

BILL ANALYSIS

C.S.H.B. 1586
By: McClendon
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that Texas counties and the Texas Juvenile Justice Department need more legislative support in order to commit juvenile offenders to appropriate facilities or settings at the state and local levels and to offer rehabilitative programs to help reduce recidivism rates. C.S.H.B. 1586 seeks to address these issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Juvenile Justice Board in SECTION 1.03 and SECTION 4.04 of this bill and to the office of independent ombudsman for the Texas Juvenile Justice Department in SECTION 4.04 of this bill.

ANALYSIS

Regional Associations and Juvenile Boards

C.S.H.B. 1586 amends the Human Resources Code to require the Texas Juvenile Justice Board by rule to designate regional associations, create a leadership structure for each regional association, and require each juvenile probation department to affiliate with one regional association. The bill requires a regional association and the association's affiliations to be designated by geographic region. The bill requires the board to design the leadership structure of a regional association in a manner that ensures representation from small, medium, and large counties, with that categorization being determined by a county's population of persons younger than 18 years of age. The bill requires the executive director of the Texas Juvenile Justice Department (TJJD) to designate at least one TJJD employee for each regional association to assist the region in furthering the goals of the juvenile justice system for the region while assuring accountability, quality, consistency, and transparency and establishes that, to the extent practicable, the employee is located in the region to which the employee is assigned. The bill authorizes TJJD to contract with a juvenile board or other entity to provide office space for the designated employee.

C.S.H.B. 1586 requires each regional association created under the bill's provisions to develop a written plan to outline the manner in which the juvenile probation departments affiliated with the association collaborate to further the purposes and goals of the juvenile justice system, including the goal of reducing the number of children committed to TJJD in a manner that protects the safety of the children while ensuring public safety. The bill sets out the required contents of each such plan. The bill requires TJJD to assist a regional association in the development of a regional plan and requires the executive director to review each regional plan and to provide

recommendations regarding the plan to the regional association not later than the 90th day after the date the executive director receives the plan. The bill requires the executive director to certify specified information regarding a regional association's regional plan before an association is authorized to implement the plan. The bill requires TJJJ to assist each regional association in implementing the association's regional plan, including providing training and technical assistance as necessary or appropriate, and to include information regarding each regional plan in the report submitted by TJJJ regarding TJJJ studies and statistical records, including information on the implementation and effectiveness of each plan. The bill requires the board to adopt rules necessary to implement the bill's provisions relating to the development and implementation of regional plans.

C.S.H.B. 1586 postpones from September 1, 2017, to September 1, 2021, the date on which the board and TJJJ are abolished unless continued in existence as provided by the Texas Sunset Act.

C.S.H.B. 1586 clarifies that the juvenile services for the provision of which TJJJ is required to annually allocate funds to juvenile boards are juvenile probation services. The bill removes TJJJ's discretion to set aside a portion of the funds appropriated to TJJJ for state aid to fund programs designed to address special needs or projects of local juvenile boards and instead requires TJJJ to take such action. The bill requires TJJJ to develop discretionary grant funding protocols based on documented criteria, including data-driven, research-based criteria, or promising practices. The bill requires TJJJ to identify in its legislative appropriations request for each fiscal biennium the amount of state aid needed to ensure sustained support for programs to ensure that the programs adequately address the rehabilitative needs of children who are diverted from commitment to TJJJ facilities. The bill requires TJJJ, in regard to children placed in a facility or program in accordance with a regional plan created under the bill's provisions, to develop a method to identify children who were likely to have been committed to TJJJ facilities, but as a result of the implementation of the regional plans, were not committed to TJJJ. The bill prohibits TJJJ from adversely impacting the state aid for a juvenile board or a juvenile probation department that does not enter into a contract to serve youth from other counties or does not act as a regional facility. The bill prohibits a post-adjudication secure correctional facility from being required to accept placement of a child, unless the child is subject to an order issued by the local juvenile court and placed in an area served by the juvenile probation board or department where the facility is located, and from being required to accept a child who is not under the jurisdiction of the local juvenile probation department where the facility is located.

C.S.H.B. 1586 prohibits a new county post-adjudication residential facility from having a residential capacity of more than 96 beds if TJJJ provides state aid to the county to construct the facility.

Texas Juvenile Justice Department Facilities

C.S.H.B. 1586 amends the Human Resources Code to prohibit a new residential facility constructed by TJJJ from having a residential capacity of more than 96 beds. The bill authorizes TJJJ to close a residential facility operated by TJJJ if the board approves the closure following a public meeting in which the board determines that the capacity level and resident and staff safety warrant the closure of the facility. The bill requires TJJJ, before closing a TJJJ facility, to determine whether the facility can be repurposed for the needs of TJJJ.

C.S.H.B. 1586 authorizes the board, with the assistance of the General Land Office (GLO), to sell or transfer to a county or municipality a closed facility that is owned by TJJJ on real property owned by TJJJ and that does not receive funding from the legislature for the facility's operations. The bill requires the board, before transferring or selling a closed facility, to determine if it is feasible for the facility to be repurposed to meet the needs of TJJJ and the youth being served by TJJJ. The bill provides that the consideration for such a transfer is the requirement that the county or municipality use the property transferred only for a purpose that benefits the public interest of the state and establishes that ownership of the property

automatically reverts to TJJD if the county or municipality no longer uses the property for a public purpose. The bill requires the board, if a facility is transferred to a county or municipality, to transfer the property by an appropriate instrument of transfer, executed by the commissioner of the GLO, sets out the required contents of the instrument of transfer, and requires TJJD to retain custody of the instrument of transfer after the instrument of transfer is filed in the real property records of the county in which the property is located. The bill requires any expenses incurred by the GLO in connection with such a transfer to be paid to the GLO by the county or municipality to which the property is transferred. These provisions relating to the sale or transfer of closed facilities expire September 1, 2021.

Commitment of Juvenile Offenders

C.S.H.B. 1586 amends the Family Code to condition a court's authority to commit a child who is found to have engaged in delinquent conduct constituting a felony under state or federal law and for whom a petition for indictment was not approved by a grand jury to TJJD or a post-adjudication secure correctional facility operated by or under contract with a juvenile board or local juvenile probation department without a determinate sentence on the court including in its order a finding that commitment is necessary to meet the juvenile's rehabilitative needs and is appropriate, as demonstrated by the evidence admitted at the child's disposition hearing, including the results of a validated risk and needs assessment, before the disposition is ordered. The bill establishes that this condition applies only to conduct violating a penal law that occurs on or after September 1, 2017.

Office of Independent Ombudsman

C.S.H.B. 1586 amends the Human Resources Code to expand the purposes of the office of independent ombudsman for TJJD to include investigating, evaluating, and securing the rights of the children placed in a post-adjudication secure correctional facility. The bill includes any particularly serious or flagrant civil rights violation concerning a child placed in such a facility, not including a complaint alleging criminal behavior, among the situations that the independent ombudsman is required to immediately report to certain government officials.

C.S.H.B. 1586 requires the office and the board to adopt rules that establish procedures for a post-adjudication secure correctional facility administrator, chief juvenile probation officer of a juvenile probation department, or juvenile board to comment on reports of the office related to children placed in a post-adjudication secure correctional facility, including procedures for TJJD to expedite or eliminate review in a manner consistent with applicable office and board rules. The bill adds the following to the duties of the independent ombudsman: to conduct an investigation of a civil rights complaint concerning a child placed in a post-adjudication secure correctional facility, not including a complaint alleging criminal behavior; to assist a child placed in such a facility if TJJD determines that the child is in need of assistance from the office; and to immediately report the findings of any investigation to the chief juvenile probation officer and the juvenile board of the county in which the facility is located and to the juvenile probation department arranging the placement of the child.

Transition

C.S.H.B. 1586 authorizes the legislature to appropriate funding to TJJD at levels sufficient to enable TJJD to fulfill its statutory responsibilities and adequately and effectively care for the youth under its jurisdiction and establishes that the continuity of funding to TJJD should be regarded as essential during the period of transition and implementation of the regionalization plans described by the bill. The bill requires TJJD to allocate funds appropriated to TJJD by the legislature in the General Appropriations Act in amounts necessary to fulfill its statutory responsibilities and to adequately and effectively care for the youth under TJJD's custody. The bill requires TJJD to allocate funds to regional associations created under the bill's provisions as necessary for the implementation of the regional plans adopted by the associations. The bill

requires an initial regional plan to be submitted to the executive director of TJJD not later than May 1, 2016, and to include provisions for the implementation of the plan beginning not later than December 1, 2016.

Repealer

C.S.H.B. 1586 repeals Section 261.101(e), Human Resources Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1586 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 37.0062(c) and (d), Education Code, are amended to read as follows:

No equivalent provision.

(c) The commissioner shall adopt rules necessary to administer this section. The rules must ensure that:

(1) a student who receives education services in a pre-adjudication secure detention facility described by this section is offered courses that enable the student to maintain progress toward completing high school graduation requirements; ~~and~~

(2) a student who receives education services in a post-adjudication secure correctional facility described by this section is offered, at a minimum, the courses necessary to enable the student to complete high school graduation requirements; and

(3) a student who receives education services in a post-adjudication secure correctional facility is offered vocational training classes.

(d) The Texas Juvenile Justice Department ~~[Probation Commission or the Texas Youth Commission, as applicable,]~~ shall coordinate with the commissioner in establishing standards for:

(1) ensuring security in the provision of education services in the facilities; ~~and~~

(2) providing children in the custody of the facilities access to education services; and

(3) ensuring that the education services provided to children in the custody of the facilities are age-appropriate and designed to minimize disproportionality of confinement in regards to racial or ethnic

diversity.

No equivalent provision.

ARTICLE 1. REGIONAL
ASSOCIATIONS AND JUVENILE
BOARDS

No equivalent provision.

SECTION 1.01. Section 201.002, Human Resources Code, is amended to read as follows:

Sec. 201.002. PURPOSES AND INTERPRETATION. This title shall be construed to have the following public purposes:

(1) creating a unified state juvenile justice agency that works in partnership with local county governments, the courts, regional associations, and communities to promote public safety by providing a full continuum of effective supports and services to youth from initial contact through termination of supervision; and

(2) creating a juvenile justice system that produces positive outcomes for youth, families, and communities by:

(A) assuring accountability, quality, consistency, and transparency through effective monitoring and the use of systemwide performance measures;

(B) promoting the use of program and service designs and interventions proven to be most effective in rehabilitating youth;

(C) prioritizing the use of community-based or family-based programs and services for youth over the placement or commitment of youth to a secure facility;

(D) operating the state facilities to effectively house and rehabilitate the youthful offenders that cannot be safely served in another setting; and

(E) protecting and enhancing the cooperative agreements between state and local county governments.

No equivalent provision.

SECTION 1.02. Section 201.003, Human Resources Code, is amended to read as follows:

Sec. 201.003. GOALS. The goals of the department and all programs, facilities, and services that are operated, regulated, or funded by the department are to:

(1) support the development of a consistent county-based continuum of effective interventions, supports, and services for youth and families that reduce the need for out-of-home placement;

- (2) increase reliance on alternatives to placement and commitment to secure state facilities, consistent with adequately addressing a youthful offender's treatment needs and protection of the public;
- (3) locate the facilities as geographically close as possible to necessary workforce and other services while supporting the youths' connection to their families;
- (4) encourage regional cooperation that enhances county collaboration, while ensuring sufficient state aid and support for that endeavor;
- (5) enhance the continuity of care throughout the juvenile justice system; and
- (6) use secure facilities of a size that supports effective youth rehabilitation and public safety.

No equivalent provision.

SECTION 1.03. Chapter 201, Human Resources Code, is amended by adding Sections 201.005 and 201.006 to read as follows:

Sec. 201.005. REGIONAL ASSOCIATIONS. (a) The board by rule shall designate regional associations, create a leadership structure for each regional association, and require each juvenile probation department to affiliate with one regional association. A regional association and the association's affiliations must be designated by geographic region.

(b) The board shall design the leadership structure of a regional association in a manner that ensures representation from counties from each of the following categories:

(1) small counties, with a population of fewer than 7,500 persons younger than 18 years of age;

(2) medium counties, with a population of at least 7,500 but fewer than 80,000 persons younger than 18 years of age; and

(3) large counties, with a population of 80,000 or more persons younger than 18 years of age.

(c) The executive director shall designate at least one department employee for each regional association to assist the region in furthering the goals of the juvenile justice system for the region while assuring accountability, quality, consistency, and transparency. To the extent practicable, the employee is located in the region to which the employee is assigned. The department

may contract with a juvenile board or other entity to provide office space for the designated employee.

Sec. 201.006. REGIONAL PLANS. (a) Each regional association created under Section 201.005 shall develop a written plan to outline the manner in which the juvenile probation departments affiliated with the association collaborate to further the purposes and goals of the juvenile justice system under Sections 201.002 and 201.003, including the goal of reducing the number of children committed to the department in a manner that protects the safety of the children while ensuring public safety. Each regional plan must include the following:

(1) the results of a needs assessment conducted by the regional association, with a focus on identifying resources that exist and resources that are needed to implement the plan and to reduce the number of children committed to the department;

(2) methods for maximizing the use of community-based, family-based, and in-home treatment programs and services for juveniles instead of the placement of juveniles in secure facilities while ensuring public safety, including the use of a validated risk and needs assessment tool before making decisions regarding the placement of juveniles;

(3) methods for identifying juveniles eligible for commitment to the department who can be effectively rehabilitated in another setting;

(4) methods for using existing bed space, including contracting within the region and state, for the placement of juveniles in a manner that ensures that the juveniles are placed in facilities located as close to the juveniles' homes as possible, when appropriate;

(5) methods for providing research-based, effective treatment, including specialized treatment and treatment involving the families of juveniles, to meet the treatment needs of juveniles;

(6) a timeline for implementation of the plan;

(7) an analysis of funding needs and recommendations regarding methods of funding probation services in the region;

(8) an analysis of training needs to ensure proper training regarding the implementation of the plan for juvenile

justice professionals, including judges, probation staff, and attorneys;

(9) identification of any recommended statutory changes necessary to enable the regional association to implement the plan or to better serve juveniles;

(10) identification of any potential unintended effects associated with the plan; and

(11) any other issues deemed necessary or relevant by the executive director.

(b) The department shall assist a regional association in the development of a regional plan.

(c) The executive director shall review each regional plan and provide recommendations regarding the plan to the regional association not later than the 90th day after the date the executive director receives the plan.

(d) Before a regional association may implement a regional plan, the executive director must certify that the plan:

(1) sufficiently addresses each of the requirements under Subsection (a);

(2) is consistent with the purposes and goals for the juvenile justice system provided by Sections 201.002 and 201.003; and

(3) includes appropriate, research-based programs for the juveniles served.

(e) The department shall assist each regional association in implementing the association's regional plan, including providing training and technical assistance as necessary or appropriate.

(f) The department shall include information regarding each regional plan in the report developed under Section 203.007, including information on the implementation and effectiveness of each plan.

(g) The board shall adopt rules necessary to implement this section.

No equivalent provision.

SECTION 1.04. Section 202.010, Human Resources Code, is amended to read as follows:

Sec. 202.010. SUNSET PROVISION. The Texas Juvenile Justice Board and the Texas Juvenile Justice Department are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board and the department are abolished September 1, 2021 [~~2017~~].

No equivalent provision.

SECTION 1.05. Section 223.001, Human Resources Code, is amended by amending Subsections (a) and (c) and adding Subsections (d), (e), and (f) to read as follows:

(a) The department shall annually allocate funds for financial assistance to juvenile boards to provide juvenile probation services, as defined by Section 142.001. The allocation of funds shall be made according to current estimates of the number of juveniles in each county and other factors the department determines are appropriate.

(c) The department shall ~~may~~ set aside a portion of the funds appropriated to the department for state aid to fund programs designed to address special needs or projects of local juvenile boards. The department shall develop discretionary grant funding protocols based on documented criteria, including data-driven, research-based criteria, or promising practices.

(d) In the department's legislative appropriations request for each fiscal biennium, the department shall identify the amount of state aid needed to ensure sustained support for programs to ensure that the programs adequately address the rehabilitative needs of children who are diverted from commitment to the facilities of the department. In regard to children placed in a facility or program in accordance with a regional plan created under Section 201.006, the department shall develop a method to identify children who were likely to have been committed to the facilities of the department, but as a result of the implementation of the regional plans, were not committed to the department.

(e) The department may not adversely impact the state aid for a juvenile board or a juvenile probation department that does not enter into a contract to serve youth from other counties, or does not act as a regional facility.

(f) A post-adjudication secure correctional facility may not be required to accept placement of a child, unless the child is subject to an order issued by the local juvenile court and placed in an area served by the juvenile probation board or department where the facility is located. A post-adjudication secure correctional facility may not be required to accept a child who is not under the jurisdiction of the local

juvenile probation department where the facility is located.

No equivalent provision.

SECTION 1.06. Section 223.006(a), Human Resources Code, is amended to read as follows:

(a) The department may provide state aid to a county to acquire, construct, and equip post-adjudication residential or day-treatment centers from money appropriated for those purposes. The facilities may be used for children who are placed on probation by a juvenile court under Section 54.04, Family Code, as an alternative to commitment to the facilities of the department. If the state aid is provided under this section to a county to construct a new residential facility, the facility may not have a residential capacity of more than 96 beds.

No equivalent provision.

ARTICLE 2. TEXAS JUVENILE JUSTICE DEPARTMENT FACILITIES

No equivalent provision. (*But see SECTION 4 below.*)

SECTION 2.01. Section 242.052, Human Resources Code, is amended by adding Subsections (f), (g), and (h) to read as follows:

(f) A new residential facility constructed by the department may not have a residential capacity of more than 96 beds.

(g) The department may close a residential facility operated by the department if the board approves the closure following a public meeting in which the board determines that the capacity level and resident and staff safety warrant the closure of the facility.

(h) Before closing a department facility, the department must determine whether the facility can be repurposed for the needs of the department.

No equivalent provision. (*But see SECTION 6 below.*)

SECTION 2.02. Subchapter B, Chapter 242, Human Resources Code, is amended by adding Section 242.072 to read as follows:

Sec. 242.072. SALE OR TRANSFER OF CLOSED FACILITIES. (a) This section applies only to a closed facility on real property owned by the department.

(b) With the assistance of the General Land Office, the board may sell or transfer to a county or municipality a closed facility that is owned by the department and that does not receive funding from the legislature for the facility's operations. Before transferring

or selling a closed facility, the board shall determine if it is feasible for the facility to be repurposed to meet the needs of the department and the youth being served by the department.

(c) If a facility is transferred to a county or municipality, the consideration for the transfer is the requirement that the county or municipality use the property transferred only for a purpose that benefits the public interest of the state. If the county or municipality no longer uses the property for a public purpose, ownership of the property automatically reverts to the department.

(d) If a facility is transferred to a county or municipality, the board shall transfer the property by an appropriate instrument of transfer, executed on behalf of the agency by the commissioner of the General Land Office. The instrument of transfer must:

(1) provide that:

(A) the transferee shall use the property only for a purpose that benefits the public interest of the state; and

(B) ownership of the property automatically reverts to the department if the transferee uses the property for any purpose other than a purpose that benefits the public interest of the state;

(2) describe the property to be transferred by metes and bounds; and

(3) exclude from the transfer all mineral interests in and under the property and prohibit any exploration, drilling, or other similar intrusion on the property related to mineral interests.

(e) The department shall retain custody of the instrument of transfer after the instrument of transfer is filed in the real property records of the county in which the property is located.

(f) If property is transferred to a county or municipality, the expenses incurred by the General Land Office in connection with the transfer shall be paid to the General Land Office by the county or municipality.

(g) This section expires September 1, 2021.

No equivalent provision.

SECTION 2. Section 54.04(d)(2), Family Code, is amended to read as follows:

(d) If the court or jury makes the finding specified in Subsection (c) allowing the

ARTICLE 3. COMMITMENT OF JUVENILE OFFENDERS

SECTION 3.01. Section 54.04(d), Family Code, is amended to read as follows:

(d) If the court or jury makes the finding specified in Subsection (c) allowing the

court to make a disposition in the case:

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

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

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

(i) a suitable foster home;

(ii) a suitable public or private residential treatment facility licensed by a state governmental entity or exempted from licensure by state law, except a facility operated by the Texas Juvenile Justice Department; or

(iii) a suitable public or private post-adjudication secure correctional facility that meets the requirements of Section 51.125, except a facility operated by the Texas Juvenile Justice Department;

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony and if the petition was not approved by the grand jury under Section 53.045, the court may commit the child to the Texas Juvenile Justice Department or a post-adjudication secure correctional facility under Section 54.04011(c)(1) without a determinate sentence only if the court or jury finds that commitment is more appropriate for the child because of the relative seriousness of the conduct or the child's needs cannot be served in the community;

court to make a disposition in the case:

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

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

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

(i) a suitable foster home;

(ii) a suitable public or private residential treatment facility licensed by a state governmental entity or exempted from licensure by state law, except a facility operated by the Texas Juvenile Justice Department; or

(iii) a suitable public or private post-adjudication secure correctional facility that meets the requirements of Section 51.125, except a facility operated by the Texas Juvenile Justice Department;

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony and if the petition was not approved by the grand jury under Section 53.045, the court may commit the child to the Texas Juvenile Justice Department or a post-adjudication secure correctional facility under Section 54.04011(c)(1) without a determinate sentence only if the court includes in its order a finding that commitment is:

(A) necessary to meet the juvenile's rehabilitative needs; and

(B) appropriate, as demonstrated by the evidence admitted at the hearing, including the results of a validated risk and needs assessment conducted according to rules adopted under Section 221.003, Human Resources Code, before the disposition is ordered;

(3) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) and if the petition was approved by the grand jury under Section 53.045, the court or jury may sentence the child to commitment in the Texas Juvenile Justice Department or a post-adjudication secure correctional facility under Section

54.04011(c)(2) with a possible transfer to the Texas Department of Criminal Justice for a term of:

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

(i) a capital felony;

(ii) a felony of the first degree; or

(iii) an aggravated controlled substance felony;

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

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

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

(5) the court may place the child in a suitable nonsecure correctional facility that is registered and meets the applicable standards for the facility as provided by Section 51.126; or

(6) if applicable, the court or jury may make a disposition under Subsection (m) or Section 54.04011(c)(2)(A).

SECTION 3. Section 54.04011(e), Family Code, as added by Chapter 1323 (S.B. 511), Acts of the 83rd Legislature, Regular Session, 2013, is amended to read as follows:

(e) A post-adjudication secure correctional facility under this section is not required to have a classification plan that requires residents at sanction level five to be segregated from residents at sanction levels six and seven [~~The provisions of 37 T.A.C. Section 343.610 do not apply to this section~~].

SECTION 4. Subchapter B, Chapter 242, Human Resources Code, is amended by adding Section 242.0511 to read as follows:

Sec. 242.0511. CREATION OF ADDITIONAL SECURE FACILITIES. (a) The department may establish and operate additional facilities to supplement the operations of department-operated facilities, including regional facilities.

(b) Any new state-operated regional facility or post-adjudication secure correctional facility operated under this Act may not have a residential capacity of more than 96 children. The facility may not have more than 12 children per residential unit.

No equivalent provision.

No equivalent provision. (*But see SECTION 2.01 above.*)

(c) The department shall assist juvenile probation departments in counties that may develop and implement local programs and services, and that may develop facilities for juveniles under a county-based post-adjudication secure correctional facilities system.

SECTION 5. STUDY AND PLAN. (a) Not later than March 1, 2016, the executive director of Texas Juvenile Justice Department shall submit a report to the governor, lieutenant governor, speaker of the house, and members of the legislature containing the results of a feasibility study to be conducted by the department, and the recommendations developed in a plan resulting from the study. The executive director of the Texas Juvenile Justice Department may consult or contract with an outside entity to conduct the study.

(b) The study conducted at the instance of executive director on behalf of the Department shall evaluate the feasibility of establishing state-operated regional residential facilities for the placement of juveniles committed to the Texas Juvenile Justice Department and create a regional residential facility plan, the purposes of which would include efforts to locate all juvenile offenders committed to TJJD custody for delinquent conduct, except the most serious offenders, and place them in facilities located in proximity to the juveniles' home communities in order to provide community support and the appropriate rehabilitation, educational services, and treatment for the juvenile offenders. The study shall emphasize and consider factors affecting the ability of the Department to complete a transition to state-operated regional facilities by August 31, 2021, including review and analysis of the following:

(1) a transition from state-operated residential facilities to smaller, regional facilities in environments with larger applicant pools and closer to treatment providers and home communities;

(2) a needs assessment including a determination of:

(A) the proper timing of such a transition and the optimal location and number of such facilities;

(B) the need for and optimal location of

No equivalent provision.

units for assessment and orientation and/or behavioral control;

(C) the potential benefits or disadvantages of an increased use of private, contract residential placements to maximize the flexibility and specialization of treatment plans;

(D) the effects of closing or re-purposing of facilities currently operated by the state;

(E) any desired, intended, and possible unintended effects associated with any proposed plan; and

(G) any other issues deemed necessary or relevant by the executive director of the Texas Juvenile Justice Department.

(c) The executive director shall develop a proposed plan based on the feasibility study for the placement of juveniles in state-operated regional residential treatment facilities, including:

(1) a recommendation for the number of facilities, location, and types of provided services;

(2) the use of contracts with appropriate private residential facilities and Texas Juvenile Justice Department operated halfway houses; and

(3) an assessment of whether any current state-operated facilities should be retained, and how to achieve orderly and safe closure of any that are not retained.

(d) The executive director for the Texas Juvenile Justice Department shall post the proposed plan and any recommended actions on the agency's website and provide an additional period of time for public comment before finalizing the plan and recommendations.

(e) This section expires September 1, 2017.

SECTION 6. TRANSFER AUTHORITY.

(a) The Texas Juvenile Justice Department may transfer a closed facility to the county or municipality in which the facility is located.

(b) The consideration for the transfer authorized by this section is the requirement that the county or municipality use the property transferred only for a purpose that benefits the public interest of the state. If the county or municipality no longer uses the property for a public purpose, ownership of the property automatically reverts to the Texas Juvenile Justice Department.

(c) The Texas Juvenile Justice Department

No equivalent provision. (*But see SECTION 2.02 above.*)

shall transfer the property by an appropriate instrument of transfer, executed on the agency's behalf by the commissioner of the General Land Office. The instrument of transfer must:

(1) provide that:

(A) the transferee shall use the property only for a purpose that benefits the public interest of the state; and

(B) ownership of the property will automatically revert to the Texas Juvenile Justice Department if the transferee uses the property for any purpose other than a purpose that benefits the public interest of the state;

(2) describe the property to be transferred by metes and bounds; and

(3) exclude from the transfer all mineral interests in and under the property and prohibit any exploration, drilling, or other similar intrusion on the property related to mineral interests.

(d) The Texas Juvenile Justice Department shall retain custody of the instrument of transfer after the instrument of transfer is filed in the real property records of the county in which the property is located.

(e) The Texas Juvenile Justice Department shall sell any facilities from the Corsicana Residential Treatment Center yet remaining in the department's possession with the assistance of the General Land Office, or may transfer those facilities as provided in this section.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 3.02. The changes in law made by this Act to Section 54.04(d), Family Code, apply only to conduct violating a penal law that occurs on or after September 1, 2017. Conduct violating a penal law that occurs before September 1, 2017, is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this subsection, conduct occurs before September 1, 2017, if any element of the conduct occurred before that date.

ARTICLE 4. OFFICE OF INDEPENDENT OMBUDSMAN

SECTION 4.01. Section 261.002, Human Resources Code, is amended to read as follows:

Sec. 261.002. ESTABLISHMENT;

PURPOSE. The office of independent ombudsman is a state agency established for the purpose of investigating, evaluating, and securing the rights of the children:

(1) committed to the department, including a child released under supervision before final discharge; or

(2) placed in a post-adjudication secure correctional facility, as described by Section 51.125, Family Code.

No equivalent provision.

SECTION 4.02. Section 261.055(b), Human Resources Code, is amended to read as follows:

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

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

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

(3) problem concerning the delivery of services in a facility operated by or under contract with the department; [ø]

(4) interference by the department or by a post-adjudication secure correctional facility with an investigation conducted by the office; or

(5) civil rights violation concerning a child placed in a post-adjudication secure correctional facility, not including a complaint alleging criminal behavior.

No equivalent provision.

SECTION 4.03. Section 261.056(a), Human Resources Code, is amended to read as follows:

(a) The department or a post-adjudication secure correctional facility shall allow any child committed to the department or placed in the facility to communicate with the independent ombudsman or an assistant to the ombudsman. The communication:

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

(2) is confidential and privileged.

No equivalent provision.

SECTION 4.04. Section 261.058, Human Resources Code, is amended by adding Subsection (c) to read as follows:

(c) The office and the board shall adopt rules that establish procedures for a post-

adjudication secure correctional facility administrator, chief juvenile probation officer of a juvenile probation department, or juvenile board to comment on reports of the office related to children placed in a post-adjudication secure correctional facility, including procedures for the department to expedite or eliminate review in a manner that is consistent with rules adopted under Subsection (b).

No equivalent provision.

SECTION 4.05. Section 261.101(a), Human Resources Code, is amended to read as follows:

- (a) The independent ombudsman shall:
- (1) review the procedures established by the board and evaluate the delivery of services to children to ensure that the rights of children are fully observed;
 - (2) review complaints filed with the independent ombudsman concerning the actions of the department and investigate each complaint in which it appears that a child may be in need of assistance from the independent ombudsman;
 - (3) conduct investigations of complaints, other than complaints alleging criminal behavior, if the office determines that:
 - (A) a child committed to the department or the child's family may be in need of assistance from the office; or
 - (B) a systemic issue in the department's provision of services is raised by a complaint;
 - (4) review or inspect periodically the facilities and procedures of any institution or residence in which a child has been placed by the department, whether public or private, to ensure that the rights of children are fully observed;
 - (5) provide assistance to a child or family who the independent ombudsman determines is in need of assistance, including advocating with an agency, provider, or other person in the best interests of the child;
 - (6) review court orders as necessary to fulfill its duties;
 - (7) recommend changes in any procedure relating to the treatment of children committed to the department;
 - (8) make appropriate referrals under any of the duties and powers listed in this subsection;
 - (9) supervise assistants who are serving as

advocates in their representation of children committed to the department in internal administrative and disciplinary hearings;

(10) review reports received by the department relating to complaints regarding juvenile probation programs, services, or facilities and analyze the data contained in the reports to identify trends in complaints; ~~[and]~~

(11) report a possible standards violation by a local juvenile probation department to the appropriate division of the department;

(12) conduct an investigation of a civil rights complaint concerning a child placed in a post-adjudication secure correctional facility, not including a complaint alleging criminal behavior;

(13) assist a child placed in a post-adjudication secure correctional facility, if the department determines that the child is in need of assistance from the office; and

(14) immediately report the findings of any investigation to the chief juvenile probation officer and the juvenile board of the county in which the facility is located, and to the juvenile probation department arranging the placement of the child.

No equivalent provision.

SECTION 4.06. Section 261.102, Human Resources Code, is amended to read as follows:

Sec. 261.102. TREATMENT OF ~~[DEPARTMENT]~~ EMPLOYEES WHO COOPERATE WITH INDEPENDENT OMBUDSMAN. The department or a juvenile board or juvenile probation department may not discharge or in any manner discriminate or retaliate against an employee who in good faith makes a complaint to the office of independent ombudsman or cooperates with the office in an investigation.

No equivalent provision.

SECTION 4.07. Section 261.151(a), Human Resources Code, is amended to read as follows:

(a) The independent ombudsman has access to the department's records relating to ~~[the]~~ children committed to the department or placed in a post-adjudication secure correctional facility.

No equivalent provision.

SECTION 4.08. Section 261.152, Human Resources Code, is amended to read as follows:

Sec. 261.152. ACCESS TO INFORMATION OF PRIVATE ENTITIES. The independent ombudsman shall have access to the records of a private entity that relate to a child committed to the department or placed in a post-adjudication secure correctional facility.

No equivalent provision.

SECTION 4.09. Section 261.101(e), Human Resources Code, is repealed.

No equivalent provision.

ARTICLE 5. TRANSITION AND EFFECTIVE DATE

No equivalent provision.

SECTION 5.01. (a) This Act authorizes the legislature to appropriate funding to the Texas Juvenile Justice Department at levels sufficient to enable the department to fulfill its statutory responsibilities and adequately and effectively care for the youth under its jurisdiction. The continuity of funding to the department should be regarded as essential during the period of transition and implementation of the regionalization plans described by this Act.

(b) The Texas Juvenile Justice Department shall allocate funds appropriated to the department by the legislature in the General Appropriations Act in amounts necessary to fulfill its statutory responsibilities and to adequately and effectively care for the youth under the department's custody. The department shall allocate funds to regional associations created under Section 201.005, Human Resources Code, as added by this Act, as necessary for the implementation of the regional plans adopted under Section 201.006, Human Resources Code, as added by this Act.

No equivalent provision.

SECTION 5.02. An initial regional plan must be submitted to the executive director of the Texas Juvenile Justice Department not later than May 1, 2016. An initial regional plan developed under Section 201.006, Human Resources Code, as added by this Act, must include provisions for the implementation of the plan beginning not later than December 1, 2016.

SECTION 7. EFFECTIVE DATE. 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.

SECTION 5.03. Same as introduced version.

If this Act does not receive the vote necessary for immediate effect, the Act takes effect September 1, 2015.