chief inspector general is subject to the requirements of this section and may only be discharged for cause.
S.B. No. 103

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

(1) the executive commissioner;
(2) the advisory board;
(3) the governor;
(4) the lieutenant governor;
(5) the speaker of the house of representatives;
(6) the standing committees of the senate and house of representatives with primary jurisdiction over correctional facilities;

(7) the state auditor; and
(8) the comptroller.

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

(1) the types of investigations conducted by the office of inspector general, such as whether an investigation concerned narcotics or an alleged incident of sexual abuse;
(2) the relationship of a victim to a perpetrator, if applicable; and
(3) the number of investigations conducted concerning suicides, deaths, and hospitalizations of children in the custody of the commission.
S.B. No. 103

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

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

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

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

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

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

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

Sec. 61.061. PLACEMENT IN COMMISSION FACILITIES. (a) The commission may not assign a child younger than 15 years of age to the same correctional facility dormitory as a person who is at least
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
orders for the child, including the child's thumbprint;

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

(3) the social history report for the child;

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

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

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

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

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

(9) any assessment documents concerning the child;

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

(11) the child's birth certificate;

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

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

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

(15) the address in the committing county for
forwarding funds collected to which the committing county is
S.B. No. 103

entitled:

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

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

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

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

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

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

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

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

(b) The commission shall establish standards for reporting
and collecting data on the sexual abuse of children in the custody of the commission.

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

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

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

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

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

(1) long-term planning for the child; and

(2) consideration of the child's medical, substance abuse, and treatment history, including the child's psychiatric
history and substance abuse history [a determination of whether the
child will need long-term residential care].

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

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

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

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

Sec. 61.0711. HEALTH CARE DELIVERY SYSTEM. (a) In
providing medical care, behavioral health care, or rehabilitation
services, the commission shall integrate the provision of those
services in an integrated comprehensive delivery system.

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

(1) health care;
(2) dental care;
(3) behavioral health care;
(4) substance abuse treatment;
(5) nutrition;
(6) programming;
(7) case management; and
(8) general rehabilitation services, including
educational, spiritual, daily living, recreational, and security
services.

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

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

SECTION 49. Subchapter E, Chapter 61, Human Resources Code,
is amended by adding Sections 61.0763 and 61.0764 to read as
follows:
Sec. 61.0763. RIGHTS OF PARENTS. (a) The commission, in consultation with advocacy and support groups such as those described in Section 61.0386(a), shall develop a parent's bill of rights for distribution to the parent or guardian of a child who is under 18 years of age and committed to the commission. The parent's bill of rights must include:

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

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

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

(4) a description of commission caseworker responsibilities;

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

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

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

(C) workforce preparedness programs;

(D) parenting programs; and
S.B. No. 103

(E) commission seminars; and

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

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

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

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

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

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

and

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

(d) The commission shall ensure that written information provided to a parent or guardian regarding the rights of a child in the custody of the commission or the rights of a child's parent or guardian, including the parent's bill of rights, is clear and easy to understand.
Sec. 61.0764. COMMISSION CASEWORKERS. (a) The commission shall assign a caseworker to a child committed to the commission. A commission caseworker shall:

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

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

(3) perform other duties required by the commission.

(b) A commission caseworker shall:

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

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

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

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

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

(a) After a child sentenced to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 16 years
of age but before the child becomes 19 [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
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;
(2) release the child under supervision under Section 61.081; or

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

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

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

(d) The panel may extend the length of the child's stay as provided by Subsection (a)(3) only if the panel determines by majority vote and on the basis of clear and convincing evidence that
the child is in need of additional rehabilitation from the
commission and that the commission will provide the most suitable
environment for that rehabilitation. In extending the length of a
child's stay, the panel must specify the additional period of time
that the child is to remain in the custody of the commission and
must conduct an additional review and determination as provided by
this section on the child's completion of the additional term of
stay. If the panel determines that the child's length of stay
should not be extended, the commission must discharge the child
from the custody of the commission as provided by Subsection (a)(1)
or release the child under supervision under Section 61.081 as
provided by Subsection (a)(2).

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

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

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

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

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

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

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

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

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

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

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

(A) extends the child's stay in the custody of
the commission by six months or more; or
(B) combined with previous extension orders will
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;
S.B. No. 103

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

(4) if applicable, any allegations concerning the
abuse, mistreatment, or neglect of the child, aggregated by the

type of misconduct to which the child was subjected.

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

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

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

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

SECTION 54. Section 61.0841, Human Resources Code, is
amended by amending Subsection (a) and adding Subsection (c) to
read as follows:

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

(1) the juvenile court judgment;

(2) the circumstances of the person's offense;

(3) the person's previous social history and juvenile
court records;

(4) the person's physical and mental health record;

(5) a record of the person's conduct, employment
history, and attitude while committed to the commission;

(6) a record of the sentence time served by the person
at the commission and in a juvenile detention facility in
connection with the conduct for which the person was adjudicated;

and

(7) any written comments or information provided by
the commission, local officials, family members of the person, [✓] victims of the offense, or the general public.

(c) The Texas Department of Criminal Justice shall grant
credit for sentence time served by a person at the commission and in
a juvenile detention facility, as recorded by the commission under
Subsection (a)(6), in computing the person's eligibility for parole
and discharge from the department.
S.B. No. 103

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

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

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

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

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

Sec. 61.098. CERTAIN CRIMES CONCERNING THE COMMISSION.

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

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

(c) The office of inspector general shall on a quarterly basis prepare and deliver to the board of directors of the special
prosecution unit a report concerning:

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

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

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

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

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

(2) the chief inspector general reasonably believes
the conduct:

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

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

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

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

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

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

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 64.001. DEFINITIONS. In this chapter:

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

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

(3) "Office" means the office of independent ombudsman created under this chapter.
Sec. 64.002. ESTABLISHMENT; PURPOSE. The office of independent ombudsman is a state agency established for the purpose of investigating, evaluating, and securing the rights of the children committed to the commission, including a child released under supervision before final discharge.

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

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

[Sections 64.004-64.050 reserved for expansion]

SUBCHAPTER B. APPOINTMENT AND MANAGEMENT OF OFFICE

Sec. 64.051. APPOINTMENT OF INDEPENDENT OMBUDSMAN.

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

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

(c) Notwithstanding Subsection (a), as soon as practicable after the effective date of this section, the executive commissioner of the commission shall appoint the independent ombudsman for a term of office expiring February 1, 2009. As provided by Subsection (a), the governor shall appoint the independent ombudsman with the advice and consent of the senate for each of the independent ombudsman's subsequent terms of office. This subsection expires March 1, 2009.
Sec. 64.052. ASSISTANTS. The independent ombudsman may hire assistants to perform, under the direction of the independent ombudsman, the same duties and exercise the same powers as the independent ombudsman.

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

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

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

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

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

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

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

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

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

(1) the work of the independent ombudsman;

(2) the results of any review or investigation undertaken by the independent ombudsman, including reviews or investigation of services contracted by the commission; and

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

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

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

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

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

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

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

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

and

(2) is confidential and privileged.

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

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

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

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

(d) The name, address, or other personally identifiable
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

[Sections 64.060-64.100 reserved for expansion]
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;
S.B. No. 103

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

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

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

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

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

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

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

Sec. 64.103. TRAINING. The independent ombudsman shall attend annual sessions, including the training curriculum for juvenile correctional officers required under Section 61.0356, and
may participate in other appropriate professional training.

(Sections 64.104–64.150 reserved for expansion)

SUBCHAPTER D. ACCESS TO INFORMATION

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

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

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

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

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

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

(1) two juvenile court judges, appointed by the commission;

(2) three juvenile probation officers, appointed by the commission;

(3) two citizens who are knowledgeable of juvenile services, appointed by the commission;

(4) the executive commissioner of the Texas Youth Commission or the commissioner's designee;
(5) the commissioner of education or the commissioner's designee; and

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

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

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

(1) discuss mutual problems;

(2) resolve conflicts in providing services to juveniles; and

(3) make recommendations to the governor and legislature.

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

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

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

(c) The Texas Board of Criminal Justice [or the governing 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

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

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

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

SECTION 64. The following laws are repealed:

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

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

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

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

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

(b) Not later than January 1, 2008, the juvenile board of a county to which Section 54.0401, Family Code, as added by this Act,
applies shall implement a community-based program that complies
with the guidelines established by the Texas Juvenile Probation
Commission.

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

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

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

SECTION 70. (a) Subsection (b), Section 61.0356, Human
Resources Code, as added by this Act, applies only to a juvenile
correctional officer hired by the Texas Youth Commission on or
after the effective date of this Act. As soon as practicable but
not later than six months after the effective date of this Act, the
Texas Youth Commission shall complete providing the training to
S.B. No. 103

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

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

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

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

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

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

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

(2) the speaker of the house of representatives shall
S.B. No. 103

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

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

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

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

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

SECTION 76. As soon as practicable after the effective date
of this Act, the Texas Youth Commission shall, in the manner prescribed by Section 61.0357, Human Resources Code, as added by this Act, begin obtaining national criminal history record information for each person who is described by Subsection (b), Section 61.0357, Human Resources Code, as added by this Act.

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

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

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

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

(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.
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.

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.

Approved:

8 Jun 07

Date

Rick Perry
Governor

Filed in the Office of the Secretary of State
6:30 a.m., 08 Jun 2007

Roger Johnson