

1-1 By: Hinojosa, et al. S.B. No. 103
1-2 (In the Senate - Filed November 13, 2006; January 29, 2007,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 17, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 17, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 103 By: Hinojosa

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the Texas Youth Commission; providing penalties.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Article 2.12, Code of Criminal Procedure, is
1-13 amended to read as follows:
1-14 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace
1-15 officers:
1-16 (1) sheriffs, their deputies, and those reserve
1-17 deputies who hold a permanent peace officer license issued under
1-18 Chapter 1701, Occupations Code;
1-19 (2) constables, deputy constables, and those reserve
1-20 deputy constables who hold a permanent peace officer license issued
1-21 under Chapter 1701, Occupations Code;
1-22 (3) marshals or police officers of an incorporated
1-23 city, town, or village, and those reserve municipal police officers
1-24 who hold a permanent peace officer license issued under Chapter
1-25 1701, Occupations Code;
1-26 (4) rangers and officers commissioned by the Public
1-27 Safety Commission and the Director of the Department of Public
1-28 Safety;
1-29 (5) investigators of the district attorneys', criminal
1-30 district attorneys', and county attorneys' offices;
1-31 (6) law enforcement agents of the Texas Alcoholic
1-32 Beverage Commission;
1-33 (7) each member of an arson investigating unit
1-34 commissioned by a city, a county, or the state;
1-35 (8) officers commissioned under Section 37.081,
1-36 Education Code, or Subchapter E, Chapter 51, Education Code;
1-37 (9) officers commissioned by the General Services
1-38 Commission;
1-39 (10) law enforcement officers commissioned by the
1-40 Parks and Wildlife Commission;
1-41 (11) airport police officers commissioned by a city
1-42 with a population of more than 1.18 million that operates an airport
1-43 that serves commercial air carriers;
1-44 (12) airport security personnel commissioned as peace
1-45 officers by the governing body of any political subdivision of this
1-46 state, other than a city described by Subdivision (11), that
1-47 operates an airport that serves commercial air carriers;
1-48 (13) municipal park and recreational patrolmen and
1-49 security officers;
1-50 (14) security officers and investigators commissioned
1-51 as peace officers by the comptroller;
1-52 (15) officers commissioned by a water control and
1-53 improvement district under Section 49.216, Water Code;
1-54 (16) officers commissioned by a board of trustees
1-55 under Chapter 54, Transportation Code;
1-56 (17) investigators commissioned by the Texas Medical
1-57 [~~State~~] Board [~~of Medical Examiners~~];
1-58 (18) officers commissioned by the board of managers of
1-59 the Dallas County Hospital District, the Tarrant County Hospital
1-60 District, or the Bexar County Hospital District under Section
1-61 281.057, Health and Safety Code;
1-62 (19) county park rangers commissioned under
1-63 Subchapter E, Chapter 351, Local Government Code;

2-1 (20) investigators employed by the Texas Racing
2-2 Commission;
2-3 (21) officers commissioned under Chapter 554,
2-4 Occupations Code;
2-5 (22) officers commissioned by the governing body of a
2-6 metropolitan rapid transit authority under Section 451.108,
2-7 Transportation Code, or by a regional transportation authority
2-8 under Section 452.110, Transportation Code;
2-9 (23) investigators commissioned by the attorney
2-10 general under Section 402.009, Government Code;
2-11 (24) security officers and investigators commissioned
2-12 as peace officers under Chapter 466, Government Code;
2-13 (25) an officer employed by the ~~[Texas]~~ Department of
2-14 State Health Services under Section 431.2471, Health and Safety
2-15 Code;
2-16 (26) officers appointed by an appellate court under
2-17 Subchapter F, Chapter 53, Government Code;
2-18 (27) officers commissioned by the state fire marshal
2-19 under Chapter 417, Government Code;
2-20 (28) an investigator commissioned by the commissioner
2-21 of insurance under Section 701.104 ~~[Article 1.10D]~~, Insurance Code;
2-22 (29) apprehension specialists and inspectors general
2-23 commissioned by the Texas Youth Commission as officers under
2-24 Sections 61.0451 and ~~[Section]~~ 61.0931, Human Resources Code;
2-25 (30) officers appointed by the executive director of
2-26 the Texas Department of Criminal Justice under Section 493.019,
2-27 Government Code;
2-28 (31) investigators commissioned by the Commission on
2-29 Law Enforcement Officer Standards and Education under Section
2-30 1701.160, Occupations Code;
2-31 (32) commission investigators commissioned by the
2-32 Texas ~~[Commission on]~~ Private Security Board under Section
2-33 1702.061(f), Occupations Code;
2-34 (33) the fire marshal and any officers, inspectors, or
2-35 investigators commissioned by an emergency services district under
2-36 Chapter 775, Health and Safety Code; and
2-37 (34) officers commissioned by the State Board of
2-38 Dental Examiners under Section 254.013, Occupations Code, subject
2-39 to the limitations imposed by that section.
2-40 SECTION 2. Subsection (f), Article 61.10, Code of Criminal
2-41 Procedure, is amended to read as follows:
2-42 (f) The task force shall consist of:
2-43 (1) a representative of the Department of Public
2-44 Safety designated by the director of that agency;
2-45 (2) a representative of the Texas Department of
2-46 Criminal Justice designated by the executive director of that
2-47 agency;
2-48 (3) a representative of the Texas Youth Commission
2-49 designated by the executive commissioner ~~[director]~~ of that agency;
2-50 (4) a representative of the Texas Juvenile Probation
2-51 Commission designated by the executive director of that agency;
2-52 (5) a representative of the Criminal Justice Policy
2-53 Council designated by the executive director of that agency;
2-54 (6) a representative of the office of the attorney
2-55 general designated by the attorney general; and
2-56 (7) three local law enforcement or adult or juvenile
2-57 community supervision personnel and a prosecuting attorney
2-58 designated by the governor.
2-59 SECTION 3. Subsection (a), Article 104.003, Code of
2-60 Criminal Procedure, is amended to read as follows:
2-61 (a) In a prosecution of a felony committed while the actor
2-62 was a prisoner in the custody of the Texas Department of Criminal
2-63 Justice, ~~[Corrections or]~~ a prosecution of an offense committed in
2-64 the department by any person under Section 38.11, Penal Code
2-65 ~~[Chapter 21, Acts of 55th Legislature, Regular Session, 1957~~
2-66 ~~(Article 6184m, Vernon's Texas Civil Statutes)]~~, ~~[or]~~ Chapter 481,
2-67 Health and Safety Code, or Sections 485.031 through 485.035, Health
2-68 and Safety Code, a prosecution of a criminal offense or delinquent
2-69 conduct committed on property owned or operated by or under

3-1 contract with the Texas Youth Commission, or a prosecution of a
 3-2 criminal offense or delinquent conduct committed by or against a
 3-3 person in the custody of the commission while the person was
 3-4 performing a duty away from commission property, the state shall
 3-5 reimburse the county for expenses incurred by the county, in an
 3-6 amount that the court determines to be reasonable, for payment of:

- 3-7 (1) salaries and expenses of foreign language
- 3-8 interpreters and interpreters for deaf persons whose services are
- 3-9 necessary to the prosecution;
- 3-10 (2) consultation fees of experts whose assistance is
- 3-11 directly related to the prosecution;
- 3-12 (3) travel expenses for witnesses;
- 3-13 (4) expenses for the food, lodging, and compensation
- 3-14 of jurors;
- 3-15 (5) compensation of witnesses;
- 3-16 (6) the cost of preparation of a statement of facts and
- 3-17 a transcript of the trial for purposes of appeal;
- 3-18 (7) if the death of a person is an element of the
- 3-19 offense, expenses of an inquest relating to the death;
- 3-20 (8) food, lodging, and travel expenses incurred by the
- 3-21 prosecutor's staff during travel essential to the prosecution of
- 3-22 the offense;
- 3-23 (9) court reporter's fees; and
- 3-24 (10) the cost of special security officers.

3-25 SECTION 4. Subsection (a), Section 37.203, Education Code,
 3-26 is amended to read as follows:

3-27 (a) The center is advised by a board of directors composed
 3-28 of:

- 3-29 (1) the attorney general, or the attorney general's
- 3-30 designee;
- 3-31 (2) the commissioner, or the commissioner's designee;
- 3-32 (3) the executive director of the Texas Juvenile
- 3-33 Probation Commission, or the executive director's designee;
- 3-34 (4) the executive commissioner [~~director~~] of the Texas
- 3-35 Youth Commission, or the executive commissioner's [~~director's~~]
- 3-36 designee;
- 3-37 (5) the commissioner of the Texas Department of Mental
- 3-38 Health and Mental Retardation, or the commissioner's designee; and
- 3-39 (6) the following members appointed by the governor
- 3-40 with the advice and consent of the senate:
- 3-41 (A) a juvenile court judge;
- 3-42 (B) a member of a school district's board of
- 3-43 trustees;
- 3-44 (C) an administrator of a public primary school;
- 3-45 (D) an administrator of a public secondary
- 3-46 school;
- 3-47 (E) a member of the state parent-teacher
- 3-48 association;
- 3-49 (F) a teacher from a public primary or secondary
- 3-50 school;
- 3-51 (G) a public school superintendent who is a
- 3-52 member of the Texas Association of School Administrators;
- 3-53 (H) a school district police officer or a peace
- 3-54 officer whose primary duty consists of working in a public school;
- 3-55 and
- 3-56 (I) two members of the public.

3-57 SECTION 5. Subsections (d), (o), and (u), Section 54.04,
 3-58 Family Code, are amended to read as follows:

3-59 (d) If the court or jury makes the finding specified in
 3-60 Subsection (c) allowing the court to make a disposition in the case:

3-61 (1) the court or jury may, in addition to any order
 3-62 required or authorized under Section 54.041 or 54.042, place the
 3-63 child on probation on such reasonable and lawful terms as the court
 3-64 may determine:

- 3-65 (A) in the child's own home or in the custody of a
- 3-66 relative or other fit person; or
- 3-67 (B) subject to the finding under Subsection (c)
- 3-68 on the placement of the child outside the child's home, in:
- 3-69 (i) a suitable foster home; or

4-1 (ii) a suitable public or private
4-2 institution or agency, except the Texas Youth Commission;

4-3 (2) if the court or jury found at the conclusion of the
4-4 adjudication hearing that the child engaged in delinquent conduct
4-5 that violates a penal law of this state or the United States of the
4-6 grade of felony [~~or, if the requirements of Subsection (s) or (t)~~
4-7 ~~are met, of the grade of misdemeanor,~~] and if the petition was not
4-8 approved by the grand jury under Section 53.045, the court may
4-9 commit the child to the Texas Youth Commission without a
4-10 determinate sentence;

4-11 (3) if the court or jury found at the conclusion of the
4-12 adjudication hearing that the child engaged in delinquent conduct
4-13 that included a violation of a penal law listed in Section 53.045(a)
4-14 and if the petition was approved by the grand jury under Section
4-15 53.045, the court or jury may sentence the child to commitment in
4-16 the Texas Youth Commission with a possible transfer to the
4-17 [~~institutional division or the pardons and paroles division of the~~]
4-18 Texas Department of Criminal Justice for a term of:

4-19 (A) not more than 40 years if the conduct
4-20 constitutes:

4-21 (i) a capital felony;
4-22 (ii) a felony of the first degree; or
4-23 (iii) an aggravated controlled substance
4-24 felony;

4-25 (B) not more than 20 years if the conduct
4-26 constitutes a felony of the second degree; or

4-27 (C) not more than 10 years if the conduct
4-28 constitutes a felony of the third degree;

4-29 (4) the court may assign the child an appropriate
4-30 sanction level and sanctions as provided by the assignment
4-31 guidelines in Section 59.003; or

4-32 (5) if applicable, the court or jury may make a
4-33 disposition under Subsection (m).

4-34 (o) In a disposition under this title:

4-35 (1) a status offender may not, under any
4-36 circumstances, be committed to the Texas Youth Commission for
4-37 engaging in conduct that would not, under state or local law, be a
4-38 crime if committed by an adult;

4-39 (2) a status offender may not, under any circumstances
4-40 other than as provided under Subsection (n), be placed in a
4-41 post-adjudication secure correctional facility; ~~and~~

4-42 (3) a child adjudicated for contempt of a county,
4-43 justice, or municipal court order may not, under any circumstances,
4-44 be placed in a post-adjudication secure correctional facility or
4-45 committed to the Texas Youth Commission for that conduct; and

4-46 (4) a child adjudicated as having engaged in
4-47 delinquent conduct violating a penal law of this state or the United
4-48 States of the grade of misdemeanor may not, under any
4-49 circumstances, be committed to the Texas Youth Commission for that
4-50 conduct.

4-51 (u) For the purposes of disposition under Subsection
4-52 (d)(2), delinquent conduct that violates a penal law of this state
4-53 of the grade of felony [~~or misdemeanor~~] does not include conduct
4-54 that violates a lawful order of a county, municipal, justice, or
4-55 juvenile court under circumstances that would constitute contempt
4-56 of that court.

4-57 SECTION 6. Subsection (f), Section 54.05, Family Code, is
4-58 amended to read as follows:

4-59 (f) Except as provided by Subsection (j), a disposition
4-60 based on a finding that the child engaged in delinquent conduct that
4-61 violates a penal law of this state or the United States of the grade
4-62 of felony [~~or, if the requirements of Subsection (k) are met, of the~~
4-63 ~~grade of misdemeanor,~~] may be modified so as to commit the child to
4-64 the Texas Youth Commission if the court after a hearing to modify
4-65 disposition finds by a preponderance of the evidence that the child
4-66 violated a reasonable and lawful order of the court. A disposition
4-67 based on a finding that the child engaged in habitual felony conduct
4-68 as described by Section 51.031 or in delinquent conduct that
4-69 included a violation of a penal law listed in Section 53.045(a) may

5-1 be modified to commit the child to the Texas Youth Commission with a
 5-2 possible transfer to the [~~institutional division or the pardons and~~
 5-3 ~~parole division of the~~] Texas Department of Criminal Justice for a
 5-4 definite term prescribed by Section 54.04(d)(3) if the original
 5-5 petition was approved by the grand jury under Section 53.045 and if
 5-6 after a hearing to modify the disposition the court finds that the
 5-7 child violated a reasonable and lawful order of the court.

5-8 SECTION 7. Section 41.102, Government Code, is amended by
 5-9 adding Subsection (c) to read as follows:

5-10 (c) The attorney general may offer to assist a prosecuting
 5-11 attorney in the prosecution of criminal offenses concerning the
 5-12 Texas Youth Commission.

5-13 SECTION 8. Chapter 325, Government Code, is amended by
 5-14 adding Section 325.0121 to read as follows:

5-15 Sec. 325.0121. STUDY ON TRANSITION TOWARD REGIONALIZED
 5-16 JUVENILE CORRECTIONS. (a) The commission shall appoint an
 5-17 advisory committee as provided by this section to develop a
 5-18 practicable plan to move the Texas Youth Commission toward a
 5-19 regionalized structure of smaller facilities and more diversified
 5-20 treatment and placement options, taking into consideration the
 5-21 likely effects of this regionalized structure on:

5-22 (1) recidivism;

5-23 (2) juvenile and family access to services; and

5-24 (3) costs to this state and the counties of this state.

5-25 (b) The commission shall take into consideration the
 5-26 findings and recommendations of the advisory committee in its
 5-27 report to the legislature under Section 325.012 as part of its
 5-28 review of the Texas Youth Commission, which, as provided by Section
 5-29 61.020, Human Resources Code, is abolished September 1, 2009,
 5-30 unless continued in existence as provided by this chapter.

5-31 (c) The commission shall appoint an advisory committee not
 5-32 later than December 1, 2007.

5-33 (d) The advisory committee consists of nine members
 5-34 appointed by the commission in consultation with the Texas Youth
 5-35 Commission, Texas Juvenile Probation Commission, governor,
 5-36 lieutenant governor, and speaker of the house of representatives.
 5-37 At least three of the members must be nationally recognized experts
 5-38 in the field of juvenile justice. At least one of the members must
 5-39 be a recognized advocate for children.

5-40 (e) The chairman of the commission shall designate a
 5-41 presiding officer from among the members appointed to the advisory
 5-42 committee.

5-43 (f) The advisory committee shall convene at the call of the
 5-44 presiding officer.

5-45 (g) A member of the advisory committee may not receive
 5-46 compensation from the state for committee service but may receive
 5-47 reimbursement for travel to official meetings according to policies
 5-48 established by the commission.

5-49 (h) Not later than December 1, 2008, the advisory committee
 5-50 shall report the committee's findings and recommendations to the
 5-51 commission.

5-52 (i) This section expires September 1, 2009.

5-53 SECTION 9. Subsection (b), Section 497.052, Government
 5-54 Code, is amended to read as follows:

5-55 (b) The following individuals shall serve as ex officio
 5-56 members of the authority:

5-57 (1) a member of the house of representatives
 5-58 designated by the speaker of the house;

5-59 (2) a member of the senate designated by the
 5-60 lieutenant governor;

5-61 (3) the executive director of the Texas Department of
 5-62 Criminal Justice or the designee of the executive director;

5-63 (4) the executive director of the Texas Workforce
 5-64 Commission or the designee of the executive director; and

5-65 (5) the executive commissioner [~~director~~] of the Texas
 5-66 Youth Commission or the designee of the executive commissioner
 5-67 [~~director~~].

5-68 SECTION 10. Subdivision (9), Section 811.001, Government
 5-69 Code, is amended to read as follows:

6-1 (9) "Law enforcement officer" means a member of the
6-2 retirement system who:

6-3 (A) has been commissioned as a law enforcement
6-4 officer by the Department of Public Safety, the Texas Alcoholic
6-5 Beverage Commission, ~~or~~ the Parks and Wildlife Department, or the
6-6 office of inspector general at the Texas Youth Commission; and

6-7 (B) is recognized as a commissioned law
6-8 enforcement officer by the Commission on Law Enforcement Officer
6-9 Standards and Education.

6-10 SECTION 11. Subsection (b), Section 814.104, Government
6-11 Code, is amended to read as follows:

6-12 (b) A member who is at least 55 years old and who has at
6-13 least 10 years of service credit as a commissioned peace officer
6-14 engaged in criminal law enforcement activities of the Department of
6-15 Public Safety, the Texas Alcoholic Beverage Commission, ~~or~~ the
6-16 Parks and Wildlife Department, or the office of inspector general
6-17 at the Texas Youth Commission, or as a custodial officer, is
6-18 eligible to retire and receive a service retirement annuity.

6-19 SECTION 12. Section 815.505, Government Code, is amended to
6-20 read as follows:

6-21 Sec. 815.505. CERTIFICATION OF NAMES OF LAW ENFORCEMENT AND
6-22 CUSTODIAL OFFICERS. Not later than the 12th day of the month
6-23 following the month in which a person begins or ceases employment as
6-24 a law enforcement officer or custodial officer, the Public Safety
6-25 Commission, the Texas Alcoholic Beverage Commission, the Parks and
6-26 Wildlife Commission, the office of inspector general at the Texas
6-27 Youth Commission, the Board of Pardons and Paroles, or the Texas
6-28 Board of Criminal Justice, as applicable, shall certify to the
6-29 retirement system, in the manner prescribed by the system, the name
6-30 of the employee and such other information as the system determines
6-31 is necessary for the crediting of service and financing of benefits
6-32 under this subtitle.

6-33 SECTION 13. Subsection (a), Section 551.008, Health and
6-34 Safety Code, is amended to read as follows:

6-35 (a) The department may transfer the South Campus of the
6-36 Vernon State Hospital to the Texas Youth Commission contingent upon
6-37 the agreement of the governing board of the department and the
6-38 executive commissioner ~~[governing board]~~ of the Texas Youth
6-39 Commission.

6-40 SECTION 14. Section 61.001, Human Resources Code, is
6-41 amended by amending Subdivisions (2) and (4) and adding
6-42 Subdivisions (7) and (8) to read as follows:

6-43 (2) "Advisory board" ~~["Board"]~~ means the advisory
6-44 ~~[governing]~~ board of the commission.

6-45 (4) "Executive commissioner ~~[director]~~" means the
6-46 executive commissioner ~~[director]~~ of the commission.

6-47 (7) "Office of inspector general" means the office of
6-48 inspector general established under Section 61.0451.

6-49 (8) "Office of ombudsman" means the office of
6-50 ombudsman established under Section 61.0452.

6-51 SECTION 15. Sections 61.012 and 61.0121, Human Resources
6-52 Code, are amended to read as follows:

6-53 Sec. 61.012. EXECUTIVE COMMISSIONER ~~[MEMBERS OF THE~~
6-54 ~~GOVERNING BOARD]~~. (a) The ~~[governing board of the]~~ Texas Youth
6-55 Commission is governed by an executive commissioner ~~[consists of~~
6-56 ~~seven members]~~ appointed by the governor with the consent of the
6-57 senate. The appointment of the executive commissioner
6-58 ~~[Appointments to the board]~~ shall be made without regard to the
6-59 race, color, disability, sex, religion, age, or national origin of
6-60 the appointee ~~[appointees]~~.

6-61 (b) ~~[Members of the board must be citizens who are~~
6-62 ~~recognized within their communities for their interest in youth.~~

6-63 ~~[(c)]~~ The executive commissioner holds ~~[board members hold]~~
6-64 office for a term of not more than two years expiring February 1 of
6-65 odd-numbered ~~[staggered terms of six years, with the terms of two or~~
6-66 ~~three members expiring every two]~~ years.

6-67 (c) The executive commissioner ~~[(d) A member]~~ is eligible
6-68 for reappointment with the consent of the senate.

6-69 (d) The executive commissioner is a full-time state officer

7-1 who is entitled to a salary and reimbursement for actual expenses
7-2 incurred while on commission business.

7-3 Sec. 61.0121. QUALIFICATIONS FOR EXECUTIVE COMMISSIONER,
7-4 ADVISORY BOARD MEMBERS, AND EMPLOYEES. (a) A person is not
7-5 eligible for appointment as executive commissioner or as a member
7-6 of ~~the~~ the advisory board if the person or the person's spouse:

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

7-10 (2) owns or controls, directly or indirectly, more
7-11 than a 10 percent interest in a business entity or other
7-12 organization receiving funds from the commission; or

7-13 (3) uses or receives a substantial amount of tangible
7-14 goods, services, or funds from the commission, other than
7-15 compensation or reimbursement authorized by law ~~[for board~~
7-16 ~~membership, attendance, or expenses].~~

7-17 (b) An officer, employee, or paid consultant of a Texas
7-18 trade association in the field of criminal or juvenile justice may
7-19 not be the executive commissioner, a member of the advisory board,
7-20 or an employee of the commission who is exempt from the state's
7-21 position classification plan or is compensated at or above the
7-22 amount prescribed by the General Appropriations Act for step 1,
7-23 salary group 17, of the position classification salary schedule.

7-24 (c) A person who is the spouse of an officer, manager, or
7-25 paid consultant of a Texas trade association in the field of
7-26 criminal justice or juvenile justice may not be the executive
7-27 commissioner, a member of the advisory board, or ~~[and may not be]~~
7-28 an employee of the commission who is exempt from the state's position
7-29 classification plan or is compensated at or above the amount
7-30 prescribed by the General Appropriations Act for step 1, salary
7-31 group 17, of the position classification salary schedule.

7-32 (d) For the purposes of this section, a Texas trade
7-33 association is a nonprofit, cooperative, and voluntarily joined
7-34 association of business or professional competitors in this state
7-35 designed to assist its members and its industry or profession in
7-36 dealing with mutual business or professional problems and in
7-37 promoting their common interest.

7-38 (e) A person may not be appointed as executive commissioner,
7-39 serve as a member of the advisory board, or act as the general
7-40 counsel to the executive commissioner, the advisory board, or the
7-41 commission if the person is required to register as a lobbyist under
7-42 Chapter 305, Government Code, because of the person's activities
7-43 for compensation on behalf of a profession related to the operation
7-44 of the commission.

7-45 SECTION 16. Subchapter B, Chapter 61, Human Resources Code,
7-46 is amended by adding Section 61.0123 to read as follows:

7-47 Sec. 61.0123. REMOVAL FROM OFFICE: EXECUTIVE COMMISSIONER.
7-48 (a) It is a ground for removal from office as executive
7-49 commissioner if the executive commissioner:

7-50 (1) does not have at the time of appointment the
7-51 qualifications required by Section 61.0121(a) for appointment;

7-52 (2) does not maintain while serving as executive
7-53 commissioner the qualifications required by Section 61.0121(a) for
7-54 appointment; or

7-55 (3) violates a prohibition established by Section
7-56 61.0121(b) or (c).

7-57 (b) The validity of an action of the executive commissioner
7-58 is not affected by the fact that it was taken when a ground for
7-59 removal existed.

7-60 (c) If the advisory board has knowledge that a potential
7-61 ground for removal exists under this section, the chairman of the
7-62 advisory board shall notify the executive commissioner, the
7-63 governor, and the attorney general of the potential ground for
7-64 removal.

7-65 SECTION 17. Sections 61.013, 61.0151, 61.019, 61.0191, and
7-66 61.022, Human Resources Code, are amended to read as follows:

7-67 Sec. 61.013. ADVISORY BOARD ~~[PRESIDING OFFICER, MEETINGS].~~

7-68 (a) An advisory board for the commission is established to:

7-69 (1) adopt policies and rules concerning any grievances

8-1 and complaints concerning the commission, as provided by Section
8-2 61.034;

8-3 (2) advise the executive commissioner on matters
8-4 concerning the commission; and

8-5 (3) assist the executive commissioner in the
8-6 performance of the executive commissioner's duties [~~The governor~~
8-7 ~~shall designate a member of the board as the chairman of the board~~
8-8 ~~to serve in that capacity at the pleasure of the governor~~].

8-9 (b) The advisory board is composed of nine members appointed
8-10 by the governor with the consent of the senate. The governor shall
8-11 designate a member of the advisory board as the chairman of the
8-12 advisory board to serve in that capacity at the pleasure of the
8-13 governor [~~The board shall meet at least four times each year~~].

8-14 (c) The appointment of a member of the advisory board shall
8-15 be made without regard to the race, color, disability, sex,
8-16 religion, age, or national origin of the appointee [~~A meeting shall~~
8-17 ~~be held on the call of the chairman or on the request of four members~~
8-18 ~~at the time and place designated by the chairman~~].

8-19 (d) Members of the advisory board must be citizens who are
8-20 recognized within their communities for their interest in youth.
8-21 At least one member of the advisory board must be a member of a child
8-22 advocacy group and at least one member of the advisory board must be
8-23 a member of a victim's advocacy organization. A majority of the
8-24 members of the advisory board must be qualified, by experience or
8-25 education, in the development and administration of programs for
8-26 the rehabilitation and reestablishment in society of children in
8-27 the custody of agencies similar in mission and scope to the
8-28 commission.

8-29 (e) Advisory board members serve for terms of not more than
8-30 two years expiring February 1 of odd-numbered years. An advisory
8-31 board member is eligible for reappointment with the consent of the
8-32 senate.

8-33 (f) The advisory board shall meet at least four times each
8-34 year. A meeting shall be held at the call of the chairman or on the
8-35 request of five members at a time and place designated by the
8-36 chairman.

8-37 (g) Five members constitute a quorum for the exercise of
8-38 functions of the advisory board described by Subsection (a)(1).

8-39 (h) Advisory board members are entitled to receive a per
8-40 diem in the amount provided in the General Appropriations Act for
8-41 not more than 90 days in any fiscal year, plus reimbursement for
8-42 actual expenses incurred while on advisory board business.

8-43 Sec. 61.0151. REMOVAL FROM OFFICE: ADVISORY BOARD MEMBERS.

8-44 (a) It is a ground for removal from the advisory board if a member:

8-45 (1) does not have at the time of appointment the
8-46 qualifications required by [~~Subsection (a) of~~] Section 61.0121(a)
8-47 [~~61.0121 of this chapter~~] for appointment to the advisory board;

8-48 (2) does not maintain during the member's service on
8-49 the advisory board the qualifications required by [~~Subsection (a)~~
8-50 ~~of~~] Section 61.0121(a) [~~61.0121 of this chapter~~] for appointment to
8-51 the advisory board;

8-52 (3) violates a prohibition established by [~~Subsection~~
8-53 ~~(b) or (c) of~~] Section 61.0121(b) or (c) [~~61.0121 of this chapter~~];

8-54 (4) is unable to discharge the member's duties for a
8-55 substantial part of the term for which the member was appointed
8-56 because of illness or disability; or

8-57 (5) is absent from more than one-half of the regularly
8-58 scheduled advisory board meetings that the member is eligible to
8-59 attend during each calendar year, except when the absence is
8-60 excused by majority vote of the advisory board.

8-61 (b) The validity of an action of the advisory board is not
8-62 affected by the fact that it was taken when a ground for removal of a
8-63 member of the advisory board existed.

8-64 (c) If the executive commissioner [~~director~~] has knowledge
8-65 that a potential ground for removal exists, the executive
8-66 commissioner [~~director~~] shall notify the chairman of the advisory
8-67 board of the potential ground. The chairman of the advisory board
8-68 shall then notify the governor and the attorney general that a
8-69 potential ground for removal exists. If the potential ground for

9-1 removal involves the chairman, the executive commissioner
 9-2 [~~director~~] shall notify the next highest ranking officer of the
 9-3 advisory board, who shall notify the governor and the attorney
 9-4 general that a potential ground for removal exists.

9-5 Sec. 61.019. DELEGATION OF POWERS AND DUTIES. (a) Any
 9-6 power, duty, or function of the commission that is not assigned by
 9-7 statute to the advisory board, the chief inspector general of the
 9-8 office of inspector general, or the chief ombudsman of the office of
 9-9 ombudsman [~~or of the board~~] may be exercised and performed by the
 9-10 executive commissioner.

9-11 (b) The executive commissioner may delegate to the advisory
 9-12 board or to [~~director or~~] any [~~member or~~] employee designated or
 9-13 assigned by the [~~board or by the~~] executive commissioner a power,
 9-14 duty, or function of the executive commissioner or the commission
 9-15 that is not already assigned by statute to the advisory board or
 9-16 that is not assigned by statute to the chief inspector general of
 9-17 the office of inspector general or the chief ombudsman of the office
 9-18 of ombudsman [~~director~~].

9-19 Sec. 61.0191. AUDIT; AUTHORITY OF STATE AUDITOR. (a) The
 9-20 financial transactions of the commission are subject to audit by
 9-21 the state auditor in accordance with Chapter 321, Government Code.

9-22 (b) The state auditor, on request of the office of inspector
 9-23 general, may provide information or other assistance to the office
 9-24 of inspector general that the state auditor determines is
 9-25 appropriate. The office of inspector general may coordinate with
 9-26 the state auditor to review or schedule a plan for an investigation
 9-27 under Section 61.0451 or share other information.

9-28 (c) The state auditor may access all information maintained
 9-29 by the office of inspector general, such as vouchers, electronic
 9-30 data, and internal records, including information that is otherwise
 9-31 confidential under state law. Information obtained by the state
 9-32 auditor under this subsection is confidential and is not subject to
 9-33 disclosure under Chapter 552, Government Code.

9-34 (d) Any provision of this chapter relating to the operations
 9-35 of the office of inspector general does not:

9-36 (1) supersede the authority of the state auditor to
 9-37 conduct an audit under Chapter 321, Government Code; or

9-38 (2) prohibit the state auditor from:
 9-39 (A) conducting an audit, investigation, or other
 9-40 review; or

9-41 (B) having full and complete access to all
 9-42 records and other information concerning the commission, including
 9-43 any witness statement or electronic data, that the state auditor
 9-44 considers necessary for the audit, investigation, or review.

9-45 Sec. 61.022. ACCESSIBILITY TO PROGRAMS AND FACILITIES. The
 9-46 commission shall comply with federal and state laws related to
 9-47 program and facility accessibility. The executive commissioner
 9-48 [~~director~~] shall also prepare and maintain a written plan that
 9-49 describes how a person who does not speak English can be provided
 9-50 reasonable access to the commission's programs and services.

9-51 SECTION 18. Subchapter C, Chapter 61, Human Resources Code,
 9-52 is amended by adding Sections 61.0331 and 61.0332 to read as
 9-53 follows:

9-54 Sec. 61.0331. INTERNAL AUDIT; REPORT. (a) The commission
 9-55 shall regularly conduct internal audits of the commission,
 9-56 including audits of:

9-57 (1) correctional facilities operated by and under
 9-58 contract with the commission; and

9-59 (2) medical services provided to children in the
 9-60 custody of the commission.

9-61 (b) The commission shall on a quarterly basis report the
 9-62 results of the audits to:

9-63 (1) the committees of the senate and house of
 9-64 representatives with primary jurisdiction over matters concerning
 9-65 correctional facilities; and

9-66 (2) the state auditor.

9-67 Sec. 61.0332. COMPLIANCE REPORTS. (a) The commission
 9-68 shall provide the joint select committee on the operation and
 9-69 management of the Texas Youth Commission with reports concerning

10-1 the progress of the commission in complying with the requirements
 10-2 of S.B. No. 103, Acts of the 80th Legislature, Regular Session,
 10-3 2007. The commission shall prepare and deliver the first report to
 10-4 the joint select committee on December 1, 2007, the second report to
 10-5 the joint select committee on June 1, 2008, and the final report to
 10-6 the joint select committee on December 1, 2008.

10-7 (b) This section expires January 1, 2009.

10-8 SECTION 19. Section 61.034, Human Resources Code, is
 10-9 amended to read as follows:

10-10 Sec. 61.034. POLICIES AND RULES. (a) Except as provided
 10-11 by Subsection (c), the executive commissioner ~~[The commission]~~ is
 10-12 responsible for the adoption of all policies and shall make rules
 10-13 appropriate to the proper accomplishment of the commission's ~~[its]~~
 10-14 functions.

10-15 (b) The executive commissioner ~~[commission]~~ shall adopt
 10-16 rules for the government of the schools, facilities, and programs
 10-17 under the commission's ~~[its]~~ authority and shall see that the
 10-18 schools, facilities, and programs are conducted according to law
 10-19 and to the executive commissioner's and advisory board's
 10-20 [commission's] rules. The purpose of the rules and of all
 10-21 education, work, training, discipline, recreation, and other
 10-22 activities in the schools, facilities, and programs is to restore
 10-23 and increase the self-respect and self-reliance of the youth under
 10-24 the authority of the commission and to qualify them for good
 10-25 citizenship and honorable employment.

10-26 (c) The advisory board is responsible for the adoption of
 10-27 all policies relating to all grievances and complaints concerning
 10-28 the commission and shall adopt rules concerning grievance and
 10-29 complaint policies and procedures, including rules concerning the
 10-30 policies and procedures of the office of ombudsman.

10-31 SECTION 20. Subsection (b), Section 61.035, Human Resources
 10-32 Code, is amended to read as follows:

10-33 (b) Except as otherwise provided by this chapter, an
 10-34 employee of the commission is employed on an at-will basis ~~[The~~
 10-35 ~~commission may remove any employee for cause, and a decision by the~~
 10-36 ~~commission is final].~~

10-37 SECTION 21. Sections 61.0351, 61.0352, and 61.0354, Human
 10-38 Resources Code, are amended to read as follows:

10-39 Sec. 61.0351. PROFESSIONAL INFORMATION FOR ADVISORY BOARD
 10-40 MEMBERS AND EMPLOYEES. The executive commissioner ~~[director or the~~
 10-41 ~~executive director's designee]~~ shall provide to members of the
 10-42 advisory board and to commission employees, as often as is
 10-43 necessary, information regarding their qualification for office or
 10-44 employment under this chapter and their responsibilities under
 10-45 applicable laws relating to standards of conduct for state officers
 10-46 or employees.

10-47 Sec. 61.0352. DIVISION OF RESPONSIBILITY. The executive
 10-48 commissioner ~~[board]~~ shall develop and implement policies that
 10-49 clearly separate the policymaking responsibilities of the
 10-50 executive commissioner, the policymaking responsibilities of the
 10-51 advisory board, and the management responsibilities of the
 10-52 [executive director and the] staff of the commission.

10-53 Sec. 61.0354. JOB PERFORMANCE EVALUATIONS. The executive
 10-54 commissioner ~~[director or the executive director's designee]~~ shall
 10-55 develop a system of annual performance evaluations that are based
 10-56 on documented employee performance. All merit pay for commission
 10-57 employees must be based on the system established under this
 10-58 section.

10-59 SECTION 22. Subsection (a), Section 61.0355, Human
 10-60 Resources Code, is amended to read as follows:

10-61 (a) The executive commissioner ~~[director or the executive~~
 10-62 ~~director's designee]~~ shall prepare and maintain a written policy
 10-63 statement to assure implementation of a program of equal employment
 10-64 opportunity under which all personnel transactions are made without
 10-65 regard to race, color, disability, sex, religion, age, or national
 10-66 origin. The policy statement shall include:

10-67 (1) personnel policies, including policies relating
 10-68 to recruitment, evaluation, selection, appointment, training, and
 10-69 promotion of personnel that are in compliance with requirements of

11-1 Chapter 21, Labor Code;

11-2 (2) a comprehensive analysis of the commission's work
11-3 force that meets federal or state laws, rules, and regulations and
11-4 instructions promulgated directly from those laws, rules, and
11-5 regulations;

11-6 (3) procedures by which a determination can be made
11-7 about the extent of underuse in the commission's work force of all
11-8 persons of whom federal or state laws, rules, and regulations and
11-9 instructions promulgated directly from those laws, rules, and
11-10 regulations encourage a more equitable balance; and

11-11 (4) reasonable methods to appropriately address those
11-12 areas of underuse.

11-13 SECTION 23. Subchapter C, Chapter 61, Human Resources Code,
11-14 is amended by adding Sections 61.0356, 61.0357, and 61.0386 to read
11-15 as follows:

11-16 Sec. 61.0356. JUVENILE CORRECTIONAL OFFICERS; STAFFING.

11-17 (a) In this section, "juvenile correctional officer" means an
11-18 employee whose primary duty includes the custodial supervision of
11-19 children in the custody of the commission.

11-20 (b) The commission shall provide each juvenile correctional
11-21 officer employed by the commission with at least 300 hours of
11-22 training before the officer independently commences the officer's
11-23 duties at a facility. The training must provide the officer with
11-24 information and instruction related to the officer's duties,
11-25 including information and instruction concerning:

11-26 (1) the juvenile justice system of this state,
11-27 including the juvenile correctional facility system;

11-28 (2) security procedures;

11-29 (3) the supervision of children committed to the
11-30 commission;

11-31 (4) signs of suicide risks and suicide precautions;

11-32 (5) signs and symptoms of the abuse, assault, neglect,
11-33 and exploitation of a child, including sexual abuse and sexual
11-34 assault, and the manner in which to report the abuse, assault,
11-35 neglect, or exploitation of a child;

11-36 (6) the neurological, physical, and psychological
11-37 development of adolescents;

11-38 (7) commission rules and regulations, including
11-39 rules, regulations, and tactics concerning the use of force;

11-40 (8) appropriate restraint techniques;

11-41 (9) the Prison Rape Elimination Act of 2003 (42 U.S.C.
11-42 Section 15601, et seq.);

11-43 (10) the rights and responsibilities of children in
11-44 the custody of the commission;

11-45 (11) interpersonal relationship skills;

11-46 (12) the social and cultural lifestyles of children in
11-47 the custody of the commission;

11-48 (13) first aid and cardiopulmonary resuscitation;

11-49 (14) counseling techniques;

11-50 (15) conflict resolution and dispute mediation,
11-51 including de-escalation techniques;

11-52 (16) behavior management;

11-53 (17) mental health issues; and

11-54 (18) employee rights, employment discrimination, and
11-55 sexual harassment.

11-56 (c) The commission may employ part-time juvenile
11-57 correctional officers. A part-time juvenile correctional officer
11-58 is subject to the training requirements of this section.

11-59 (d) In each correctional facility operated by the
11-60 commission that has a dormitory, including an open-bay dormitory,
11-61 the commission must maintain a ratio of not less than one juvenile
11-62 correctional officer performing direct supervisory duties for
11-63 every 12 persons committed to the facility.

11-64 (e) The commission shall consider the age of a juvenile
11-65 correctional officer or other commission employee who performs
11-66 direct supervisory duties when determining the placement of the
11-67 officer or employee in a commission facility so that, to the extent
11-68 practicable, an officer or employee is not supervising a child who
11-69 is not more than three years younger than the officer or employee or

12-1 is otherwise a similar age to the officer or employee.

12-2 (f) The executive commissioner shall adopt rules necessary
12-3 to administer this section.

12-4 Sec. 61.0357. NATIONAL CRIMINAL HISTORY RECORD INFORMATION
12-5 REVIEW. (a) In this section:

12-6 (1) "Department" means the Department of Public
12-7 Safety.

12-8 (2) "National criminal history record information"
12-9 means criminal history record information obtained from the
12-10 department under Subchapter F, Chapter 411, Government Code, and
12-11 from the Federal Bureau of Investigation under Section 411.087,
12-12 Government Code.

12-13 (b) The executive commissioner shall review the national
12-14 criminal history record information of each person who applies for
12-15 employment with the commission. To enable the executive
12-16 commissioner to conduct the review, the executive commissioner
12-17 shall adopt rules requiring a person who applies for employment
12-18 with the commission to electronically provide the commission with a
12-19 complete set of the person's fingerprints in a form and of a quality
12-20 acceptable to the department and the Federal Bureau of
12-21 Investigation.

12-22 (c) The executive commissioner by rule may require a person
12-23 who applies for employment with the commission to pay a fee related
12-24 to the national criminal history record information review
12-25 conducted under this section. The amount of the fee may not exceed
12-26 the administrative costs incurred by the commission in conducting
12-27 the review, including the costs of obtaining the person's
12-28 fingerprints.

12-29 (d) The executive commissioner shall adopt rules necessary
12-30 to administer this section.

12-31 Sec. 61.0386. ADVOCACY AND SUPPORT GROUPS. (a) The
12-32 commission shall allow advocacy and support groups whose primary
12-33 functions are to benefit children, inmates, girls and women, the
12-34 mentally ill, and victims of sexual assault to provide on-site
12-35 information, support, and other services for children confined in
12-36 commission facilities.

12-37 (b) The commission shall adopt security and privacy
12-38 procedures for advocacy and support groups that provide on-site
12-39 information, support, and other services under this section. The
12-40 security and privacy procedures may not be designed to deny an
12-41 advocacy or support group access to children confined in commission
12-42 facilities.

12-43 (c) The commission shall adopt standards consistent with
12-44 standards adopted by the Texas Department of Criminal Justice
12-45 regarding the confidential correspondence of children confined in
12-46 commission facilities with external entities, including advocacy
12-47 and support groups.

12-48 SECTION 24. Sections 61.0423 and 61.044, Human Resources
12-49 Code, are amended to read as follows:

12-50 Sec. 61.0423. PUBLIC HEARINGS. (a) The executive
12-51 commissioner [~~board~~] shall develop and implement policies that
12-52 provide the public with a reasonable opportunity to appear before
12-53 the executive commissioner or the executive commissioner's
12-54 designee [~~board~~] and to speak on any issue under the jurisdiction of
12-55 the commission that is not under the jurisdiction of the advisory
12-56 board.

12-57 (b) The advisory board shall develop and implement policies
12-58 that provide the public with a reasonable opportunity to appear
12-59 before the advisory board and to speak on any issue under the
12-60 jurisdiction of the advisory board.

12-61 Sec. 61.044. BIENNIAL BUDGET. [~~DUTIES OF EXECUTIVE~~
12-62 DIRECTOR. (a) The executive director shall perform the duties
12-63 assigned by the commission.

12-64 [~~(b)~~] The executive commissioner [~~director~~] shall prepare
12-65 [~~and submit to the commission for its approval~~] a biennial budget of
12-66 all funds necessary to be appropriated by the legislature to the
12-67 commission to carry out the purposes of this chapter. The budget
12-68 shall be submitted and filed by the executive commissioner
12-69 [~~commission~~] in the form and manner and within the time prescribed

13-1 by law.

13-2 SECTION 25. Subchapter C, Chapter 61, Human Resources Code,
13-3 is amended by adding Sections 61.0451 and 61.0452 to read as
13-4 follows:

13-5 Sec. 61.0451. OFFICE OF INSPECTOR GENERAL. (a) The office
13-6 of inspector general is established at the commission for the
13-7 purpose of investigating:

13-8 (1) fraud committed by commission employees,
13-9 including parole officers employed by or under a contract with the
13-10 commission; and

13-11 (2) crimes committed at a facility operated by the
13-12 commission or at a residential facility operated by another entity
13-13 under a contract with the commission.

13-14 (b) The office of inspector general shall prepare and
13-15 deliver a report concerning the results of any investigation
13-16 conducted under this section to:

13-17 (1) the executive commissioner;

13-18 (2) the advisory board;

13-19 (3) the governor;

13-20 (4) the lieutenant governor;

13-21 (5) the speaker of the house of representatives;

13-22 (6) the standing committees of the senate and house of
13-23 representatives with primary jurisdiction over matters concerning
13-24 correctional facilities;

13-25 (7) the special prosecution unit;

13-26 (8) the state auditor; and

13-27 (9) any other appropriate state agency responsible for
13-28 licensing or certifying commission employees or facilities.

13-29 (c) The report prepared under Subsection (b) must include a
13-30 summary of the actions performed by the office of inspector general
13-31 in conducting the investigation, a statement of whether the
13-32 investigation resulted in a finding that fraud or a criminal
13-33 offense occurred, and a description of the finding. The report is
13-34 public information under Chapter 552, Government Code, only to the
13-35 extent authorized under that chapter and other law.

13-36 (d) The office of inspector general may employ and
13-37 commission inspectors general as peace officers for the purpose of
13-38 carrying out the duties described by this section. An inspector
13-39 general shall have all of the powers and duties given to peace
13-40 officers under Article 2.13, Code of Criminal Procedure.

13-41 (e) Peace officers employed and commissioned under
13-42 Subsection (d) must:

13-43 (1) be certified by the Commission on Law Enforcement
13-44 Officer Standards and Education under Chapter 1701, Occupations
13-45 Code; and

13-46 (2) complete advanced courses relating to the duties
13-47 of peace officers employed and commissioned under Subsection (d) as
13-48 part of any continuing education requirements for the peace
13-49 officers.

13-50 (f) The executive commissioner shall select a commissioned
13-51 peace officer as chief inspector general. The chief inspector
13-52 general is subject to the requirements of this section and may only
13-53 be discharged for cause.

13-54 (g) The chief inspector general shall on a quarterly basis
13-55 prepare and deliver a report concerning the operations of the
13-56 office of inspector general to:

13-57 (1) the executive commissioner;

13-58 (2) the advisory board;

13-59 (3) the governor;

13-60 (4) the lieutenant governor;

13-61 (5) the speaker of the house of representatives;

13-62 (6) the standing committees of the senate and house of
13-63 representatives with primary jurisdiction over correctional
13-64 facilities;

13-65 (7) the state auditor; and

13-66 (8) the comptroller.

13-67 (h) A report prepared under Subsection (g) is public
13-68 information under Chapter 552, Government Code, to the extent
13-69 authorized under that chapter and other law, and the commission

14-1 shall publish the report on the commission's Internet website. A
 14-2 report must be both aggregated and disaggregated by individual
 14-3 facility and include information relating to:

14-4 (1) the types of investigations conducted by the
 14-5 office of inspector general, such as whether an investigation
 14-6 concerned narcotics or an alleged incident of sexual abuse;

14-7 (2) the relationship of a victim to a perpetrator, if
 14-8 applicable; and

14-9 (3) the number of investigations conducted concerning
 14-10 suicides, deaths, and hospitalizations of children in the custody
 14-11 of the commission.

14-12 (i) The office of inspector general shall immediately
 14-13 report to the executive commissioner, the advisory board, the
 14-14 governor's general counsel, and the state auditor any particularly
 14-15 serious or flagrant problem concerning the administration of a
 14-16 commission program or operation or any interference by the
 14-17 executive commissioner or an employee of the commission with an
 14-18 investigation conducted by the office.

14-19 Sec. 61.0452. OFFICE OF OMBUDSMAN. (a) The office of
 14-20 ombudsman is established at the commission for the purpose of:

14-21 (1) evaluating the delivery of services to children
 14-22 committed to the commission;

14-23 (2) receiving and reviewing complaints concerning
 14-24 commission actions;

14-25 (3) conducting investigations of complaints if the
 14-26 office determines that:

14-27 (A) a child committed to the commission or the
 14-28 child's family may be in need of assistance from the office; or

14-29 (B) a systemic issue in the commission's
 14-30 provision of services is raised by a complaint;

14-31 (4) making an appropriate referral or providing
 14-32 assistance to a child committed to the commission or to the child's
 14-33 family if after an investigation the ombudsman determines the child
 14-34 or the child's family is in need of assistance;

14-35 (5) advocating the best interests of the child in the
 14-36 process of providing assistance to a child or the child's family;

14-37 (6) periodically reviewing facilities operated by or
 14-38 under contract with the commission and the operating procedures of
 14-39 such facilities;

14-40 (7) supervising advocates in their representation of
 14-41 children committed to the commission in internal administrative and
 14-42 disciplinary hearings; and

14-43 (8) taking appropriate actions to advise children
 14-44 committed to the commission, the parents or guardians of the
 14-45 children, and commission employees of the services of the office of
 14-46 ombudsman, the purpose of the office, and the procedures to follow
 14-47 in contacting the office.

14-48 (b) The office of ombudsman shall report the results of an
 14-49 investigation conducted under this section to the executive
 14-50 commissioner, the advisory board, and the standing committees of
 14-51 the senate and house of representatives with primary jurisdiction
 14-52 over matters concerning correctional facilities.

14-53 (c) Notwithstanding any other law, the office of ombudsman
 14-54 may access, inspect, or copy any record necessary to carry out the
 14-55 responsibilities provided under this section.

14-56 (d) In performing the responsibilities provided under this
 14-57 section, an employee of the office of ombudsman may communicate
 14-58 privately with a person who has received or is receiving services
 14-59 from the commission. A communication described by this subsection
 14-60 is confidential and not subject to disclosure under Chapter 552,
 14-61 Government Code.

14-62 (e) The name, address, or other personally identifiable
 14-63 information of a person who files a complaint with the office of
 14-64 ombudsman, information generated by the office of ombudsman in the
 14-65 course of an investigation, and confidential records obtained by
 14-66 the office of ombudsman are confidential and not subject to
 14-67 disclosure under Chapter 552, Government Code, except that the
 14-68 information and records, other than confidential information and
 14-69 records concerning a pending law enforcement investigation or

15-1 criminal action, may be disclosed to the appropriate person if the
 15-2 office determines that disclosure is:

- 15-3 (1) in the general public interest;
 15-4 (2) necessary to enable the office to perform the
 15-5 responsibilities provided under this section; or
 15-6 (3) necessary to identify, prevent, or treat the abuse
 15-7 or neglect of a child.

15-8 (f) The commission may not discharge or in any manner
 15-9 discriminate or retaliate against an employee who in good faith
 15-10 makes a complaint to the office of ombudsman or cooperates with the
 15-11 office in an investigation.

15-12 (g) The executive commissioner shall select a chief
 15-13 ombudsman. The chief ombudsman may only be discharged for cause.

15-14 SECTION 26. Subchapter D, Chapter 61, Human Resources Code,
 15-15 is amended by adding Sections 61.061 and 61.062 to read as follows:

15-16 Sec. 61.061. PLACEMENT RESTRICTIONS IN COMMISSION
 15-17 FACILITIES. (a) The commission may not assign a male child
 15-18 younger than 15 years of age to the same correctional facility
 15-19 dormitory as a person who is at least 17 years of age unless the
 15-20 commission determines that the placement is necessary to ensure the
 15-21 safety of children in the custody of the commission. This
 15-22 subsection does not apply to a dormitory that is used exclusively
 15-23 for short-term assessment and orientation purposes.

15-24 (b) The executive commissioner by rule shall adopt
 15-25 scheduling, housing, and placement procedures for the purpose of
 15-26 protecting vulnerable children in the custody of the commission.
 15-27 The procedures must address the age, physical condition, and
 15-28 treatment needs of a child as well as any other relevant factor.

15-29 Sec. 61.062. ESTABLISHMENT OF MINIMUM LENGTH OF STAY.
 15-30 (a) The commission shall establish a minimum length of stay for
 15-31 each child committed to the commission without a determinate
 15-32 sentence.

15-33 (b) In establishing a minimum length of stay for a child,
 15-34 the commission shall consider:

- 15-35 (1) the nature of and seriousness of the conduct
 15-36 engaged in by the child; and
 15-37 (2) the danger the child poses to the community.

15-38 SECTION 27. Sections 61.071 and 61.072, Human Resources
 15-39 Code, are amended to read as follows:

15-40 Sec. 61.071. INITIAL EXAMINATION. (a) The commission
 15-41 shall examine and make a study of each child committed to it as soon
 15-42 as possible after commitment. The study shall be made according to
 15-43 rules established by the commission and shall include:

- 15-44 (1) long-term planning for the child; and
 15-45 (2) consideration of the child's medical and treatment
 15-46 history[, including a determination of whether the child will need
 15-47 long-term residential care].

15-48 (b) For a child for whom a minimum length of stay is
 15-49 established under Section 61.062 of one year or longer, the initial
 15-50 examination must include a comprehensive psychiatric evaluation.

15-51 (c) The commission shall administer comprehensive
 15-52 psychological assessments to a child as part of the child's initial
 15-53 examination, including assessments designed to identify whether a
 15-54 child is in need of a psychiatric evaluation. If the results of a
 15-55 child's psychological assessments indicate that the child is in
 15-56 need of a psychiatric evaluation, the commission shall as soon as
 15-57 practicable conduct a psychiatric evaluation of the child.

15-58 Sec. 61.072. REEXAMINATION. The commission shall
 15-59 periodically reexamine each child under its control, except those
 15-60 on release under supervision or in foster homes, for the purpose of
 15-61 determining whether a rehabilitation plan made by the commission
 15-62 concerning the child should be modified or continued. The
 15-63 examination must include a study of all current circumstances of a
 15-64 child's personal and family situation and an evaluation of the
 15-65 progress made by the child since the child's last examination. The
 15-66 examination of a child may be made as frequently as the commission
 15-67 considers necessary [~~desirable~~], but shall be made at intervals not
 15-68 exceeding six months [~~one year~~].

15-69 SECTION 28. Section 61.0731, Human Resources Code, is

16-1 amended by adding Subsection (c) to read as follows:

16-2 (c) The commission may disclose to a peace officer or law
 16-3 enforcement agency images of children recorded by an electronic
 16-4 recording device and incident reporting and investigation
 16-5 documents containing the names of children if the information is
 16-6 relevant to the investigation of a criminal offense alleged to have
 16-7 occurred in a facility operated by or under contract with the
 16-8 commission.

16-9 SECTION 29. Subchapter E, Chapter 61, Human Resources Code,
 16-10 is amended by adding Sections 61.0763 and 61.0764 to read as
 16-11 follows:

16-12 Sec. 61.0763. RIGHTS OF PARENTS. (a) The commission shall
 16-13 develop a parent's bill of rights for distribution to the parent or
 16-14 guardian of a child who is under 18 years of age and committed to the
 16-15 commission. The parent's bill of rights must include:

16-16 (1) a description of the commission's grievance
 16-17 policies and procedures, including contact information for the
 16-18 office of inspector general and the office of ombudsman;

16-19 (2) a list of possible incidents that require parental
 16-20 notification;

16-21 (3) policies concerning visits and telephone
 16-22 conversations with a child committed to the commission;

16-23 (4) a description of commission caseworker
 16-24 responsibilities; and

16-25 (5) a statement that the commission caseworker
 16-26 assigned to a child may assist the child's parent or guardian in
 16-27 obtaining information and services from the commission and other
 16-28 resources concerning:

16-29 (A) counseling, including substance abuse and
 16-30 mental health counseling;

16-31 (B) assistance programs, including financial and
 16-32 travel assistance programs for visiting a child committed to the
 16-33 commission;

16-34 (C) workforce preparedness programs;

16-35 (D) parenting programs; and

16-36 (E) commission seminars.

16-37 (b) Not later than 48 hours after the time a child is
 16-38 admitted to a commission facility, the commission shall mail to the
 16-39 child's parent or guardian at the last known address of the parent
 16-40 or guardian:

16-41 (1) the parent's bill of rights; and

16-42 (2) the contact information of the commission
 16-43 caseworker assigned to the child.

16-44 (c) The commission shall on a quarterly basis provide to the
 16-45 parent, guardian, or designated advocate of a child who is in the
 16-46 custody of the commission a report concerning the progress of the
 16-47 child at the commission, including:

16-48 (1) the academic and behavioral progress of the child;
 16-49 and

16-50 (2) the results of any reexamination of the child
 16-51 conducted under Section 61.072.

16-52 Sec. 61.0764. COMMISSION CASEWORKERS. (a) The commission
 16-53 shall assign a caseworker to a child committed to the commission. A
 16-54 commission caseworker shall:

16-55 (1) explore family issues and needs with the parent or
 16-56 guardian of a child committed to the commission;

16-57 (2) as needed, provide the parent or guardian of a
 16-58 child committed to the commission with information concerning
 16-59 programs and services provided by the commission or another
 16-60 resource; and

16-61 (3) perform other duties required by the commission.

16-62 (b) A commission caseworker shall:

16-63 (1) at least once a month, attempt to contact the
 16-64 child's parent or guardian by phone, in person while the parent or
 16-65 guardian is visiting the facility, or, if necessary, by mail;

16-66 (2) if unsuccessful in contacting the child's parent
 16-67 or guardian under Subdivision (1), attempt at least one additional
 16-68 time each month to contact the child's parent or guardian; and

16-69 (3) document successful as well as unsuccessful

17-1 attempts to contact the child's parent or guardian.

17-2 (c) To the extent practicable, a caseworker or another
 17-3 facility administrator shall attempt to communicate with a parent
 17-4 or guardian who does not speak English in the native language of the
 17-5 parent or guardian.

17-6 SECTION 30. Subsection (a), Section 61.079, Human Resources
 17-7 Code, is amended to read as follows:

17-8 (a) After a child sentenced to commitment under Section
 17-9 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, becomes 16 years
 17-10 of age but before the child becomes 19 [~~21~~] years of age, the
 17-11 commission may refer the child to the juvenile court that entered
 17-12 the order of commitment for approval of the child's transfer to the
 17-13 [~~institutional division of the~~] Texas Department of Criminal
 17-14 Justice for confinement if:

17-15 (1) the child has not completed the sentence; and

17-16 (2) the child's conduct, regardless of whether the
 17-17 child was released under supervision under Section 61.081,
 17-18 indicates that the welfare of the community requires the transfer.

17-19 SECTION 31. Subchapter E, Chapter 61, Human Resources Code,
 17-20 is amended by adding Section 61.0791 to read as follows:

17-21 Sec. 61.0791. EVALUATION OF CERTAIN CHILDREN SERVING
 17-22 DETERMINATE SENTENCES. (a) When a child who is sentenced to
 17-23 commitment under Section 54.04(d)(3), 54.04(m), or 54.05(f),
 17-24 Family Code, becomes 18 years of age, the commission shall evaluate
 17-25 whether the child is in need of additional services that can be
 17-26 completed in the six-month period after the child's 18th birthday
 17-27 to prepare the child for release from the custody of the commission
 17-28 or transfer to the Texas Department of Criminal Justice.

17-29 (b) This section does not apply to a child who is released
 17-30 from the custody of the commission or who is transferred to the
 17-31 Texas Department of Criminal Justice before the child's 18th
 17-32 birthday.

17-33 SECTION 32. Subchapter F, Chapter 61, Human Resources Code,
 17-34 is amended by adding Sections 61.0814 and 61.0815 to read as
 17-35 follows:

17-36 Sec. 61.0814. REENTRY AND REINTEGRATION PLAN. The
 17-37 commission shall develop a reentry and reintegration plan for each
 17-38 child committed to the custody of the commission. The plan for a
 17-39 child must include, as applicable:

17-40 (1) housing assistance;

17-41 (2) a step-down program, such as placement in a
 17-42 halfway house;

17-43 (3) family counseling;

17-44 (4) academic and vocational mentoring;

17-45 (5) trauma counseling for a child who is a victim of
 17-46 abuse while in the custody of the commission; and

17-47 (6) other specialized treatment services appropriate
 17-48 for the child.

17-49 Sec. 61.0815. COMPLETION OF MINIMUM LENGTH OF STAY.
 17-50 (a) After a child who is committed to the commission without a
 17-51 determinate sentence completes the minimum length of stay
 17-52 established by the commission for the child under Section 61.062,
 17-53 the commission shall, in the manner provided by this section:

17-54 (1) discharge the child from the custody of the
 17-55 commission;

17-56 (2) release the child under supervision under Section
 17-57 61.081; or

17-58 (3) extend the length of the child's stay in the
 17-59 custody of the commission.

17-60 (b) The executive commissioner by rule shall establish a
 17-61 panel whose function is to review and determine whether a child who
 17-62 has completed the child's minimum length of stay should be
 17-63 discharged from the custody of the commission as provided by
 17-64 Subsection (a)(1), be released under supervision under Section
 17-65 61.081 as provided by Subsection (a)(2), or remain in the custody of
 17-66 the commission for an additional period of time as provided by
 17-67 Subsection (a)(3).

17-68 (c) The executive commissioner shall determine the size of
 17-69 the panel and the length of the members' terms of service on the

18-1 panel. The panel must consist of an odd number of members and the
 18-2 terms of the panel's members must last for at least two years. A
 18-3 member of the panel is an employee of the commission and may not be
 18-4 involved in any supervisory decisions concerning children in the
 18-5 custody of the commission. The executive commissioner shall adopt
 18-6 policies that ensure the transparency, consistency, and
 18-7 objectivity of the panel's composition, procedures, and decisions.
 18-8 The executive commissioner shall appoint persons to serve as
 18-9 members of the panel.

18-10 (d) The panel may extend the length of the child's stay as
 18-11 provided by Subsection (a)(3) only if the panel determines by
 18-12 majority vote and on the basis of clear and convincing evidence that
 18-13 the child is in need of additional rehabilitation from the
 18-14 commission and that the commission will provide the most suitable
 18-15 environment for that rehabilitation. In extending the length of a
 18-16 child's stay, the panel must specify the additional period of time
 18-17 that the child is to remain in the custody of the commission and
 18-18 must conduct an additional review and determination as provided by
 18-19 this section on the child's completion of the additional term of
 18-20 stay. If the panel determines that the child's length of stay
 18-21 should not be extended, the commission must discharge the child
 18-22 from the custody of the commission as provided by Subsection (a)(1)
 18-23 or release the child under supervision under Section 61.081 as
 18-24 provided by Subsection (a)(2).

18-25 (e) The commission shall maintain statistics of the number
 18-26 of extensions granted by the panel. The statistics must include
 18-27 aggregated information concerning:

18-28 (1) the race, sex, specialized treatment needs, and
 18-29 county of origin for each child for whom an extension order is
 18-30 requested;

18-31 (2) the facility in which the child is confined; and

18-32 (3) if applicable, any allegations concerning the
 18-33 abuse, mistreatment, or neglect of the child, aggregated by the
 18-34 type of misconduct to which the child was subjected.

18-35 (f) To the extent authorized under law, the statistics
 18-36 maintained under Subsection (e) are public information under
 18-37 Chapter 552, Government Code, and the commission shall post the
 18-38 statistics on the commission's Internet website. The commission
 18-39 shall prepare and deliver to the standing committees of the senate
 18-40 and house of representatives with primary jurisdiction over matters
 18-41 concerning correctional facilities a report concerning the
 18-42 statistics maintained under Subsection (e).

18-43 (g) The commission shall provide a report to the parent,
 18-44 guardian, or designated advocate of a child whose length of stay is
 18-45 extended under this section explaining the panel's reason for the
 18-46 extension.

18-47 SECTION 33. Subsections (e) and (g), Section 61.084, Human
 18-48 Resources Code, are amended to read as follows:

18-49 (e) Except as provided by Subsection [~~(f)~~ or] (g), the
 18-50 commission shall discharge from its custody a person not already
 18-51 discharged on the person's 19th [~~21st~~] birthday.

18-52 (g) The commission shall transfer a person who has been
 18-53 sentenced under a determinate sentence to commitment under Section
 18-54 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, or who has been
 18-55 returned to the commission under Section 54.11(i)(1), Family Code,
 18-56 to the custody of the [~~pardons and paroles division of the~~] Texas
 18-57 Department of Criminal Justice on the person's 19th [~~21st~~]
 18-58 birthday, if the person has not already been discharged or
 18-59 transferred, to serve the remainder of the person's sentence on
 18-60 parole as provided by Section 508.156, Government Code.

18-61 SECTION 34. Subsection (a), Section 61.0841, Human
 18-62 Resources Code, is amended to read as follows:

18-63 (a) Not later than the 90th day before the date the
 18-64 commission transfers a person to the custody of [~~the pardons and~~
 18-65 ~~paroles division of~~] the Texas Department of Criminal Justice for
 18-66 release on parole under Section 61.081(f) or 61.084(g) [~~61.084(f)~~
 18-67 ~~or (g)~~], the commission shall submit to the department all
 18-68 pertinent information relating to the person, including:

18-69 (1) the juvenile court judgment;

- 19-1 (2) the circumstances of the person's offense;
- 19-2 (3) the person's previous social history and juvenile
- 19-3 court records;
- 19-4 (4) the person's physical and mental health record;
- 19-5 (5) a record of the person's conduct, employment
- 19-6 history, and attitude while committed to the commission;
- 19-7 (6) a record of the sentence time served by the person
- 19-8 at the commission and in a juvenile detention facility in
- 19-9 connection with the conduct for which the person was adjudicated;
- 19-10 and
- 19-11 (7) any written comments or information provided by
- 19-12 the commission, local officials, family members of the person, ~~[or]~~
- 19-13 victims of the offense, or the general public.

19-14 SECTION 35. Subsection (a), Section 61.093, Human Resources
 19-15 Code, is amended to read as follows:

19-16 (a) If a child who has been committed to the commission and
 19-17 placed by it in any institution or facility has escaped or has been
 19-18 released under supervision and broken the conditions of release:

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

19-21 (2) a parole officer or other commission employee
 19-22 designated by the executive commissioner ~~[director]~~ may, without a
 19-23 warrant or other order, take the child into the custody of the
 19-24 commission.

19-25 SECTION 36. Subchapter G, Chapter 61, Human Resources Code,
 19-26 is amended by adding Section 61.098 to read as follows:

19-27 Sec. 61.098. PROSECUTION OF CERTAIN CRIMES CONCERNING THE
 19-28 COMMISSION. (a) As appropriate, the district attorney, criminal
 19-29 district attorney, or county attorney performing the duties of a
 19-30 district attorney who would otherwise represent the state in the
 19-31 prosecution of an offense or delinquent conduct concerning the
 19-32 commission and described by Article 104.003(a), Code of Criminal
 19-33 Procedure, may request that the special prosecution unit prosecute
 19-34 the offense or delinquent conduct.

19-35 (b) The special prosecution unit shall on a quarterly basis
 19-36 provide the executive commissioner and the standing committees of
 19-37 the senate and house of representatives with primary jurisdiction
 19-38 over matters concerning correctional facilities with a report
 19-39 concerning offenses or delinquent conduct prosecuted by the special
 19-40 prosecution unit on receiving a request for assistance under this
 19-41 section. A report under this subsection is public information
 19-42 under Chapter 552, Government Code, and the commission shall
 19-43 publish the report on the commission's Internet website. A report
 19-44 must be both aggregated and disaggregated by individual facility
 19-45 and include information relating to:

19-46 (1) the number of requests for assistance received
 19-47 under this section;

19-48 (2) the number of cases investigated and the number of
 19-49 cases prosecuted on receiving a request for assistance under this
 19-50 section;

19-51 (3) the types and outcomes of cases prosecuted by the
 19-52 special prosecution unit on receiving a request for assistance
 19-53 under this section, such as whether the case concerned narcotics or
 19-54 an alleged incident of sexual abuse; and

19-55 (4) the relationship of a victim to a perpetrator, if
 19-56 applicable.

19-57 SECTION 37. Subsection (a), Section 141.022, Human
 19-58 Resources Code, is amended to read as follows:

19-59 (a) The advisory council on juvenile services consists of:

19-60 (1) two juvenile court judges, appointed by the
 19-61 commission;

19-62 (2) three juvenile probation officers, appointed by
 19-63 the commission;

19-64 (3) two citizens who are knowledgeable of juvenile
 19-65 services, appointed by the commission;

19-66 (4) the executive commissioner ~~[director]~~ of the Texas
 19-67 Youth Commission or the commissioner's ~~[director's]~~ designee;

19-68 (5) the commissioner of education or the
 19-69 commissioner's designee; and

20-1 (6) the commissioner of human services or the
20-2 commissioner's designee.

20-3 SECTION 38. Subsection (b), Section 141.047, Human
20-4 Resources Code, is amended to read as follows:

20-5 (b) The director, the executive commissioner [~~director~~] of
20-6 the Texas Youth Commission, and the commissioners of education,
20-7 mental health and mental retardation, and human services shall meet
20-8 in Austin at least quarterly to:

- 20-9 (1) discuss mutual problems;
20-10 (2) resolve conflicts in providing services to
20-11 juveniles; and
20-12 (3) make recommendations to the governor and
20-13 legislature.

20-14 SECTION 39. Subsection (c), Section 141.0471, Human
20-15 Resources Code, is amended to read as follows:

20-16 (c) The governing board of the Texas Juvenile Probation
20-17 Commission and the executive commissioner of the Texas Youth
20-18 Commission [~~each agency~~] shall adopt the coordinated strategic plan
20-19 on or before December 1st of each odd-numbered year, or before the
20-20 adoption of the agency's individual strategic plan, whichever is
20-21 earlier.

20-22 SECTION 40. Subsection (c), Section 110.302, Occupations
20-23 Code, is amended to read as follows:

20-24 (c) The Texas Board of Criminal Justice may vote or the
20-25 executive commissioner [~~governing board~~] of the Texas Youth
20-26 Commission may decide [~~vote~~] to exempt employees of the Texas
20-27 Department of Criminal Justice or the Texas Youth Commission, as
20-28 appropriate, from a specific licensing requirement imposed under
20-29 this section if the board or executive commissioner determines that
20-30 the requirement causes financial or operational hardship on the
20-31 agency.

20-32 SECTION 41. Subsections (b) and (d), Section 39.04, Penal
20-33 Code, are amended to read as follows:

20-34 (b) An offense under Subsection (a)(1) is a Class A
20-35 misdemeanor. An offense under Subsection (a)(2) is a state jail
20-36 felony, except that an offense under Subsection (a)(2) is a felony
20-37 of the second degree if the individual is in the custody of the
20-38 Texas Youth Commission.

20-39 (d) The Attorney General of Texas shall have concurrent
20-40 jurisdiction with law enforcement agencies to investigate
20-41 violations of this statute involving serious bodily injury or
20-42 death, except that the attorney general shall have concurrent
20-43 jurisdiction with law enforcement agencies to investigate any
20-44 violation of this statute involving an individual in the custody of
20-45 the Texas Youth Commission.

20-46 SECTION 42. Section 43.25, Penal Code, is amended by
20-47 amending Subdivision (1) and adding Subdivision (8) to read as
20-48 follows:

20-49 (1) "Sexual performance" means any performance or part
20-50 thereof that includes sexual conduct by a child [~~younger than 18~~
20-51 ~~years of age~~].

20-52 (8) "Child" means a person who is:
20-53 (A) younger than 18 years of age; or
20-54 (B) in the custody of the Texas Youth Commission.

20-55 SECTION 43. Section 43.25, Penal Code, is amended by
20-56 amending Subsections (b), (d), and (g) and adding Subsection (f-1)
20-57 to read as follows:

20-58 (b) A person commits an offense if, knowing the character
20-59 and content thereof, he employs, authorizes, or induces a child
20-60 [~~younger than 18 years of age~~] to engage in sexual conduct or a
20-61 sexual performance. A parent or legal guardian or custodian of a
20-62 child [~~younger than 18 years of age~~] commits an offense if he
20-63 consents to the participation by the child in a sexual performance.

20-64 (d) A person commits an offense if, knowing the character
20-65 and content of the material, he produces, directs, or promotes a
20-66 performance that includes sexual conduct by a child [~~younger than~~
20-67 ~~18 years of age~~].

20-68 (f-1) The affirmative defense to prosecution provided by
20-69 Subsection (f)(3) does not apply to the prosecution of an alleged

21-1 offense involving a child in the custody of the Texas Youth
 21-2 Commission.

21-3 (g) When it becomes necessary for the purposes of this
 21-4 section or Section 43.26 to determine the age of [~~whether~~]
 21-5 who participated in sexual conduct [~~was younger than 18 years of~~
 21-6 ~~age~~], the court or jury may make this determination by any of the
 21-7 following methods:

- 21-8 (1) personal inspection of the child;
- 21-9 (2) inspection of the photograph or motion picture
 21-10 that shows the child engaging in the sexual performance;
- 21-11 (3) oral testimony by a witness to the sexual
 21-12 performance as to the age of the child based on the child's
 21-13 appearance at the time;
- 21-14 (4) expert medical testimony based on the appearance
 21-15 of the child engaging in the sexual performance; or
- 21-16 (5) any other method authorized by law or by the rules
 21-17 of evidence at common law.

21-18 SECTION 44. The following laws are repealed:

- 21-19 (1) Subsections (s) and (t), Section 54.04, Family
 21-20 Code;
- 21-21 (2) Subsection (k), Section 54.05, Family Code; and
- 21-22 (3) Subdivision (3), Section 61.001, Sections
 21-23 61.0122, 61.014, 61.015, and 61.017, and Subsection (f), Section
 21-24 61.084, Human Resources Code.

21-25 SECTION 45. A person committed to the Texas Youth
 21-26 Commission on the basis of conduct constituting the commission of
 21-27 an offense of the grade of misdemeanor under Subdivision (2),
 21-28 Subsection (d), Section 54.04, Family Code, as it existed before
 21-29 the effective date of this Act, must be discharged from the custody
 21-30 of the Texas Youth Commission not later than the person's 19th
 21-31 birthday.

21-32 SECTION 46. The change in law made by this Act to Subsection
 21-33 (b), Section 39.04 and Section 43.25, Penal Code, applies only to an
 21-34 offense committed on or after September 1, 2007. An offense
 21-35 committed before September 1, 2007, is governed by the law in effect
 21-36 when the offense was committed, and the former law is continued in
 21-37 effect for that purpose. For purposes of this section, an offense
 21-38 was committed before September 1, 2007, if any element of the
 21-39 offense occurred before that date.

21-40 SECTION 47. (a) Section Subsection (b), 61.0356, Human
 21-41 Resources Code, as added by this Act, applies only to a juvenile
 21-42 correctional officer hired by the Texas Youth Commission on or
 21-43 after the effective date of this Act. As soon as practicable but
 21-44 not later than six months after the effective date of this Act, the
 21-45 Texas Youth Commission shall complete providing the training to
 21-46 juvenile correctional officers hired before the effective date of
 21-47 this Act that is necessary to conform to the requirements of
 21-48 Subsection (b), Section 61.0356, Human Resources Code, as added by
 21-49 this Act.

21-50 (b) As soon as practicable after the effective date of this
 21-51 Act, the Texas Youth Commission shall ensure that:

- 21-52 (1) each correctional facility operated by the
 21-53 commission that has a dormitory, including an open-bay dormitory,
 21-54 has a ratio of not less than one juvenile correctional officer
 21-55 performing direct supervisory duties for every 12 children
 21-56 committed to the facility, as required by Subsection (d), Section
 21-57 61.0356, Human Resources Code, as added by this Act; and

- 21-58 (2) male children younger than 15 years of age are
 21-59 assigned to separate correctional facility dorms from persons who
 21-60 are at least 17 years of age as required by Section 61.061, Human
 21-61 Resources Code, as added by this Act.

21-62 SECTION 48. As soon as practicable after the effective date
 21-63 of this Act, the governor shall appoint:

- 21-64 (1) the executive commissioner of the Texas Youth
 21-65 Commission, as required by Section 61.012, Human Resources Code, as
 21-66 amended by this Act, with a term of office expiring February 1,
 21-67 2009; and

- 21-68 (2) members of the advisory board of the Texas Youth
 21-69 Commission, as required by Section 61.013, Human Resources Code, as

amended by this Act, with terms of office expiring February 1, 2009.

SECTION 49. Before October 1, 2007, the Texas Youth Commission shall certify to the Employees Retirement System of Texas, in the manner prescribed by the retirement system, the name of each person employed by the office of inspector general at the Texas Youth Commission as a law enforcement officer, as defined by Section 811.001, Government Code, as amended by this Act, and any other information the system determines is necessary for the crediting of service and financing of benefits under Subtitle B, Title 8, Government Code.

SECTION 50. As soon as practicable after the effective date of this Act, the Texas Youth Commission shall, in the manner prescribed by Section 61.0357, Human Resources Code, as added by this Act, begin obtaining national criminal history record information for each person who applies for employment with the commission.

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

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

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