

By: Hinojosa, et al.

S.B. No. 103

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Youth Commission; 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;

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

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

5 (9) officers commissioned by the General Services
6 Commission;

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

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

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

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

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

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

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

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

26 (18) officers commissioned by the board of managers of
27 the Dallas County Hospital District, the Tarrant County Hospital

1 District, or the Bexar County Hospital District under Section
2 281.057, Health and Safety Code;

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

5 (20) investigators employed by the Texas Racing
6 Commission;

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

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

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

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

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

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

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

24 (28) an investigator commissioned by the commissioner
25 of insurance under Section 701.104 [~~Article 1.10D~~], Insurance Code;

26 (29) apprehension specialists and inspectors general
27 commissioned by the Texas Youth Commission as officers under

1 Sections 61.0451 and [Section] 61.0931, Human Resources Code;

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

5 (31) investigators commissioned by the Commission on
6 Law Enforcement Officer Standards and Education under Section
7 1701.160, Occupations Code;

8 (32) commission investigators commissioned by the
9 Texas [~~Commission on~~] Private Security Board under Section
10 1702.061(f), Occupations Code;

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

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

17 SECTION 2. Subsection (f), Article 61.10, Code of Criminal
18 Procedure, is amended to read as follows:

19 (f) The task force shall consist of:

20 (1) a representative of the Department of Public
21 Safety designated by the director of that agency;

22 (2) a representative of the Texas Department of
23 Criminal Justice designated by the executive director of that
24 agency;

25 (3) a representative of the Texas Youth Commission
26 designated by the executive commissioner [~~director~~] of that agency;

27 (4) a representative of the Texas Juvenile Probation

1 Commission designated by the executive director of that agency;

2 (5) a representative of the Criminal Justice Policy
3 Council designated by the executive director of that agency;

4 (6) a representative of the office of the attorney
5 general designated by the attorney general; and

6 (7) three local law enforcement or adult or juvenile
7 community supervision personnel and a prosecuting attorney
8 designated by the governor.

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

11 (a) In a prosecution of a felony committed while the actor
12 was a prisoner in the custody of the Texas Department of Criminal
13 Justice, [~~Corrections or~~] a prosecution of an offense committed in
14 the department by any person under Section 38.11, Penal Code
15 [~~Chapter 21, Acts of 55th Legislature, Regular Session, 1957~~
16 [~~Article 6184m, Vernon's Texas Civil Statutes~~], [~~or~~] Chapter 481,
17 Health and Safety Code, or Sections 485.031 through 485.035, Health
18 and Safety Code, a prosecution of a criminal offense or delinquent
19 conduct committed on property owned or operated by or under
20 contract with the Texas Youth Commission, or a prosecution of a
21 criminal offense or delinquent conduct committed by or against a
22 person in the custody of the commission while the person was
23 performing a duty away from commission property, the state shall
24 reimburse the county for expenses incurred by the county, in an
25 amount that the court determines to be reasonable, for payment of:

26 (1) salaries and expenses of foreign language
27 interpreters and interpreters for deaf persons whose services are

1 necessary to the prosecution;

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

4 (3) travel expenses for witnesses;

5 (4) expenses for the food, lodging, and compensation
6 of jurors;

7 (5) compensation of witnesses;

8 (6) the cost of preparation of a statement of facts and
9 a transcript of the trial for purposes of appeal;

10 (7) if the death of a person is an element of the
11 offense, expenses of an inquest relating to the death;

12 (8) food, lodging, and travel expenses incurred by the
13 prosecutor's staff during travel essential to the prosecution of
14 the offense;

15 (9) court reporter's fees; and

16 (10) the cost of special security officers.

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

19 (a) The center is advised by a board of directors composed
20 of:

21 (1) the attorney general, or the attorney general's
22 designee;

23 (2) the commissioner, or the commissioner's designee;

24 (3) the executive director of the Texas Juvenile
25 Probation Commission, or the executive director's designee;

26 (4) the executive commissioner [~~director~~] of the Texas
27 Youth Commission, or the executive commissioner's [~~director's~~]

1 designee;

2 (5) the commissioner of the Texas Department of Mental
3 Health and Mental Retardation, or the commissioner's designee; and

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

6 (A) a juvenile court judge;

7 (B) a member of a school district's board of
8 trustees;

9 (C) an administrator of a public primary school;

10 (D) an administrator of a public secondary
11 school;

12 (E) a member of the state parent-teacher
13 association;

14 (F) a teacher from a public primary or secondary
15 school;

16 (G) a public school superintendent who is a
17 member of the Texas Association of School Administrators;

18 (H) a school district police officer or a peace
19 officer whose primary duty consists of working in a public school;
20 and

21 (I) two members of the public.

22 SECTION 5. Subsections (d), (o), and (u), Section 54.04,
23 Family Code, are amended to read as follows:

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

26 (1) the court or jury may, in addition to any order
27 required or authorized under Section 54.041 or 54.042, place the

1 child on probation on such reasonable and lawful terms as the court
2 may determine:

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

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

7 (i) a suitable foster home; or

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

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

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

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

1 (i) a capital felony;
2 (ii) a felony of the first degree; or
3 (iii) an aggravated controlled substance
4 felony;

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

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

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

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

14 (o) In a disposition under this title:

15 (1) a status offender may not, under any
16 circumstances, be committed to the Texas Youth Commission for
17 engaging in conduct that would not, under state or local law, be a
18 crime if committed by an adult;

19 (2) a status offender may not, under any circumstances
20 other than as provided under Subsection (n), be placed in a
21 post-adjudication secure correctional facility; ~~and~~

22 (3) a child adjudicated for contempt of a county,
23 justice, or municipal court order may not, under any circumstances,
24 be placed in a post-adjudication secure correctional facility or
25 committed to the Texas Youth Commission for that conduct; and

26 (4) a child adjudicated as having engaged in
27 delinquent conduct violating a penal law of this state or the United

1 States of the grade of misdemeanor may not, under any
2 circumstances, be committed to the Texas Youth Commission for that
3 conduct.

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

10 SECTION 6. Subsection (f), Section 54.05, Family Code, is
11 amended to read as follows:

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

1 after a hearing to modify the disposition the court finds that the
2 child violated a reasonable and lawful order of the court.

3 SECTION 7. Section 41.102, Government Code, is amended by
4 adding Subsection (c) to read as follows:

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

8 SECTION 8. Chapter 325, Government Code, is amended by
9 adding Section 325.0121 to read as follows:

10 Sec. 325.0121. STUDY ON TRANSITION TOWARD REGIONALIZED
11 JUVENILE CORRECTIONS. (a) The commission shall appoint an
12 advisory committee as provided by this section to develop a
13 practicable plan to move the Texas Youth Commission toward a
14 regionalized structure of smaller facilities and more diversified
15 treatment and placement options, taking into consideration the
16 likely effects of this regionalized structure on:

17 (1) recidivism;

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

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

20 (b) The commission shall take into consideration the
21 findings and recommendations of the advisory committee in its
22 report to the legislature under Section 325.012 as part of its
23 review of the Texas Youth Commission, which, as provided by Section
24 61.020, Human Resources Code, is abolished September 1, 2009,
25 unless continued in existence as provided by this chapter.

26 (c) The commission shall appoint an advisory committee not
27 later than December 1, 2007.

1 (d) The advisory committee consists of nine members
2 appointed by the commission in consultation with the Texas Youth
3 Commission, Texas Juvenile Probation Commission, governor,
4 lieutenant governor, and speaker of the house of representatives.
5 At least three of the members must be nationally recognized experts
6 in the field of juvenile justice. At least one of the members must
7 be a recognized advocate for children.

8 (e) The chairman of the commission shall designate a
9 presiding officer from among the members appointed to the advisory
10 committee.

11 (f) The advisory committee shall convene at the call of the
12 presiding officer.

13 (g) A member of the advisory committee may not receive
14 compensation from the state for committee service but may receive
15 reimbursement for travel to official meetings according to policies
16 established by the commission.

17 (h) Not later than December 1, 2008, the advisory committee
18 shall report the committee's findings and recommendations to the
19 commission.

20 (i) This section expires September 1, 2009.

21 SECTION 9. Subsection (b), Section 497.052, Government
22 Code, is amended to read as follows:

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

25 (1) a member of the house of representatives
26 designated by the speaker of the house;

27 (2) a member of the senate designated by the

1 lieutenant governor;

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

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

6 (5) the executive commissioner [~~director~~] of the Texas
7 Youth Commission or the designee of the executive commissioner
8 [~~director~~].

9 SECTION 10. Subdivision (9), Section 811.001, Government
10 Code, is amended to read as follows:

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

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

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

20 SECTION 11. Subsection (b), Section 814.104, Government
21 Code, is amended to read as follows:

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

1 eligible to retire and receive a service retirement annuity.

2 SECTION 12. Section 815.505, Government Code, is amended to
3 read as follows:

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

16 SECTION 13. Subsection (a), Section 551.008, Health and
17 Safety Code, is amended to read as follows:

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

23 SECTION 14. Section 61.001, Human Resources Code, is
24 amended by amending Subdivisions (2) and (4) and adding
25 Subdivisions (7) and (8) to read as follows:

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

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

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

5 (8) "Office of ombudsman" means the office of
6 ombudsman established under Section 61.0452.

7 SECTION 15. Sections 61.012 and 61.0121, Human Resources
8 Code, are amended to read as follows:

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

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

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

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

25 (d) The executive commissioner is a full-time state officer
26 who is entitled to a salary and reimbursement for actual expenses
27 incurred while on commission business.

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

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

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

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

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

22 (c) A person who is the spouse of an officer, manager, or
23 paid consultant of a Texas trade association in the field of
24 criminal justice or juvenile justice may not be the executive
25 commissioner, a member of the advisory board, or [~~and may not be~~]
26 an employee of the commission who is exempt from the state's position
27 classification plan or is compensated at or above the amount

1 prescribed by the General Appropriations Act for step 1, salary
2 group 17, of the position classification salary schedule.

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

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

16 SECTION 16. Subchapter B, Chapter 61, Human Resources Code,
17 is amended by adding Section 61.0123 to read as follows:

18 Sec. 61.0123. REMOVAL FROM OFFICE: EXECUTIVE COMMISSIONER.

19 (a) It is a ground for removal from office as executive
20 commissioner if the executive commissioner:

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

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

26 (3) violates a prohibition established by Section
27 61.0121(b) or (c).

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

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

9 SECTION 17. Sections 61.013, 61.0151, 61.019, 61.0191, and
10 61.022, Human Resources Code, are amended to read as follows:

11 Sec. 61.013. ADVISORY BOARD [~~PRESIDING OFFICER; MEETINGS~~].

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

13 (1) adopt policies and rules concerning any grievances
14 and complaints concerning the commission, as provided by Section
15 61.034;

16 (2) advise the executive commissioner on matters
17 concerning the commission; and

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

22 (b) The advisory board is composed of nine members appointed
23 by the governor with the consent of the senate. The governor shall
24 designate a member of the advisory board as the chairman of the
25 advisory board to serve in that capacity at the pleasure of the
26 governor [~~The board shall meet at least four times each year~~].

27 (c) The appointment of a member of the advisory board shall

1 be made without regard to the race, color, disability, sex,
2 religion, age, or national origin of the appointee [~~A meeting shall~~
3 ~~be held on the call of the chairman or on the request of four members~~
4 ~~at the time and place designated by the chairman~~].

5 (d) Members of the advisory board must be citizens who are
6 recognized within their communities for their interest in youth.
7 At least one member of the advisory board must be a member of a child
8 advocacy group and at least one member of the advisory board must be
9 a member of a victim's advocacy organization. A majority of the
10 members of the advisory board must be qualified, by experience or
11 education, in the development and administration of programs for
12 the rehabilitation and reestablishment in society of children in
13 the custody of agencies similar in mission and scope to the
14 commission.

15 (e) Advisory board members serve for terms of not more than
16 two years expiring February 1 of odd-numbered years. An advisory
17 board member is eligible for reappointment with the consent of the
18 senate.

19 (f) The advisory board shall meet at least four times each
20 year. A meeting shall be held at the call of the chairman or on the
21 request of five members at a time and place designated by the
22 chairman.

23 (g) Five members constitute a quorum for the exercise of
24 functions of the advisory board described by Subsection (a)(1).

25 (h) Advisory board members are entitled to receive a per
26 diem in the amount provided in the General Appropriations Act for
27 not more than 90 days in any fiscal year, plus reimbursement for

1 actual expenses incurred while on advisory board business.

2 Sec. 61.0151. REMOVAL FROM OFFICE: ADVISORY BOARD MEMBERS.

3 (a) It is a ground for removal from the advisory board if a member:

4 (1) does not have at the time of appointment the
5 qualifications required by [~~Subsection (a) of~~] Section 61.0121(a)
6 [~~61.0121 of this chapter~~] for appointment to the advisory board;

7 (2) does not maintain during the member's service on
8 the advisory board the qualifications required by [~~Subsection (a)~~
9 ~~of~~] Section 61.0121(a) [~~61.0121 of this chapter~~] for appointment to
10 the advisory board;

11 (3) violates a prohibition established by [~~Subsection~~
12 ~~(b) or (c) of~~] Section 61.0121(b) or (c) [~~61.0121 of this chapter~~];

13 (4) is unable to discharge the member's duties for a
14 substantial part of the term for which the member was appointed
15 because of illness or disability; or

16 (5) is absent from more than one-half of the regularly
17 scheduled advisory board meetings that the member is eligible to
18 attend during each calendar year, except when the absence is
19 excused by majority vote of the advisory board.

20 (b) The validity of an action of the advisory board is not
21 affected by the fact that it was taken when a ground for removal of a
22 member of the advisory board existed.

23 (c) If the executive commissioner [~~director~~] has knowledge
24 that a potential ground for removal exists, the executive
25 commissioner [~~director~~] shall notify the chairman of the advisory
26 board of the potential ground. The chairman of the advisory board
27 shall then notify the governor and the attorney general that a

1 potential ground for removal exists. If the potential ground for
2 removal involves the chairman, the executive commissioner
3 [~~director~~] shall notify the next highest ranking officer of the
4 advisory board, who shall notify the governor and the attorney
5 general that a potential ground for removal exists.

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

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

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

23 (b) The state auditor, on request of the office of inspector
24 general, may provide information or other assistance to the office
25 of inspector general that the state auditor determines is
26 appropriate. The office of inspector general may coordinate with
27 the state auditor to review or schedule a plan for an investigation

1 under Section 61.0451 or share other information.

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

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

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

12 (2) prohibit the state auditor from:

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

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

19 Sec. 61.022. ACCESSIBILITY TO PROGRAMS AND FACILITIES. The
20 commission shall comply with federal and state laws related to
21 program and facility accessibility. The executive commissioner
22 [~~director~~] shall also prepare and maintain a written plan that
23 describes how a person who does not speak English can be provided
24 reasonable access to the commission's programs and services.

25 SECTION 18. Subchapter C, Chapter 61, Human Resources Code,
26 is amended by adding Sections 61.0331 and 61.0332 to read as
27 follows:

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

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

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

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

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

13 (2) the state auditor.

14 Sec. 61.0332. COMPLIANCE REPORTS. (a) The commission
15 shall provide the joint select committee on the operation and
16 management of the Texas Youth Commission with reports concerning
17 the progress of the commission in complying with the requirements
18 of S.B. No. 103, Acts of the 80th Legislature, Regular Session,
19 2007. The commission shall prepare and deliver the first report to
20 the joint select committee on December 1, 2007, the second report to
21 the joint select committee on June 1, 2008, and the final report to
22 the joint select committee on December 1, 2008.

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

24 SECTION 19. Section 61.034, Human Resources Code, is
25 amended to read as follows:

26 Sec. 61.034. POLICIES AND RULES. (a) Except as provided
27 by Subsection (c), the executive commissioner [~~The commission~~] is

1 responsible for the adoption of all policies and shall make rules
2 appropriate to the proper accomplishment of the commission's ~~[its]~~
3 functions.

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

15 (c) The advisory board is responsible for the adoption of
16 all policies relating to all grievances and complaints concerning
17 the commission and shall adopt rules concerning grievance and
18 complaint policies and procedures, including rules concerning the
19 policies and procedures of the office of ombudsman.

20 SECTION 20. Subsection (b), Section 61.035, Human Resources
21 Code, is amended to read as follows:

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

26 SECTION 21. Sections 61.0351, 61.0352, and 61.0354, Human
27 Resources Code, are amended to read as follows:

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

9 Sec. 61.0352. DIVISION OF RESPONSIBILITY. The executive
10 commissioner [~~board~~] shall develop and implement policies that
11 clearly separate the policymaking responsibilities of the
12 executive commissioner, the policymaking responsibilities of the
13 advisory board, and the management responsibilities of the
14 [~~executive director and the~~] staff of the commission.

15 Sec. 61.0354. JOB PERFORMANCE EVALUATIONS. The executive
16 commissioner [~~director or the executive director's designee~~] shall
17 develop a system of annual performance evaluations that are based
18 on documented employee performance. All merit pay for commission
19 employees must be based on the system established under this
20 section.

21 SECTION 22. Subsection (a), Section 61.0355, Human
22 Resources Code, is amended to read as follows:

23 (a) The executive commissioner [~~director or the executive~~
24 ~~director's designee~~] shall prepare and maintain a written policy
25 statement to assure implementation of a program of equal employment
26 opportunity under which all personnel transactions are made without
27 regard to race, color, disability, sex, religion, age, or national

1 origin. The policy statement shall include:

2 (1) personnel policies, including policies relating
3 to recruitment, evaluation, selection, appointment, training, and
4 promotion of personnel that are in compliance with requirements of
5 Chapter 21, Labor Code;

6 (2) a comprehensive analysis of the commission's work
7 force that meets federal or state laws, rules, and regulations and
8 instructions promulgated directly from those laws, rules, and
9 regulations;

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

15 (4) reasonable methods to appropriately address those
16 areas of underuse.

17 SECTION 23. Subchapter C, Chapter 61, Human Resources Code,
18 is amended by adding Sections 61.0356, 61.0357, and 61.0386 to read
19 as follows:

20 Sec. 61.0356. JUVENILE CORRECTIONAL OFFICERS; STAFFING.

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

24 (b) The commission shall provide each juvenile correctional
25 officer employed by the commission with at least 300 hours of
26 training before the officer independently commences the officer's
27 duties at a facility. The training must provide the officer with

1 information and instruction related to the officer's duties,
2 including information and instruction concerning:

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

5 (2) security procedures;

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

8 (4) signs of suicide risks and suicide precautions;

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

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

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

17 (8) appropriate restraint techniques;

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

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

22 (11) interpersonal relationship skills;

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

25 (13) first aid and cardiopulmonary resuscitation;

26 (14) counseling techniques;

27 (15) conflict resolution and dispute mediation,

1 including de-escalation techniques;
2 (16) behavior management;
3 (17) mental health issues; and
4 (18) employee rights, employment discrimination, and
5 sexual harassment.

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

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

14 (e) The commission shall consider the age of a juvenile
15 correctional officer or other commission employee who performs
16 direct supervisory duties when determining the placement of the
17 officer or employee in a commission facility so that, to the extent
18 practicable, an officer or employee is not supervising a child who
19 is not more than three years younger than the officer or employee or
20 is otherwise a similar age to the officer or employee.

21 (f) The executive commissioner shall adopt rules necessary
22 to administer this section.

23 Sec. 61.0357. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
24 REVIEW. (a) In this section:

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

27 (2) "National criminal history record information"

1 means criminal history record information obtained from the
2 department under Subchapter F, Chapter 411, Government Code, and
3 from the Federal Bureau of Investigation under Section 411.087,
4 Government Code.

5 (b) The executive commissioner shall review the national
6 criminal history record information of each person who:

7 (1) applies for employment with the commission;

8 (2) is employed by the commission; or

9 (3) volunteers with or provides direct delivery of
10 services to children in the custody of the commission.

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

17 (d) For a person described by Subsection (b)(2) or (3), the
18 executive commissioner shall review:

19 (1) on an annual basis, the person's national criminal
20 history record information; and

21 (2) on a continuing basis not less than once every
22 three months, the person's state criminal history record
23 information maintained by the department.

24 (e) The executive commissioner by rule may require a person
25 described by Subsection (b) to pay a fee related to the first
26 national criminal history record information review conducted
27 under this section. The amount of the fee may not exceed the

1 administrative costs incurred by the commission in conducting the
2 initial review, including the costs of obtaining the person's
3 fingerprints.

4 (f) The executive commissioner shall adopt rules necessary
5 to administer this section.

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

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

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

23 SECTION 24. Sections 61.0423 and 61.044, Human Resources
24 Code, are amended to read as follows:

25 Sec. 61.0423. PUBLIC HEARINGS. (a) The executive
26 commissioner [~~board~~] shall develop and implement policies that
27 provide the public with a reasonable opportunity to appear before

1 the executive commissioner or the executive commissioner's
2 designee [~~board~~] and to speak on any issue under the jurisdiction of
3 the commission that is not under the jurisdiction of the advisory
4 board.

5 (b) The advisory board shall develop and implement policies
6 that provide the public with a reasonable opportunity to appear
7 before the advisory board and to speak on any issue under the
8 jurisdiction of the advisory board.

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

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

19 SECTION 25. Subchapter C, Chapter 61, Human Resources Code,
20 is amended by adding Sections 61.0451 and 61.0452 to read as
21 follows:

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

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

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

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

7 (1) the executive commissioner;

8 (2) the advisory board;

9 (3) the governor;

10 (4) the lieutenant governor;

11 (5) the speaker of the house of representatives;

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

15 (7) the special prosecution unit;

16 (8) the state auditor; and

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

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

26 (d) The office of inspector general may employ and
27 commission inspectors general as peace officers for the purpose of

1 carrying out the duties described by this section. An inspector
2 general shall have all of the powers and duties given to peace
3 officers under Article 2.13, Code of Criminal Procedure.

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

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

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

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

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

- 20 (1) the executive commissioner;
21 (2) the advisory board;
22 (3) the governor;
23 (4) the lieutenant governor;
24 (5) the speaker of the house of representatives;
25 (6) the standing committees of the senate and house of
26 representatives with primary jurisdiction over correctional
27 facilities;

1 (7) the state auditor; and

2 (8) the comptroller.

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

9 (1) the types of investigations conducted by the
10 office of inspector general, such as whether an investigation
11 concerned narcotics or an alleged incident of sexual abuse;

12 (2) the relationship of a victim to a perpetrator, if
13 applicable; and

14 (3) the number of investigations conducted concerning
15 suicides, deaths, and hospitalizations of children in the custody
16 of the commission.

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

24 (j) The office of inspector general or the chief inspector
25 general, as applicable, shall provide the joint select committee on
26 the operation and management of the Texas Youth Commission with the
27 reports required under Subsections (b) and (g) in addition to the

1 other persons who receive the reports under those subsections.
2 This subsection expires February 1, 2009.

3 Sec. 61.0452. OFFICE OF OMBUDSMAN. (a) The office of
4 ombudsman is established at the commission for the purpose of:

5 (1) evaluating the delivery of services to children
6 committed to the commission;

7 (2) receiving and reviewing complaints concerning
8 commission actions;

9 (3) conducting investigations of complaints if the
10 office determines that:

11 (A) a child committed to the commission or the
12 child's family may be in need of assistance from the office; or

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

15 (4) making an appropriate referral or providing
16 assistance to a child committed to the commission or to the child's
17 family if after an investigation the ombudsman determines the child
18 or the child's family is in need of assistance;

19 (5) advocating the best interests of the child in the
20 process of providing assistance to a child or the child's family;

21 (6) periodically reviewing facilities operated by or
22 under contract with the commission and the operating procedures of
23 such facilities;

24 (7) supervising advocates in their representation of
25 children committed to the commission in internal administrative and
26 disciplinary hearings; and

27 (8) taking appropriate actions to advise children

1 committed to the commission, the parents or guardians of the
2 children, and commission employees of the services of the office of
3 ombudsman, the purpose of the office, and the procedures to follow
4 in contacting the office.

5 (b) The office of ombudsman shall report the results of an
6 investigation conducted under this section to the executive
7 commissioner, the advisory board, and the standing committees of
8 the senate and house of representatives with primary jurisdiction
9 over matters concerning correctional facilities.

10 (c) Notwithstanding any other law, the office of ombudsman
11 may access, inspect, or copy any record necessary to carry out the
12 responsibilities provided under this section.

13 (d) In performing the responsibilities provided under this
14 section, an employee of the office of ombudsman may communicate
15 privately with a person who has received or is receiving services
16 from the commission. A communication described by this subsection
17 is confidential and not subject to disclosure under Chapter 552,
18 Government Code.

19 (e) The name, address, or other personally identifiable
20 information of a person who files a complaint with the office of
21 ombudsman, information generated by the office of ombudsman in the
22 course of an investigation, and confidential records obtained by
23 the office of ombudsman are confidential and not subject to
24 disclosure under Chapter 552, Government Code, except that the
25 information and records, other than confidential information and
26 records concerning a pending law enforcement investigation or
27 criminal action, may be disclosed to the appropriate person if the

1 office determines that disclosure is:

2 (1) in the general public interest;

3 (2) necessary to enable the office to perform the
4 responsibilities provided under this section; or

5 (3) necessary to identify, prevent, or treat the abuse
6 or neglect of a child.

7 (f) The commission may not discharge or in any manner
8 discriminate or retaliate against an employee who in good faith
9 makes a complaint to the office of ombudsman or cooperates with the
10 office in an investigation.

11 (g) The executive commissioner shall select a chief
12 ombudsman. The chief ombudsman may only be discharged for cause.

13 SECTION 26. Subchapter D, Chapter 61, Human Resources Code,
14 is amended by adding Sections 61.061 and 61.062 to read as follows:

15 Sec. 61.061. PLACEMENT RESTRICTIONS IN COMMISSION
16 FACILITIES. (a) The commission may not assign a male child
17 younger than 15 years of age to the same correctional facility
18 dormitory as a person who is at least 17 years of age unless the
19 commission determines that the placement is necessary to ensure the
20 safety of children in the custody of the commission. This
21 subsection does not apply to a dormitory that is used exclusively
22 for short-term assessment and orientation purposes.

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

1 Sec. 61.062. ESTABLISHMENT OF MINIMUM LENGTH OF STAY.

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

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

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

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

10 SECTION 27. Sections 61.071 and 61.072, Human Resources
11 Code, are amended to read as follows:

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

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

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

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

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

1 need of a psychiatric evaluation, the commission shall as soon as
2 practicable conduct a psychiatric evaluation of the child.

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

14 SECTION 28. Section 61.0731, Human Resources Code, is
15 amended by adding Subsection (c) to read as follows:

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

23 SECTION 29. Subchapter E, Chapter 61, Human Resources Code,
24 is amended by adding Sections 61.0763 and 61.0764 to read as
25 follows:

26 Sec. 61.0763. RIGHTS OF PARENTS. (a) The commission shall
27 develop a parent's bill of rights for distribution to the parent or

1 guardian of a child committed to the commission. The parent's bill
2 of rights must include:

3 (1) a description of the commission's grievance
4 policies and procedures, including contact information for the
5 office of inspector general and the office of ombudsman;

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

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

10 (4) a description of commission caseworker
11 responsibilities;

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

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

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

21 (C) workforce preparedness programs;

22 (D) parenting programs; and

23 (E) commission seminars; and

24 (6) information concerning the review process under
25 Section 61.0815 for children committed to the commission without a
26 determinate sentence.

27 (b) Not later than 48 hours after the time a child is

1 admitted to a commission facility, the commission shall mail to the
2 child's parent or guardian at the last known address of the parent
3 or guardian:

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

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

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

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

12 (2) the results of any reexamination of the child
13 conducted under Section 61.072; and

14 (3) information concerning any medical condition of
15 the child.

16 Sec. 61.0764. COMMISSION CASEWORKERS. (a) The commission
17 shall assign a caseworker to a child committed to the commission. A
18 commission caseworker shall:

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

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

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

26 (b) A commission caseworker shall:

27 (1) at least once a month, attempt to contact the

1 child's parent or guardian by phone, in person while the parent or
2 guardian is visiting the facility, or, if necessary, by mail;

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

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

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

12 SECTION 30. Subsection (a), Section 61.079, Human Resources
13 Code, is amended to read as follows:

14 (a) After a child sentenced to commitment under Section
15 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 16 years
16 of age but before the child becomes 19 [~~21~~] years of age, the
17 commission may refer the child to the juvenile court that entered
18 the order of commitment for approval of the child's transfer to the
19 [~~institutional division of the~~] Texas Department of Criminal
20 Justice for confinement if:

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

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

25 SECTION 31. Subchapter E, Chapter 61, Human Resources Code,
26 is amended by adding Section 61.0791 to read as follows:

27 Sec. 61.0791. EVALUATION OF CERTAIN CHILDREN SERVING

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

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

12 SECTION 32. Subchapter F, Chapter 61, Human Resources Code,
13 is amended by adding Sections 61.0814, 61.0815, and 61.0816 to read
14 as follows:

15 Sec. 61.0814. REENTRY AND REINTEGRATION PLAN. The
16 commission shall develop a reentry and reintegration plan for each
17 child committed to the custody of the commission. The commission
18 shall develop the plan in a timely manner so that the plan is
19 available when a child is reviewed under Section 61.0815 after
20 completion of the child's minimum length of stay. The plan for a
21 child must include, as applicable:

- 22 (1) housing assistance;
23 (2) a step-down program, such as placement in a
24 halfway house;
25 (3) family counseling;
26 (4) academic and vocational mentoring;
27 (5) trauma counseling for a child who is a victim of

1 abuse while in the custody of the commission; and

2 (6) other specialized treatment services appropriate
3 for the child.

4 Sec. 61.0815. COMPLETION OF MINIMUM LENGTH OF STAY.

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

9 (1) discharge the child from the custody of the
10 commission;

11 (2) release the child under supervision under Section
12 61.081; or

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

15 (b) The executive commissioner by rule shall establish a
16 panel whose function is to review and determine whether a child who
17 has completed the child's minimum length of stay should be
18 discharged from the custody of the commission as provided by
19 Subsection (a)(1), be released under supervision under Section
20 61.081 as provided by Subsection (a)(2), or remain in the custody of
21 the commission for an additional period of time as provided by
22 Subsection (a)(3).

23 (c) The executive commissioner shall determine the size of
24 the panel and the length of the members' terms of service on the
25 panel. The panel must consist of an odd number of members and the
26 terms of the panel's members must last for at least two years. A
27 member of the panel is an employee of the commission and may not be

1 involved in any supervisory decisions concerning children in the
2 custody of the commission. The executive commissioner shall adopt
3 policies that ensure the transparency, consistency, and
4 objectivity of the panel's composition, procedures, and decisions.
5 The executive commissioner shall appoint persons to serve as
6 members of the panel.

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

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

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

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

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

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

13 (g) The commission shall provide a report to the parent,
14 guardian, or designated advocate of a child whose length of stay is
15 extended under this section explaining the panel's reason for the
16 extension. The commission shall allow a parent, guardian, or
17 designated advocate of a child access to the documents that were
18 used by the panel in the child's review if the parent, guardian, or
19 designated advocate of a child requests access to the documents and
20 to the extent that providing access to the documents is not
21 prohibited by other law. The report provided by the commission must
22 include the contact information for the panel and the commission
23 and a notice that the parent, guardian, or designated advocate of a
24 child may request access to the documents used in the child's review
25 and that the commission shall provide that access if providing
26 access to the document is not prohibited by law.

27 Sec. 61.0816. REQUEST FOR RECONSIDERATION OF EXTENSION

1 ORDER. (a) The executive commissioner by rule shall establish a
2 process to request the reconsideration of an extension order issued
3 by the panel established under Section 61.0815.

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

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

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

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

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

18 (B) combined with previous extension orders will
19 result in an extension of the child's stay in the custody of the
20 commission by six months or more;

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

24 (5) the panel shall send a written reply to the child,
25 the parent, guardian, or designated advocate of the child, and the
26 person who made the request for reconsideration of an extension
27 order that includes an explanation of the panel's decision after

1 reconsidering the extension order, including an indication that the
2 panel has considered the information submitted in the request.

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

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

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

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

18 (A) a discharge or release under supervision; or

19 (B) the original extension order being upheld;

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

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

24 (e) To the extent authorized under law, the statistics
25 maintained under Subsection (d) are public information under
26 Chapter 552, Government Code, and the commission shall post the
27 statistics on the commission's Internet website. The commission

1 shall prepare and deliver to the standing committees of the senate
2 and house of representatives with primary jurisdiction over matters
3 concerning correctional facilities a report concerning the
4 statistics maintained under Subsection (d).

5 SECTION 33. Subsections (e) and (g), Section 61.084, Human
6 Resources Code, are amended to read as follows:

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

10 (g) The commission shall transfer a person who has been
11 sentenced under a determinate sentence to commitment under Section
12 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, or who has been
13 returned to the commission under Section 54.11(i)(1), Family Code,
14 to the custody of the [~~pardons and paroles division of the~~] Texas
15 Department of Criminal Justice on the person's 19th [~~21st~~]
16 birthday, if the person has not already been discharged or
17 transferred, to serve the remainder of the person's sentence on
18 parole as provided by Section 508.156, Government Code.

19 SECTION 34. Subsection (a), Section 61.0841, Human
20 Resources Code, is amended to read as follows:

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

27 (1) the juvenile court judgment;

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

14 SECTION 35. Subsection (a), Section 61.093, Human Resources
15 Code, is amended to read as follows:

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

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

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

25 SECTION 36. Subchapter G, Chapter 61, Human Resources Code,
26 is amended by adding Section 61.098 to read as follows:

27 Sec. 61.098. PROSECUTION OF CERTAIN CRIMES CONCERNING THE

1 COMMISSION. (a) As appropriate, the district attorney, criminal
2 district attorney, or county attorney performing the duties of a
3 district attorney who would otherwise represent the state in the
4 prosecution of an offense or delinquent conduct concerning the
5 commission and described by Article 104.003(a), Code of Criminal
6 Procedure, may request that the special prosecution unit prosecute
7 the offense or delinquent conduct.

8 (b) The special prosecution unit shall on a quarterly basis
9 provide the executive commissioner and the standing committees of
10 the senate and house of representatives with primary jurisdiction
11 over matters concerning correctional facilities with a report
12 concerning offenses or delinquent conduct prosecuted by the special
13 prosecution unit on receiving a request for assistance under this
14 section. A report under this subsection is public information
15 under Chapter 552, Government Code, and the commission shall
16 publish the report on the commission's Internet website. A report
17 must be both aggregated and disaggregated by individual facility
18 and include information relating to:

19 (1) the number of requests for assistance received
20 under this section;

21 (2) the number of cases investigated and the number of
22 cases prosecuted on receiving a request for assistance under this
23 section;

24 (3) the types and outcomes of cases prosecuted by the
25 special prosecution unit on receiving a request for assistance
26 under this section, such as whether the case concerned narcotics or
27 an alleged incident of sexual abuse; and

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

3 SECTION 37. Subsection (a), Section 141.022, Human
4 Resources Code, is amended to read as follows:

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

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

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

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

12 (4) the executive commissioner [~~director~~] of the Texas
13 Youth Commission or the commissioner's [~~director's~~] designee;

14 (5) the commissioner of education or the
15 commissioner's designee; and

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

18 SECTION 38. Subsection (b), Section 141.047, Human
19 Resources Code, is amended to read as follows:

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

24 (1) discuss mutual problems;

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

27 (3) make recommendations to the governor and

1 legislature.

2 SECTION 39. Subsection (c), Section 141.0471, Human
3 Resources Code, is amended to read as follows:

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

10 SECTION 40. Subsection (c), Section 110.302, Occupations
11 Code, is amended to read as follows:

12 (c) The Texas Board of Criminal Justice may vote or the
13 executive commissioner [~~governing board~~] of the Texas Youth
14 Commission may decide [~~vote~~] to exempt employees of the Texas
15 Department of Criminal Justice or the Texas Youth Commission, as
16 appropriate, from a specific licensing requirement imposed under
17 this section if the board or executive commissioner determines that
18 the requirement causes financial or operational hardship on the
19 agency.

20 SECTION 41. Subsections (b) and (d), Section 39.04, Penal
21 Code, are amended to read as follows:

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

27 (d) The Attorney General of Texas shall have concurrent

1 jurisdiction with law enforcement agencies to investigate
2 violations of this statute involving serious bodily injury or
3 death, except that the attorney general shall have concurrent
4 jurisdiction with law enforcement agencies to investigate any
5 violation of this statute involving an individual in the custody of
6 the Texas Youth Commission.

7 SECTION 42. Subsection (a), Section 43.25, Penal Code, is
8 amended by amending Subdivision (1) and adding Subdivision (8) to
9 read as follows:

10 (1) "Sexual performance" means any performance or part
11 thereof that includes sexual conduct by a child [~~younger than 18~~
12 ~~years of age~~].

13 (8) "Child" means a person who is:

14 (A) younger than 18 years of age; or

15 (B) in the custody of the Texas Youth Commission.

16 SECTION 43. Section 43.25, Penal Code, is amended by
17 amending Subsections (b), (d), and (g) and adding Subsection (f-1)
18 to read as follows:

19 (b) A person commits an offense if, knowing the character
20 and content thereof, he employs, authorizes, or induces a child
21 [~~younger than 18 years of age~~] to engage in sexual conduct or a
22 sexual performance. A parent or legal guardian or custodian of a
23 child [~~younger than 18 years of age~~] commits an offense if he
24 consents to the participation by the child in a sexual performance.

25 (d) A person commits an offense if, knowing the character
26 and content of the material, he produces, directs, or promotes a
27 performance that includes sexual conduct by a child [~~younger than~~

1 ~~18 years of age~~].

2 (f-1) The affirmative defense to prosecution provided by
3 Subsection (f)(3) does not apply to the prosecution of an alleged
4 offense involving a child in the custody of the Texas Youth
5 Commission.

6 (g) When it becomes necessary for the purposes of this
7 section or Section 43.26 to determine the age of ~~[whether]~~ a child
8 who participated in sexual conduct ~~[was younger than 18 years of~~
9 ~~age]~~, the court or jury may make this determination by any of the
10 following methods:

11 (1) personal inspection of the child;

12 (2) inspection of the photograph or motion picture
13 that shows the child engaging in the sexual performance;

14 (3) oral testimony by a witness to the sexual
15 performance as to the age of the child based on the child's
16 appearance at the time;

17 (4) expert medical testimony based on the appearance
18 of the child engaging in the sexual performance; or

19 (5) any other method authorized by law or by the rules
20 of evidence at common law.

21 SECTION 44. The following laws are repealed:

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

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

25 (3) Subdivision (3), Section 61.001, Sections
26 61.0122, 61.014, 61.015, and 61.017, and Subsection (f), Section
27 61.084, Human Resources Code.

1 SECTION 45. A person committed to the Texas Youth
2 Commission on the basis of conduct constituting the commission of
3 an offense of the grade of misdemeanor under Subdivision (2),
4 Subsection (d), Section 54.04, Family Code, as it existed before
5 the effective date of this Act, must be discharged from the custody
6 of the Texas Youth Commission not later than the person's 19th
7 birthday.

8 SECTION 46. The change in law made by this Act to Subsection
9 (b), Section 39.04, and Section 43.25, Penal Code, applies only to
10 an offense committed on or after September 1, 2007. An offense
11 committed before September 1, 2007, is governed by the law in effect
12 when the offense was committed, and the former law is continued in
13 effect for that purpose. For purposes of this section, an offense
14 was committed before September 1, 2007, if any element of the
15 offense occurred before that date.

16 SECTION 47. (a) Subsection (b), Section 61.0356, Human
17 Resources Code, as added by this Act, applies only to a juvenile
18 correctional officer hired by the Texas Youth Commission on or
19 after the effective date of this Act. As soon as practicable but
20 not later than six months after the effective date of this Act, the
21 Texas Youth Commission shall complete providing the training to
22 juvenile correctional officers hired before the effective date of
23 this Act that is necessary to conform to the requirements of
24 Subsection (b), Section 61.0356, Human Resources Code, as added by
25 this Act.

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

1 (1) each correctional facility operated by the
2 commission that has a dormitory, including an open-bay dormitory,
3 has a ratio of not less than one juvenile correctional officer
4 performing direct supervisory duties for every 12 children
5 committed to the facility, as required by Subsection (d), Section
6 61.0356, Human Resources Code, as added by this Act; and

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

11 SECTION 48. As soon as practicable after the effective date
12 of this Act, the governor shall appoint:

13 (1) the executive commissioner of the Texas Youth
14 Commission, as required by Section 61.012, Human Resources Code, as
15 amended by this Act, with a term of office expiring February 1,
16 2009; and

17 (2) members of the advisory board of the Texas Youth
18 Commission, as required by Section 61.013, Human Resources Code, as
19 amended by this Act, with terms of office expiring February 1, 2009.

20 SECTION 49. Before October 1, 2007, the Texas Youth
21 Commission shall certify to the Employees Retirement System of
22 Texas, in the manner prescribed by the retirement system, the name
23 of each person employed by the office of inspector general at the
24 Texas Youth Commission as a law enforcement officer, as defined by
25 Section 811.001, Government Code, as amended by this Act, and any
26 other information the system determines is necessary for the
27 crediting of service and financing of benefits under Subtitle B,

1 Title 8, Government Code.

2 SECTION 50. As soon as practicable after the effective date
3 of this Act, the Texas Youth Commission shall, in the manner
4 prescribed by Section 61.0357, Human Resources Code, as added by
5 this Act, begin obtaining national criminal history record
6 information for each person who is described by Subsection (b),
7 Section 61.0357, Human Resources Code, as added by this Act.

8 SECTION 51. A rule adopted by the Texas Youth Commission
9 before the effective date of this Act is a rule of the executive
10 commissioner of the Texas Youth Commission or the advisory board of
11 the Texas Youth Commission, as appropriate, until superseded,
12 modified, or repealed by the executive commissioner or advisory
13 board, as appropriate.

14 SECTION 52. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2007.