

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 1, 2007

TO: Honorable Jerry Madden, Chair, House Committee on Corrections

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB103 by Hinojosa (Relating to the Texas Youth Commission; providing penalties.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB103, As Engrossed: a negative impact of (\$14,373,782) through the biennium ending August 31, 2009.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	(\$13,379,226)
2009	(\$994,556)
2010	\$3,864,113
2011	\$5,232,457
2012	\$5,171,608

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2007
2008	(\$13,379,226)	258.0
2009	(\$994,556)	(62.5)
2010	\$3,864,113	(62.5)
2011	\$5,232,457	(62.5)
2012	\$5,171,608	(62.5)

Fiscal Analysis

The Human Resources Code would be amended to create a nine-member advisory board with two-year terms to adopt policies and rules concerning grievances and complaints against TYC, advise the executive commissioner on these matters, and assist the executive commissioner in the performance of his duties. The advisory board would be appointed by the governor with the consent of the senate, and the governor would designate a member of the advisory board as the chair. At least one member would be from a child advocacy group and at least one member would be from a victim advocacy organization. The bill would require 300 hours of training in specified topics for juvenile correctional officers (JCOs) in TYC prior to commencing duties at the assigned facility and would require TYC to maintain a staffing ratio of one JCO to twelve youth. The bill would establish the Office of Ombudsman at TYC for the purpose of evaluating the delivery of services to TYC youth, receiving and reviewing complaints, and conducting investigations of complaints. The bill would establish the Office of Inspector General within TYC and provide the agency the authority to hire commissioned peace officers as inspectors general. The Office of Inspector General would investigate staff and youth offenses occurring within TYC facilities.

The bill would amend the Family Code to restrict juvenile courts from committing youth to TYC for a

misdemeanor crime, or for violation of misdemeanor probation, and would require TYC to release any youth currently committed to TYC for a misdemeanor not later than the youth's 19th birthday. Chapter 61, Human Resources Code would be amended to lower the age a youth must be either released or transferred for confinement in the Department of Criminal Justice (TDCJ) to 19 years of age. TYC would be required to evaluate a youth serving a determinate sentence who becomes 18 years of age to determine if the youth is in need of additional services that could be completed within a six-month period after the youth's 18th birthday to prepare him for release or transfer to TDCJ.

The bill would authorize any attorney acting as a prosecuting district attorney to request that the special prosecution unit (SPU) prosecute an offense under Article 104.003(a) that occurs in a TYC facility. The bill would require the state to reimburse counties for certain expenses (travel, food and lodging for expert witnesses and jurors, payment to expert witnesses, interpreters, etc.) related to the prosecution of certain felony offenses committed in TYC facilities. The TYC internal auditor would be required to conduct audits of medical services and correctional facilities operated by or under contract with TYC. The executive commissioner would establish a panel whose function would be to review and determine whether a youth who has completed his minimum length of stay should be discharged, released on parole, or remain in TYC custody for a specified period of time. TYC would establish a process by which a youth, parent, guardian, or designated advocate could request reconsideration of an extension order issued by the panel. The bill would require TYC to assign a caseworker to youth who would explore family issues and needs with parents or guardians of TYC youth, provide the parent or guardian with information concerning programs and services provided by TYC, and perform other duties required by TYC. The bill would prohibit TYC from housing a male younger than age 15 in the same dormitory as a person who is 17 years of age or older unless TYC determines that the placement is necessary to ensure the safety of the youth in TYC custody.

The bill would require the executive commissioner to review the national criminal history record information of persons who apply for employment with TYC, persons employed by TYC, and volunteers who provide direct services to TYC youth. Any person who applies for employment would be required to submit a full set of fingerprints to the Department of Public Safety (DPS). TYC would be allowed to charge a fee for the cost of the initial national criminal history records review as long as the amount of the fee does not exceed the administrative costs incurred, including the cost of fingerprinting. TYC would be required to review criminal history records of employees and volunteers annually, and state criminal history records not less than every three months. Section 39.04 of the Penal Code would be amended to enhance an offense of engaging in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual in TYC custody to a second degree felony. The bill would add TYC reporting requirements and direct TYC to provide additional information and notifications to parents of TYC youth.

The bill would take effect immediately if passed by a two-thirds vote of all members elected to each house, or on September 1, 2007 if it does not receive the necessary vote.

Methodology

TYC reports the implementation of the bill would cost of \$6,006,871 in fiscal year 2008 and would cause a savings of (\$7,667,332) in fiscal year 2009. TYC based its estimates on the assumption that the bill requires at least one staff present for every twelve youth at all times. The agency would incur costs from the establishment of the Office of Inspector General, the Office of Ombudsman, the minimum length of stay review panel, additional internal audit staff and caseworkers. TYC estimates that the release of youth who are age 19 or older and are currently committed for misdemeanor offenses, and youth who commit misdemeanor offenses no longer being eligible for commitment to TYC would reduce the average daily population by 259 in fiscal year 2008 and 602 in fiscal year 2009. The release or transfer to TDCJ of felony offenders who are 19 or older and are currently committed to TYC, and the future implications of releasing or transferring all felony commitments at age 19 is estimated to reduce TYC population by 433 each year. Parole populations would be reduced by 26 misdemeanants in fiscal year 2008 and 159 in fiscal year 2009, and 932 felons each year. The impact of the population reduction would result in the closure of facilities, and a reduction in contracted capacity after the first two years.

TYC would require 896 additional staff to meet the provisions of the bill, offset by a reduction of 638 staff caused by the release by attrition of youth age 19 and misdemeanor offenders, for a total of 258 additional FTEs in fiscal year 2008. A decrease of -62.5 FTEs would be realized in fiscal year 2009 and in future years caused by the elimination of misdemeanor commitments and all youth age 19 being released or transferred to TDCJ.

In order to counter the savings to TYC from the provision of the bill that would release youth from TYC custody, the cost to TDCJ to accommodate the sentenced offenders and certain violent offenders that would be transferred to TDCJ was also included. TYC estimates that 404 youth would be transferred to TDCJ in fiscal

year 2008 and 278 youth would be transferred to TDCJ in each following fiscal year as a result of the bill. TYC also estimates 1,117 youth would be transferred to the adult parole system in fiscal year 2008 and 732 youth would be transferred to the adult parole system in each following fiscal year as a result of the bill.

In order to estimate the future impact of the proposal, the transfer of offenders from TYC to TDCJ was applied in a simulation model. Costs of incarceration by TDCJ are estimated on the basis of \$40 per inmate per day, reflecting approximate costs of either operating facilities or contracting with other entities. No costs are included for facility construction. Costs of parole supervision are estimated on the basis of \$3.51 per day. The total state fiscal impact to TDCJ would be a cost of \$6,088,445 in fiscal year 2008 and \$7,490,977 in fiscal year 2009 for a biennial cost to TDCJ of \$13,579,422.

The Walker County Special Prosecution Unit (SPU) estimates the bill would cost \$2,454,820 for the biennium. Costs would include salaries (\$1,934,000), professional fees and services (\$65,260), fuels and lubricants (\$40,000), office supplies (\$20,000), utilities (\$67,400), travel expenses (\$50,000), rent (\$116,560), other operating expenses (\$81,600), and vehicles (\$80,000). These cost estimates are based on the assumption of 100-120 TYC cases per year, which differs from the TYC assumption of 50-60 cases per year. The SPU reports that these cases would include youth assaultive, drug, weapons, and organized crime (gang-related) offenses, as well as staff offenses against youth, causing a higher estimate than TYC's.

Technology

The technology impact of the bill is estimated at \$57,852 in fiscal year 2008 with ongoing costs of \$2,052 in future years.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 694 Youth Commission

LBB Staff: JOB, ES, GG, AI