

## **BILL ANALYSIS**

Senate Research Center

S.B. 103  
By: Hinojosa et al.  
Criminal Justice  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Research has shown that many of the youth incarcerated with the Texas Youth Commission (TYC) were physically abused by employees, and the rate of such occurrences has drastically increased in recent years. Turnover rates and inadequate training of employees at TYC are major contributors to the increasing abuse. Recruiting and retaining staff have been major challenges for TYC. The lack of a criminal investigation division within TYC is another contributor to the increasing rate of violence, both to youth and staff. Lowering the ratio of youth to staff, increasing the amount of training for employees, and providing independent investigations of alleged crimes could reduce the rate of abuse and violence occurring at TYC facilities.

S.B. 103 requires TYC to provide 300 hours of training to guards before they begin their duties at facilities and to maintain a ratio of at least one guard for every 12 youth committed to the facility. S.B. 103 requires TYC to establish an office of inspector general for the purpose of investigating criminal acts among TYC youth, guards, and other TYC employees, and reporting the results of any investigation to the TYC Board. S.B. 103 prohibits TYC from assigning a child younger than 15 years of age to the same dormitory as a youth at least 17 years of age. S.B. 103 requires the Texas Rangers to make monthly unannounced visit to facilities and to submit reports to the Texas Sunset Advisory Commission for inclusion in TYC's sunset review evaluation.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Youth Commission in SECTION 40 (Sections 61.0356 and 61.0357, Human Resources Code), SECTION 43 (Section 61.061, Human Resources Code), and SECTION 52 (Sections 61.0815 and 61.0816, Human Resources Code) of this bill.

Rulemaking authority is expressly granted to the office of independent ombudsman of the Texas Youth Commission in SECTION 57 (Section 64.058, Human Resources Code) of this bill.

Rulemaking authority previously granted to the Texas Youth Commission is transferred to the executive commissioner of the Texas Youth Commission in SECTION 36 (Section 61.034, Human Resources Code) and SECTION 73 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 2.12, Code of Criminal Procedure, as follows:

(17) Updates a reference to the Texas State Board of Medical Examiners to refer to the Texas Medical Board.

(25) Updates a reference to the Texas Department of Health to refer to the Department of State Health Services.

(28) Updates a reference to Article 1.10D, Insurance Code, to refer to Section 701.104, Insurance Code.

(29) Includes inspectors general commissioned by the Texas Youth Commission (TYC) as officers under Sections 61.0451 and 61.0931, Human Resources Code.

(32) Updates a reference to the Texas Commission on Private Security to refer to the Texas Private Security Board.

SECTION 2. Amends Article 61.06(c), Code of Criminal Procedure, to provide that, 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 confined or committed to certain facilities.

SECTION 3. Amends Article 104.003(a), Code of Criminal Procedure, as follows:

(a) Requires the state to reimburse the county for specified expenses incurred by the county in a prosecution of a criminal offense or delinquent conduct committed on property owned or operated by or under contract with the Texas Department of Criminal Justice (TDCJ) or TYC, or committed by or against a person in the custody of TDCJ or TYC while the person is performing away from TDCJ or TYC property, rather than a prisoner in the custody of the Texas Department of Corrections, a prosecution of an offense committed in TDCJ by any person under Section 38.11 (Prohibited Substances and Items in Adult or Juvenile Correctional or Detention Facility or on Property of TDCJ or TYC), Penal Code, Chapter 481 (Texas Controlled Substances Act), Health and Safety Code, or Sections 485.031 through 485.035 (relating to abusable volatile chemicals), Health and Safety Code, rather than Chapter 21, Acts of 55th Legislature, Regular Session, 1957 (Article 6184m, V.T.C.S.).

SECTION 4. Amends Section 37.203(a) (setting forth the composition of the board of the Texas School Safety Center), Education Code, to update references to the director to refer to the executive commissioner.

SECTION 5. Amends Section 51.12, Family Code, by adding Subsections (b-1), (c-1), and (m) and amending Subsections (c) and (i), as follows:

(b-1) Authorizes a pre-adjudication secure detention facility to be operated only by a governmental unit in Texas as defined by Section 101.001 (Definitions), Civil Practice and Remedies Code, or a private entity under a contract with a governmental unit in Texas.

(c) Requires each judge of the juvenile court and a majority of the members of the juvenile board to personally inspect all public or private juvenile pre-adjudication secure detention facilities that are located in the county at least annually. Deletes existing text requiring the juvenile board to inspect any public or private juvenile secure correctional facilities used for post-adjudication confinement and deletes existing text limiting the facilities to be inspected to those operated under the authority of the juvenile board. Requires the juvenile court judges and juvenile board members to consider certain information in determining whether a facility is suitable or unsuitable for the detention of children.

(c-1) Requires the Texas Juvenile Probation Commission to annually inspect each public or private juvenile pre-adjudication secure detention facility. Requires the Texas Juvenile Probation Commission to 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 certain requirements and standards. Makes conforming changes.

(i) Deletes existing text making an exception to this subsection for a facility operated or certified by TYC. Makes a conforming change.

(m) Authorizes the Texas Juvenile Probation Commission to deny, suspend, or revoke the registration of any facility required to register under Subsection (i) if the facility fails to adhere to all applicable minimum standards for the facility or timely correct any notice of noncompliance with minimum standards.

SECTION 6. Amends Chapter 51, Family Code, by adding Section 51.125, as follows:

Sec. 51.125. POST-ADJUDICATION CORRECTIONAL FACILITIES. (a) Authorizes a post-adjudication secure correctional facility for juvenile offenders to be operated only by a governmental unit in Texas as defined by Section 101.001, Civil Practice and Remedies Code, or a private entity under a contract with a governmental unit in Texas.

(b) Requires, in each county, each judge of the juvenile court and a majority of the members of the juvenile board to personally inspect all public or private juvenile post-adjudication secure correctional facilities that are not operated by TYC and that are located in the county at least annually and requires them to 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. Requires the juvenile court judges and juvenile board members to consider certain information in determining whether a facility is suitable or unsuitable for the confinement of children.

(c) Requires the Texas Juvenile Probation Commission to annually inspect each public or private juvenile post-adjudication secure correctional facility that is not operated by TYC. Requires the Texas Juvenile Probation Commission to 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) Requires 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 TYC, to register the facility annually with the Texas Juvenile Probation Commission and adhere to all applicable minimum standards for the facility.

(e) Authorizes the Texas Juvenile Probation Commission to deny, suspend, or revoke the registration of any facility required to register under Subsection (d) if the facility fails to adhere to all applicable minimum standards for the facility or timely correct any notice of noncompliance with minimum standards.

SECTION 7. Amends Sections 54.04(d) and (u), Family Code, as follows:

(d) Deletes the existing provision authorizing the court to commit a child to TYC without a determinate sentence if the court or jury found that the child engaged in delinquent conduct, if the requirements of Subsection (s) or (t) are met, of the grade of misdemeanor. Authorizes the court to sentence a child to commitment in TYC with a possible transfer to TDCJ, rather than the institutional division or the pardons and paroles division of TDCJ, if the court or jury found that the child engaged in certain delinquent conduct.

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

SECTION 8. Amends Chapter 54, Family Code, by adding Section 54.0401, as follows:

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

(b) Authorizes a juvenile court of a county to which this section applies to 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) Authorizes a juvenile court of a county to which this section applies to make a disposition under Subsection (b) for delinquent conduct that violates a penal law of the grade of misdemeanor under certain circumstances.

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

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

(f) Requires the Texas Juvenile Probation Commission, not later than January 1, 2009, to 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. Requires the report to include information relating to the cost of requiring a child to participate in a community-based program. Provides that this subsection expires February 1, 2009.

SECTION 9. Amends Section 54.05(f) (Hearing to Modify Disposition), Family Code, to delete the grade of misdemeanor, if the requirements of Subsection (k) are met, from existing text authorizing 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 to be modified so as to commit the child to TYC 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. Makes conforming changes, deleting institutional division or the pardons and paroles division of the TDCJ.

SECTION 10. Amends Chapter 54, Family Code, by adding Section 54.052, as follows:

Sec. 54.052. CREDIT FOR TIME SPENT IN DETENTION FACILITY FOR CHILD WITH DETERMINATE SENTENCE. (a) Provides that this section applies only to a child who is committed to TYC under a determinate sentence under Section 54.04(d)(3) (relating to a finding that a child engaged in delinquent conduct that included a violation of certain penal law) or (m) (relating to a sentence for habitual felony conduct) or Section 54.05(f) (relating to a finding that a child violated a reasonable and lawful order of the court).

(b) Requires the judge of the court in which a child is adjudicated to 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 TYC facility.

(c) Requires the judge of the court in which the child was adjudicated to 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, if the child appeals the adjudication and is retained in a detention facility pending the appeal. Requires the court to endorse on both the commitment and the mandate from the appellate court all credit given the child under this section.

(d) Requires TYC to grant any credit under this section in computing the child's eligibility for parole and discharge.

SECTION 11. Amends Section 58.106(a), Family Code, to prohibit certain confidential information from being disseminated by the Department of Public Safety (DPS), except to the

office of independent ombudsman of TYC, and deletes existing text making an exception to the prohibition of information dissemination to the Criminal Justice Policy Council.

SECTION 12. Amends Section 261.201, Family Code, by adding Subsections (i) and (j), as follows:

(i) Requires TYC to release a report of alleged or suspected abuse or neglect made under this chapter, notwithstanding Subsection (a), if the report relates to a report of abuse or neglect involving a child committed to TYC during the period that the child is committed to TYC and TYC is not prohibited by Chapter 552, Government Code, or any other law from disclosing the report.

(j) Requires TYC to edit any report disclosed under Subsection (i) to protect the identity of certain persons.

SECTION 13. Amends Section 41.102 (Employment of Assistants and Personnel), Government Code, by adding Subsection (c), to authorize the attorney general to offer to assist a prosecuting attorney in the prosecution of criminal offenses concerning TYC.

SECTION 14. Amends Chapter 41, Government Code, by adding Subchapter E, as follows:

#### SUBCHAPTER E. SPECIAL PROSECUTION UNIT

Sec. 41.301. DEFINITIONS. Defines "board of directors," "commission," "department," "executive board," "prosecuting attorney," and "unit."

Sec. 41.302. GENERAL FUNCTION OF SPECIAL PROSECUTION UNIT. Provides that the special prosecution unit (unit) is an independent unit that cooperates with and supports prosecuting attorneys in prosecuting offenses and delinquent conduct described by Article 104.003(a) (relating to the reimbursement of certain expenses by the state to a county in the prosecution of a felony that occurred while the actor was under the custody of the state), Code of Criminal Procedure.

Sec. 41.303. BOARD OF DIRECTORS. (a) Provides that 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 TDCJ or TYC are located.

(b) Requires a prosecuting attorney described by Subsection (a) to 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) Provides that 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 in a certain manner.

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

Sec. 41.305. OFFICERS. (a) Requires the members of the board of directors, on a majority vote, to elect from among the membership of the executive board a presiding officer and an assistant presiding officer. Provides that 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 officer of the board of directors and the executive board.

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

(c) Provides that 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) Requires the board of directors to elect a person to serve the remainder of the vacating officer's term in the manner provided by Subsection (a) if a vacancy occurs in the office of presiding officer or assistant presiding officer.

Sec. 41.306. MEMBERSHIP ON BOARD OF DIRECTORS OR EXECUTIVE BOARD NOT A CIVIL OFFICE OF EMOLUMENT. Prohibits a position on the board of directors or the executive board from being construed to be a civil office of emolument for any purpose, including those purposes described in Section 40 (Holding More Than One Office; Exceptions; Right to Vote), Article XVI, Texas Constitution.

Sec. 41.307. REIMBURSEMENT FOR EXPENSES. Provides that 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. Requires the board of directors, on a majority vote, to employ a person to serve as a chief of the unit and additional persons to accomplish the unit's purposes. Authorizes the board of directors to determine the compensation of the unit's employees.

Sec. 41.309. ELECTION OF COUNSELLOR. (a) Requires the executive board, on a majority vote, to elect a counsellor.

(b) Requires a person to have certain qualifications and experience in order to be eligible to serve as a counsellor.

Sec. 41.310. DUTIES OF COUNSELLOR. Sets forth certain authorized and required duties of a counsellor elected in accordance with Section 41.309.

(b) Requires the counsellor to provide a report to certain individuals concerning offenses or delinquent conduct prosecuted by the unit. Sets forth the parameters and requirements of the report.

(c) Requires the counsellor, in consultation with the board of directors, to notify the foreman of the appropriate grand jury, in the manner provided by Article 20.09 (Duties of Grand Jury), Code of Criminal Procedure, under certain circumstances.

SECTION 15. Amends Chapter 325, Government Code, by adding Sections 325.0121 and 325.0122, as follows:

Sec. 352.0121. STUDY ON TRANSITION TOWARD REGIONALIZED JUVENILE CORRECTIONS. (a) Requires the Sunset Advisory Commission, as part of its review of juvenile corrections for the 81st Legislature, to study the merits of moving TYC toward a regionalized structure of small facilities and more diversified treatment and placement options, taking into consideration the likely effects of this regionalized structure on recidivism, juvenile and family access to services, and costs to this state and the counties of this state.

(b) Requires the Sunset Advisory Commission, in conducting the study, to determine whether the existing TYC facilities meet their intended purposes.

(c) Requires the Sunset Advisory Commission to take into consideration the findings and conclusions of the study in its report to the 81st Legislature and requires the report to include any recommendations it considers appropriate resulting from its consideration of the study.

(d) Authorizes the Sunset Advisory Commission, in conducting the study, to seek the assistance of nationally recognized experts in the field of juvenile justice.

(e) Provides that this section expires September 1, 2009.

Sec. 325.0122. STUDY ON GOVERNANCE OF TEXAS YOUTH COMMISSION. (a) Requires the Sunset Advisory Commission to study the merits of an executive commissioner governing TYC as compared to a citizen board.

(b) Requires the Sunset Advisory Commission to make recommendations concerning the governance of TYC in its report to the legislature under Section 325.012 (Recommendations) as part of its review of TYC, which, as provided by Section 61.020 (Sunset Provision), Human Resources Code, is abolished September 1, 2009, unless continued in existence as provided by this chapter.

(c) Provides that this section expires September 1, 2009.

SECTION 16. Amends Section 411.1141(a), Government Code, to entitle TYC to obtain from TDCJ criminal history record information maintained by TDCJ that relates to a person described by Section 61.0357(b), Human Resources Code, rather than certain applicants, volunteers or interns, business entities, or employees for TYC.

SECTION 17. Amends Chapter 493, Government Code, by adding Section 493.026, as follows:

Sec. 493.026. INSPECTOR GENERAL REPORT ON CRIMINAL OFFENSES. (a) Defines "special prosecution unit."

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

SECTION 18. Amends Section 497.052(b) (Industry and Agriculture; Labor of Inmates, Membership), Government Code, to make conforming changes.

SECTION 19. Amends Section 508.156(a), Government Code, to make a reference to a person transferred under Section 61.081(f) or 61.084(g), rather than Section 61.084(f) or (g).

SECTION 20. Amends Subchapter A, Chapter 531, Government Code, by adding Section 531.016, as follows:

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

(a) Requires the Health and Human Services Commission (HHSC), TYC, and the Texas Juvenile Probation Commission to 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) Requires HHSC to coordinate the review, documentation, and comparison required by Subsection (a).

(c) Requires the areas of review required by Subsection (a) to include specific topics of importance.

(d) Requires each health and human services agency or other state agency that provided facilities, services, treatment, or funding subject to the review required

by Subsection (a) to 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. Requires each agency to submit a report to HHSC describing any differences identified.

(e) Requires each agency described by Subsection (d) to develop a plan to address any lack of services for females under 18 years of age reported by the agency and submit a report to HHSC on the progress made under the plan.

(f) Requires HHSC to 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) Provides that this section expires September 1, 2011.

SECTION 21. Amends Section 811.001(9) (Definitions), Government Code, to redefine "law enforcement officer."

SECTION 22. Amends Section 814.104(b) (Eligibility of Member for Service Retirement), Government Code, to include the office of inspector general at TYC among the law enforcement activities to which eligibility for retirement applies under certain circumstances.

SECTION 23. Amends Section 815.505 (Certification of Names of Law Enforcement and Custodial Officers), Government Code, to include the office of inspector general at TYC among the agencies required to certify to the retirement system the name of a law enforcement officer or custodial officer.

SECTION 24. Amends Section 551.008(a) (Transfer of Facilities), Health and Safety Code, to update a reference to the governing board to refer to the executive commissioner of TYC.

SECTION 25. Amends Section 42.041(b), Human Resources Code, to provide that this section does not apply to, among other things, a youth camp licensed by the Department of State Health Services, rather than the Texas Department of Health, and a juvenile correctional facility certified under Section 51.125, Family Code, rather than a juvenile detention facility certified under Section 141.042(d).

SECTION 26. Amends Section 42.052(h), Human Resources Code, to make conforming changes.

SECTION 27. Amends Section 61.001, Human Resources Code, by amending Subdivisions (2) and (4) and adding Subdivision (7), to define "advisory board," "executive commissioner," and "office of inspector general" and to delete existing definitions for "board" and "executive director."

SECTION 28. Amends Sections 61.012 and 61.0121, Human Resources Code, as follows:

Sec. 61.012. New heading: EXECUTIVE COMMISSIONER. (a) Provides that TYC is governed by an executive commissioner, rather than a governing board consisting of seven members, appointed by the governor with the consent of the senate. Requires the appointment of the executive commissioner, rather than appointments to the board, to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee, rather than appointees.

(b) Deletes existing text of Subsection (b), and redesignates existing Subsection (c) to Subsection (b). Provides that the executive commissioner, rather than board members, holds office for a term of not more than two years expiring February 1 of odd-numbered years, rather than staggered terms of six years, with the terms of two or three members expiring every two years.

(c) Provides that the executive commissioner, rather than a member, is eligible for reappointment with the consent of the senate.

(d) Provides that the executive commissioner is a full-time state officer who is entitled to a salary and reimbursement for actual expenses incurred while on TYC business.

(e) Provides that this section expires September 1, 2009.

Sec. 61.0121. New heading: QUALIFICATIONS FOR EXECUTIVE COMMISSIONER, ADVISORY BOARD MEMBERS, AND EMPLOYEES. (a) Provides that 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 is employed by or participates in the management of a business entity or other organization receiving funds from TYC, owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from TYC, or uses or receives a substantial amount of tangible goods, services, or funds from TYC, other than compensation or reimbursement authorized by law, rather than for board membership, attendance, or expenses.

(b) Prohibits an officer, employee, or paid consultant of a Texas trade association in the field of criminal or juvenile justice from being the executive commissioner, a member of the advisory board, or an employee of TYC, under certain circumstances.

(c) Prohibits a person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of criminal or juvenile justice from being the executive commissioner, a member of the advisory board, or an employee of TYC, under certain circumstances.

(d) Makes no changes to this subsection.

(e) Prohibits a person from being appointed as executive commissioner, serving as a member of the advisory board, or acting as the general counsel to the executive commissioner, the advisory board, or TYC if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of TYC.

(f) Provides that this section expires September 1, 2009.

SECTION 29. Amends Subchapter B, Chapter 61, Human Resources Code, by adding Section 61.0123, as follows:

Sec. 61.0123. REMOVAL OF EXECUTIVE COMMISSIONER FROM OFFICE. (a) Provides that it is a ground for removal from office as executive commissioner if the executive commissioner does not have at the time of appointment the qualifications required by Section 61.0121(a) for appointment, does not maintain while serving as executive commissioner the qualifications by Section 61.0121(a) for appointment, or violates a prohibition established by Section 61.0121(b) or (c).

(b) Provides that 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) Requires the chairman of the advisory board, if the advisory board has knowledge that a potential ground for removal exists under this section, to notify the executive commissioner, the governor, and the attorney general of the potential ground for removal.

(d) Provides that this section expires September 1, 2009.

SECTION 30. Amends Sections 61.013, Human Resources Code, as follows:

Sec. 61.013. New heading: ADVISORY BOARD. (a) Provides that an advisory board for TYC is established to advise the executive commissioner on matters concerning TYC, and to assist the executive commissioner in the performance of the executive commissioner's duties. Deletes existing text requiring the governor to designate a member of the board as the chairman of the board to serve in that capacity at the pleasure of the governor.

(b) Provides that the advisory board is composed of nine members. Requires three members to be appointed by the governor, three members appointed by the lieutenant governor, and three members appointed by the speaker of the house of representatives. Requires the governor, lieutenant governor, and speaker of the house of representatives to coordinate to ensure that the membership of the advisory board meets the requirements of Subsection (d). Requires the governor to 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. Deletes existing text requiring the board to meet at least four times each year.

(c) Requires the appointment of a member of the advisory board to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee. Deletes existing text requiring a meeting to 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) Sets forth the composition and qualifications of the advisory board.

(e) Requires the advisory board to meet at least four times each year. Requires a meeting to 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) Provides that five members constitute a quorum for the exercise of functions of the advisory board described by Subsection (a)(1).

(g) Provides that a member of the advisory board serves at the pleasure of the person who appointed the member.

(h) Provides that this section expires September 1, 2009.

SECTION 31. Amends Sections 61.019 and 61.0191, Human Resources Code, as follows:

Sec. 61.019. DELEGATION OF POWERS AND DUTIES. (a) Authorizes the executive commissioner to exercise and perform any power, duty, or function of TYC that is not assigned by statute to the chief inspector general of the office of inspector general, rather than the board.

(b) Authorizes the executive commissioner to delegate to any employee designated or assigned by the executive commissioner a power, duty, or function of the executive commissioner or TYC that is not already assigned by statute to the chief inspector general of the office of inspector general. Makes conforming changes.

(c) Provides that this section expires September 1, 2009.

Sec. 61.0191. New heading: AUDIT; AUTHORITY OF STATE AUDITOR. (a) Creates this subsection from existing text. Provides that TYC, rather than the financial transactions of TYC, is subject to audit by the state auditor.

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

(c) Authorizes the state auditor to 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. Provides that information obtained by the state auditor under this subsection is confidential and is not subject to disclosure under Chapter 552 (Public Information), Government Code.

(d) Provides that any provision of this chapter relating to the operations of the office of inspector general does not supersede the authority of the state auditor to conduct an audit under Chapter 321 (State Auditor), Government Code, or prohibit the state auditor from conducting an audit, investigation, or other review, or having full and complete access to all records and other information concerning TYC, including any witness statement or electronic data, that the state auditor considers necessary for the audit, investigation, or review.

SECTION 32. Amends Section 61.022, Human Resources Code, to make a conforming change.

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

Sec. 61.023. ACCREDITATION BY AMERICAN CORRECTIONAL ASSOCIATION. Requires TYC, not later than September 1, 2007, to 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 TYC.

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

(b) Requires members of the board to be citizens who are recognized within their communities for their interest in youth. Sets forth the composition of the board and the necessary qualifications of board members.

(c) Requires the board to meet at least four times each year. Requires a meeting to be held at the call of the chairman or on the request of five members at a time and place designated by the chairman. Entitles board members 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) Requires TYC, effective September 1, 2009, to employ an executive director, selected by the board, to serve at the will of the board. Requires the executive director to devote full time to the work of TYC. Entitles the executive director to actual expenses while on TYC business.

(e) Provides that, effective September 1, 2009, a reference in law to the executive commissioner is a reference to the board in matters concerning the governance of TYC, policymaking functions of TYC, or rulemaking functions of TYC, and a reference in law to the executive commissioner is a reference to the executive director in matters concerning the administrative functions of TYC.

SECTION 34. Amends Section 61.0315, Human Resources Code, as follows:

Sec. 61.0315. New heading: TREATMENT PROGRAMS. (a) Requires TYC to annually review the effectiveness of TYC programs for the rehabilitation and reestablishment in society of children committed to TYC, including programs for, among others, females.

(b) Makes no changes to this subsection.

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

(d) Requires TYC, not later than January 10 of each odd-numbered year, to provide the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities with a report explaining which programs are not offered or are unavailable and the reason the programs are not offered or are unavailable, if TYC is unable to offer or make available programs described by Subsection (a) in the manner provided by Subsection (c).

(e) Requires TYC to periodically review, document, and compare the accessibility and funding of treatment programs provided to female children committed to TYC to the accessibility and funding of treatment provided to male children committed to TYC.

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

Sec. 61.0331. INTERNAL AUDIT; REPORT. Requires TYC to regularly conduct internal audits of TYC, including audits of correctional facilities operated by and under contract with TYC, and medical services provided to children in the custody of TYC. Requires TYC on a quarterly basis to report the results of the audits to the committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities and the state auditor.

Sec. 61.0332. COMPLIANCE REPORTS. Requires TYC to provide the Joint Select Committee on the Operation and Management of TYC with reports concerning the progress of TYC in complying with the requirements of S.B. No. 103, Acts of the 80th Legislature, Regular Session, 2007. Requires TYC to 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. Provides that this section expires January 1, 2009.

Sec. 61.0345. MISSION STATEMENT. Requires TYC to develop and adopt a statement regarding the role and mission of TYC.

SECTION 36. Amends Section 61.034, Human Resources Code, as follows:

Sec. 61.034. POLICIES AND RULES. Provides that the executive commissioner, rather than the commission, is responsible for the adoption of all policies and requires the executive commissioner to make rules appropriate to the proper accomplishment of TYC's functions. Requires the executive commissioner to adopt rules for the government of the schools, facilities, and programs under TYC's authority and to see that the schools, facilities, and programs are conducted according to law and to the executive commissioner's rules.

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

(b) Provides that an employee of TYC is employed on an at-will basis, except as otherwise provided by this chapter. Deletes existing text authorizing TYC to remove any employee for cause, and providing that a decision by TYC is final.

(c) Requires TYC to establish procedures and practices governing employment-related grievances submitted by TYC employees and disciplinary actions within TYC, including

a procedure allowing a TYC employee to elect to participate in an independent dismissal mediation if the employee is recommended for dismissal.

SECTION 38. Amends Sections 61.0351, 61.0352, and 61.0354, Human Resources Code, as follows:

Sec. 61.0351. New heading: PROFESSIONAL INFORMATION FOR ADVISORY BOARD MEMBERS AND EMPLOYEES. Makes conforming changes.

Sec. 61.0352. DIVISION OF RESPONSIBILITY. Requires the executive commissioner, rather than the board, to develop and implement policies that clearly separate the policymaking responsibilities of the executive commissioner and the management responsibilities of the staff of TYC, rather than the executive director and the staff.

Sec. 61.0354. JOB PERFORMANCE EVALUATIONS. Makes a conforming change.

SECTION 39. Amends Section 61.0355(a), Human Resources Code, to make a conforming change.

SECTION 40. Amends Subchapter C, Chapter 61, Human Resources Code, by adding Sections 61.0356, 61.0357, and 61.0386, as follows:

Sec. 61.0356. JUVENILE CORRECTIONAL OFFICERS; STAFFING. (a) Defines "juvenile correctional officer."

(b) Requires TYC to provide each juvenile correctional officer employed by TYC 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. Requires the training to provide the officer with information and instruction related to the officer's duties, including certain specified information and instruction.

(c) Authorizes TYC to employ part-time juvenile correctional officers. Provides that a part-time juvenile correctional officer is subject to the training requirements of this section.

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

(e) Requires TYC to consider the age of a juvenile correctional officer or other TYC employee who performs direct supervisory duties when determining the placement of the officer or employee in a TYC 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 otherwise a similar age to the officer or employee.

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

(g) Requires TYC to 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) Requires TYC to adopt rules necessary to administer this section.

Sec. 61.0357. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) Defines "department" and "national criminal history record information."

(b) Requires the executive commissioner to review the national criminal history record information, state criminal history record information maintained by DPS, and previous and current employment references of each person who is an employee, contractor, volunteer, ombudsman, or advocate working for TYC or working in a TYC facility or a facility under contract with TYC, provides direct delivery of services to children in the custody of TYC, or has access to records in TYC facilities or offices.

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

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

(e) Requires TYC to ensure that the system used to check state criminal history record information maintained by DPS is capable of providing real time arrest information.

(f) Authorizes TYC by rule to 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. Prohibits the fee from exceeding the administrative costs incurred by TYC in conducting the initial review, including the costs of obtaining the person's fingerprints.

(g) Requires TYC to adopt rules necessary to administer this section.

Sec. 61.0386. **ADVOCACY AND SUPPORT GROUPS.** (a) Requires TYC to 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 TYC facilities.

(b) Requires TYC to adopt security and privacy procedures for advocacy and support groups that provide on-site information, support, and other services under this section. Prohibits the security and privacy procedures from being designed to deny an advocacy or support group access to children confined in TYC facilities.

(c) Requires TYC to adopt standards consistent with standards adopted by TDCJ regarding the confidential correspondence of children confined in TYC facilities with external entities, including advocacy and support groups.

SECTION 41. Amends Sections 61.0423, Human Resources Code, as follows:

Sec. 61.0423. **PUBLIC HEARINGS.** (a) Requires the executive commissioner, rather than the board, to develop and implement policies that provide the public with a reasonable opportunity to appear before the executive commissioner or the executive commissioner's designee and to speak on any issue under the jurisdiction of TYC that is not under the jurisdiction.

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

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

Sec. 61.0451. **OFFICE OF INSPECTOR GENERAL.** (a) Provides that the office of inspector general is established at TYC for the purpose of investigating crimes committed

by TYC employees, including parole officers employed by or under a contract with TYC, and crimes committed at a facility operated by TYC or at a residential facility operated by another entity under a contract with TYC.

(b) Requires the office of inspector general to prepare and deliver a report concerning the results of any investigation conducted under this section to certain persons.

(c) Requires the report prepared under Subsection (b) to 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. Provides that the report is public information under Chapter 552, Government Code, only to the extent authorized under that chapter and other law.

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

(e) Requires peace officers employed and commissioned under Subsection (d) to be certified by the Commission on Law Enforcement Officer Standards and Education under Chapter 1701, Occupations Code, and to complete advance 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) Requires the executive commissioner to select a commissioned peace officer as chief inspector general. Provides that the chief inspector general is subject to the requirements of this section, and authorizes the chief inspector general to only be discharged for cause.

(g) Requires the chief inspector general to on a quarterly basis prepare and deliver a report concerning the operations of the office of inspector general to certain persons.

(h) Provides that 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 requires TYC to publish the report on TYC's Internet website. Requires a report to be both aggregated and disaggregated by individual facility and include information relating to 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, the relationship of a victim to a perpetrator, if applicable, and the number of investigations conducted concerning suicides, deaths, and hospitalizations of children in the custody of TYC.

(i) Requires the office of inspector general to 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 TYC program or operation or any interference by the executive commissioner or an employee of TYC with an investigation conducted by the office.

Sec. 61.0452. TOLL-FREE NUMBER. (a) Requires TYC to 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 TYC.

(b) Requires the office of inspector general to ensure that the toll-free number is prominently displayed in each TYC facility and children in the custody of TYC and TYC 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. Requires TYC to ensure that a chaplain is employed or formally designated for each TYC facility that is an institution.

SECTION 43. Amends Subchapter D, Chapter 61, Human Resources Code, by adding Section 61.061, 61.062, and 61.0651, as follows:

Sec. 61.061. PLACEMENT IN COMMISSION FACILITIES. (a) Prohibits TYC from assigning a male 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 TYC determines that the placement is necessary to ensure the safety of children in the custody of TYC. Provides that this subsection does not apply to a dormitory that is used exclusively for short-term assessment and orientation purposes.

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

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

Sec. 61.062. ESTABLISHMENT OF MINIMUM LENGTH OF STAY. Requires TYC to establish a minimum length of stay for each child committed to TYC without a determinate sentence. Requires TYC, in establishing a minimum length of stay for a child, to consider the nature of and seriousness of the conduct engaged in by the child and the danger the child poses to the community.

Sec. 61.0651. INFORMATION PROVIDED BY COMMITTING COURT. Requires a court that commits a child to TYC to provide TYC with a copy of certain documents, in addition to the information provided under Section 61.065.

SECTION 44. Amends Section 61.044, Human Resources Code, as follows:

Sec. 61.044. New heading: BIENNIAL BUDGET. Deletes existing subsection (a) requiring the executive director to perform the duties assigned by TYC. Makes conforming changes.

SECTION 45. Amends Subchapter C, Chapter 61, Human Resources Code, by adding Section 61.055, as follows:

Sec. 61.055. ZERO-TOLERANCE POLICY. (a) Requires TYC to 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 TYC.

(b) Requires TYC to establish standards for reporting and collecting data on the sexual abuse of children in the custody of TYC.

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

(d) Requires TYC to prominently display a specific notice in the office of the chief administrator of each TYC facility, the employees' break room of each TYC facility, the cafeteria of each TYC facility, and at least six additional locations in each TYC facility. Sets forth the required notice.

SECTION 46. Amends Sections 61.071 and 61.072, Human Resources Code, as follows:

Sec. 61.071. INITIAL EXAMINATION. (a) Creates this subsection from existing text. Requires TYC to examine and make a study of each child committed to it as soon as possible after commitment. Requires the study to be made according to rules established by TYC and to include long-term planning for the child and consideration of the child's medical, substance abuse, and treatment history, including the child's psychiatric history and substance abuse history. Deletes existing text requiring the study to include a determination of whether the child will need long-term residential care.

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

(c) Requires TYC to 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. Requires TYC to conduct a psychiatric evaluation of the child as soon as practicable if the results of a child's psychological assessment indicate that the child is in need of a psychiatric evaluation.

Sec. 61.072. REEXAMINATION. Requires TYC to periodically reexamine each child under its control, except those on release under supervision or in foster home, for the purpose of determining whether a rehabilitation plan made by TYC concerning the child should be modified or continued. Requires the examination to 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. Authorizes the examination of a child to be made as frequently as TYC considers necessary, rather than desirable, but requires the examination to be made at intervals not exceeding six months, rather than one year.

SECTION 47. Amends Subchapter E, Chapter 61, Human Resources Code, by adding Section 61.0711, as follows:

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

(b) Authorizes the delivery system to be used to deliver certain medical, behavioral health, or rehabilitation services provided to a child in the custody of TYC.

SECTION 48. Amends Section 61.0731, Human Resources Code, by adding Subsection (c), to authorize TYC to 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 TYC.

SECTION 49. Amends Subchapter E, Chapter 61, Human Resources Code, by adding Sections 61.0763 and 61.0764, as follows:

Sec. 61.0763. RIGHTS OF PARENTS. (a) Requires TYC, in consultation with advocacy and support groups such as those described in Section 61.0386(a), to 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 TYC. Sets forth the required provisions to be included in the parent's bill of rights.

(b) Requires TYC to mail, not later than 48 hours after the time a child is admitted to a TYC facility, to the child's parent or guardian at the last known address of the parent or guardian the parent's bill of rights and the contact information of the TYC caseworker assigned to the child.

(c) Requires TYC on a quarterly basis to provide to the parent, guardian, or designated advocate of a child who is in the custody of TYC a report concerning the progress of the child at TYC, including the academic and behavioral progress of the child, and the results of any reexamination of the child conducted under Section 61.072.

(d) Requires TYC to ensure that written information provided to a parent or guardian regarding the rights of a child in the custody of TYC 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) Requires TYC to assign a caseworker to a child committed to TYC. Requires a caseworker to explore family issues and needs with the parent or guardian of a child committed to TYC, to provide the parent or guardian of a child committed to TYC with information concerning programs and services provided by TYC or another resource as needed, and to perform other duties required by TYC.

(b) Requires a TYC caseworker, at least once a month, to 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; if unsuccessful in contacting the child's parent or guardian under Subdivision (1), to attempt at least one additional time each month to contact the child's parent or guardian; and to document successful as well as unsuccessful attempts to contact the child's parent or guardian.

(c) Requires a caseworker or another facility administrator, to the extent practicable, to 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. Amends Section 61.079(a), Human Resources Code, to authorize TYC, 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 years of age, rather than 21, to refer a child to the juvenile court that entered the order of commitment for approval of the child's transfer to TDCJ, rather than institutional division of the TDCJ, for confinement if the child has not completed the sentence and 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. Amends Subchapter E, Chapter 61, Human Resources Code, by adding Section 61.0791, as follows:

Sec. 61.0791. EVALUATION OF CERTAIN CHILDREN SERVING DETERMINATE SENTENCES. Requires TYC, when a child sentenced to commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 18 years of age, to 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 TYC or transfer to TDCJ. Provides that this section does not apply to a child who is released from the custody of TYC or who is transferred to TDCJ before the child's 18th birthday.

SECTION 52. Amends Subchapter F, Chapter 61, Human Resources Code, by adding Sections 61.0814 and 61.0815, as follows:

Sec. 61.0814. REENTRY AND REINTEGRATION PLAN. (a) Requires TYC to develop a reentry and reintegration plan for each child committed to the custody of TYC. Requires the plan for a child to be designed to ensure that the child receives an extensive continuity of care in services from the time the child is committed to TYC to the time of the child's final discharge from TYC. Sets forth the required provisions to be included in the plan for a child.

(b) Requires TYC to find a suitable alternative program or service so as not to postpone a child's release 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.

Sec. 61.0815. COMPLETION OF MINIMUM LENGTH OF STAY. (a) Requires TYC, after a child who is committed to TYC without a determinate sentence completes the minimum length of stay established by TYC for the child under Section 61.062, in the manner provided by this section, to discharge the child from the custody of TYC, to release the child under supervision under Section 61.081, or to extend the length of the child's stay in the custody of TYC.

(b) Requires TYC by rule to 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 TYC 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 TYC for an additional period of time as provided by Subsection (a)(3).

(c) Requires the executive commissioner to determine the size of the panel and the length of the members' terms of service on the panel. Requires the panel to consist of an odd number of members, and requires the terms of the panel's members to last for at least two years. Requires the executive commissioner to adopt policies that ensure the transparency, consistency, and objectivity of the panel's composition, procedures, and decisions. Requires the executive commissioner to appoint persons to serve as members of the panel. Requires a person appointed to the panel to be a TYC employee who works at TYC's central office. Prohibits a member of the panel from being involved in any supervisory decisions concerning children in the custody of TYC.

(d) Authorizes the panel to 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 TYC and that TYC will provide the most suitable environment for that rehabilitation. Requires the panel, in extending the length of a child's stay, to specify the additional period of time that the child is to remain in the custody of TYC and to conduct an additional review and determination as provided by this section on the child's completion of the additional term of stay. Requires the panel, if the panel determines that the child's length of stay should not be extended, to discharge the child from the custody of TYC as provided by Subsection (a)(1) or to release the child under supervision under Section 61.081 as provided by Subsection (a)(2).

(e) Requires TYC to maintain statistics of the number of extensions granted by the panel. Requires the statistics to include aggregated information concerning the race, age, sex, specialized treatment needs, and county of origin for each child for whom an extension order is requested, the facility in which the child is confined, and 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) Provides that the statistics maintained under Subsection (e), to the extent authorized under law, are public information under Chapter 552, Government Code, and requires TYC to post the statistics on TYC's Internet website. Requires TYC to 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) Requires TYC to 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) Requires TYC by rule to establish a process to request the reconsideration of an extension order issued by the panel established under Section 61.0815.

(b) Sets forth certain provisions required in the process to request reconsideration.

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

(d) Requires TYC to 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. Requires the statistics to include aggregated information concerning certain factors.

(e) Provides that, to the extent authorized under law, the statistics maintained under Subsection (d) are public information under Chapter 552, Government Code, and requires TYC to post the statistics on TYC's Internet website. Requires TYC to 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. Amends Sections 61.084(e) and (g), Human Resources Code, as follows:

(e) Requires TYC to discharge from its custody a person not already discharged on the person's 19th, rather than 21st, birthday, except as provided by Subsection (g), rather than (f) or (g).

(g) Requires TYC to 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 TYC under Section 54.11(i)(1), Family Code, to the custody of TDCJ, rather than the pardons and paroles division of TDCJ, on the person's 19th, rather than 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. Amends Section 61.0841, Human Resources Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Includes any written comments or information provided by TYC, local officials, family members of the person, victims of the offense, or the general public, among the pertinent information relating to the person required to be submitted by TYC to TDCJ.

(c) Requires TDCJ to grant credit for sentence time served by a person at TYC and in a juvenile detention facility, as recorded by TYC under Subsection (a)(6), in computing the person's eligibility for parole and discharge from TDCJ.

SECTION 55. Amends Section 61.093(a), Human Resources Code, to delete existing text authorizing a parole officer taking a child who has broken the conditions of his or her release into custody and makes conforming changes.

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

Sec. 61.098. CERTAIN CRIMES CONCERNING THE COMMISSION. (a) Defines "special prosecution unit."

(b) Authorizes the district attorney, criminal district attorney, or county attorney, as appropriate, 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 TYC and described by Article 104.003(a), Code of Criminal Procedure, to request, as appropriate, that the special prosecution unit prosecute the offense or delinquent conduct.

(c) Requires the office of the inspector general on a quarterly basis to prepare and deliver to the board of directors of the unit a report concerning offenses or delinquent conduct prosecuted by the special prosecution unit on receiving a request for assistance under this section.

(d) Requires the office of inspector general, notwithstanding Subsection (c), to immediately provide the special prosecution unit with a report concerning an alleged criminal offense or delinquent conduct concerning TYC 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) Requires the chief inspector general of the office of inspector general, at the direction of the board of directors of the unit, to notify the foreman of the appropriate grand jury under certain circumstances and in the manner provided by Article 20.09, Code of Criminal Procedure.

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

SECTION 57. Amends Subtitle A, Title 3, Human Resources Code, by adding Chapter 64, as follows:

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

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 64.001. DEFINITIONS. Defines "commission," "independent ombudsman," and "office."

Sec. 64.002. ESTABLISHMENT; PURPOSE. Provides that the office of independent ombudsman (office) is a state agency established for the purpose of investigating, evaluating, and securing the rights of the children committed to TYC, including a child released under supervision before final discharge.

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

(b) Provides that funding for the independent ombudsman is appropriated separated from funding for TYC.

[Reserves Sections 64.004-64.050 for expansion.]

##### SUBCHAPTER B. APPOINTMENT AND MANAGEMENT OF OFFICE

Sec. 64.051. APPOINTMENT OF INDEPENDENT OMBUDSMAN. (a) Requires the governor to 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) Provides that a person appointed as independent ombudsman is eligible for reappointment but prohibits that person from serving more than three terms in that capacity.

(c) Requires the executive commissioner, notwithstanding Subsection (a) and as soon as practicable after the effective date of this section, to appoint the independent ombudsman for a term of office expiring February 1, 2009. Requires the governor, as provided by Subsection (a), to appoint the independent ombudsman with the advice and consent of the senate for each of the independent ombudsman's subsequent terms of office. Provides that this subsection expires March 1, 2009.

Sec. 64.052. ASSISTANTS. Authorizes the independent ombudsman to 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) Prohibits a person from serving as independent ombudsman or as an assistant to the independent ombudsman if the person or the person's spouse is employed by or participates in the management of a business entity or other organization receiving funds from TYC, owns or controls directly or indirectly any interest in a business entity or other organization receiving funds from TYC, or uses or receives any amount of tangible goods, services, or funds from TYC.

(b) Prohibits a person from serving 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 TYC.

(c) Prohibits a person from serving 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) Provides that, 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. Provides that the office is subject to review under Chapter 325 (Texas Sunset Act), Government Code, but is not abolished under that chapter. Requires the office to 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) Requires the independent ombudsman to submit on a quarterly basis to the governor, lieutenant governor, the state auditor, and each member of the legislature a report that is both aggregated and disaggregated by individual facility. Sets forth the information described by the report.

(b) Requires the independent ombudsman to 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 TYC certain particularly serious or flagrant cases or problems involving TYC.

Sec. 64.056. COMMUNICATION AND CONFIDENTIALITY. (a) Requires TYC to allow any child committed to TYC to communicate with the independent ombudsman or an assistant to the ombudsman. Authorizes the communication to be in person, by mail, or by any other means and provides that the communication is confidential and privileged.

(b) Provides that the records of the independent ombudsman are confidential, except that the independent ombudsman is required to share with the office of inspector general of TYC a communication with a child that may involve the

abuse or neglect of the child and disclose its nonprivileged records if required by a court order on a showing of good cause.

(c) Authorizes the independent ombudsman to 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) Provides that certain personally identifiable information of a person who files a complaint with the office, information generated by the office in the course of an investigation, and confidential records obtained by the office 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, are authorized to be disclosed to the appropriate person if the office determines that disclosure is in the general public interest, necessary to enable the office to perform the responsibilities provided under this section, or necessary to identify, prevent, or treat the abuse or neglect of a child.

Sec. 64.057. PROMOTION OF AWARENESS OF OFFICE. Requires the independent ombudsman to promote awareness among the public and the children committed to TYC of how the office may be contacted, the purpose of the office, and the services the office provides.

Sec. 64.058. RULEMAKING AUTHORITY. Requires the office by rule to establish policies and procedures for the operations of the office.

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

[Reserves Sections 64.060-64.100 for expansion.]

#### SUBCHAPTER C. DUTIES AND POWERS

Sec. 64.101. DUTIES AND POWERS. (a) Sets forth certain required duties of the independent ombudsman.

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

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

(d) Prohibits the independent ombudsman, notwithstanding any other provision of this chapter, from investigating alleged criminal behavior.

Sec. 64.102. TREATMENT OF COMMISSION EMPLOYEES WHO COOPERATE WITH INDEPENDENT OMBUDSMAN. Prohibits TYC from discharging or in any manner discriminating or retaliating against an employee who in good faith makes a complaint to the office or cooperates with the office in an investigation.

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

[Reserves Sections 64.104-64.150 for expansion.]

#### SUBCHAPTER D. ACCESS TO INFORMATION

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

(b) Requires DPS to allow the independent ombudsman access to the juvenile justice information system established under Subchapter B, Chapter 58, Family Code.

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

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

SECTION 58. Amends Section 141.022(a) (Advisory Council on Juvenile Services), Human Resources Code, to make conforming changes.

SECTION 59. Amends Section 141.047(b) (Interagency Cooperation), Human Resources Code, to make a conforming change.

SECTION 60. Amends Section 141.0471(c) (Coordinated Strategic Plan for Juvenile Justice System), Human Resources Code, to require the governing board of the Texas Juvenile Probation Commission and the executive commissioner of TYC to 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. Amends Section 110.302(c), Occupations Code, as follows:

(c) Authorizes the Texas Board of Criminal Justice, rather than the governing board of TYC, to vote to exempt employees of TDCJ, rather than TDCJ or TYC, 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. Prohibits TYC from exempting any employee of TYC from a licensing requirement imposed by this section for any reason.

SECTION 62. Amends Sections 39.04(a) and (b), Penal Code, as follows:

(a) Provides that a certain individual affiliated with TYC commits an offense if the person intentionally employs, authorizes, or induces an individual in custody to engage in sexual conduct or a sexual performance.

(b) Provides that an offense under Subsection (a)(1) (denying or impeding a person in custody in the exercise or enjoyment of any right, privilege, or immunity) is a Class A misdemeanor. Provides that an offense under Subsection (a)(2) (engaging in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual in custody) 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 TYC.

SECTION 63. Amends Section 39.04(e), Penal Code, by adding Subdivisions (4) and (5) to define "sexual conduct," "performance," and "sexual performance."

SECTION 64. Repealer: (1) Sections 54.04(s) and (t) (authorizing the court make a disposition committing a child to TYC without a determinate sentence for certain misdemeanors), Family Code;

(2) Section 54.05(k) (authorizing the court to modify a disposition committing a child to TYC for certain misdemeanors), Family Code; and

(3) Sections 61.001(3) (defining "chairman"), 61.0122 (Board Member Training), 61.014 (Quorum), 61.015 (Per Diem; Expenses), 61.0151 (Removal From Office), 61.017 (Executive Director), 61.084(f) (requiring TYC to transfer a person to the custody of the pardons and paroles division of TDCJ), and 141.042(d) (requiring TYC to inspect all pre-adjudication and post-adjudication facilities), Human Resources Code.

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

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

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

SECTION 67. Makes application of Section 54.052, Family Code, as added by this Act, and Section 61.0841(c), Human Resources Code, as added by this Act, prospective.

SECTION 68. Provides that 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. Provides that 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. Provides that, 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. Requires TYC to 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) Provides that Section 61.0356(b), Human Resources Code, as added by this Act, applies only to a juvenile correctional officer hired by TYC on or after the effective date of this Act. Requires TYC, as soon as practicable but not later than six months after the effective date of this Act, to complete providing the training to juvenile correctional officers hired before the effective date of this Act that is necessary to conform to the requirements of Section 61.0356(b), Human Resources Code, as added by this Act.

(b) Requires TYC, as soon as practicable after the effective date of this Act, to ensure that each correctional facility operated by TYC 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 Section 61.0356(d), Human Resources Code, as added by this Act, and that 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. Requires the governor, as soon as practicable after the effective date of this Act, to appoint the executive commissioner of TYC, 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. Requires the governor, lieutenant governor, and the speaker of the house of representatives, as soon as practicable after the effective date of this Act, to each appoint three members of the advisory board of TYC, as required by Section 61.013, Human Resources Code, as amended by this Act.

SECTION 73. Provides that a rule adopted by TYC before the effective date of this Act is a rule of the executive commissioner of TYC until superseded, modified, or repealed by the executive commissioner.

SECTION 74. Requires HHSC, TYC, and the Texas Juvenile Probation Commission to 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. Requires TYC, before October 1, 2007, to 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 TYC 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. Requires TYC, as soon as practicable after the effective date of this Act, in the manner prescribed by Section 61.0357, Human Resources Code, as added by this Act, to begin obtaining national criminal history record information for each person who is described by Section 61.0357(b), Human Resources Code, as added by this Act.

SECTION 77. (a) Requires the board of directors of the unit established by Subchapter E, Chapter 41, Government Code, as added by this Act, not later than September 30, 2007, to 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. Requires the board of directors, in electing those members, to specify which members serve terms expiring in even-numbered years and which serve terms expiring in odd-numbered years and the beginning and end dates of the terms served by the members of the executive board.

(b) Requires the board of directors of the unit, not later than September 30, 2007, to elect the presiding officer and the assistant presiding officer of the board of directors and the executive board of directors as required by Section 41.305, Government Code, as added by this Act. Requires the board of directors, in electing those officers, to specify the beginning and end dates of the terms served by the officers.

(c) Requires the executive board of the board of directors of the unit, as soon as practicable after the effective date of this Act, to elect the counsellor as required by Section 41.309, Government Code, as added by this Act.

SECTION 78. Effective date: upon passage or September 1, 2007.