

SUBJECT: Continuing TJJD and amending the Office of Independent Ombudsman

COMMITTEE: Juvenile Justice & Family Issues — committee substitute recommended

VOTE: 7 ayes — Dutton, Lujan, Cook, Leo-Wilson, J. Lopez, Talarico, Wu

0 nays

2 absent — Martinez Fischer, Smithee

SENATE VOTE: On final passage (April 12) — 30 – 0

WITNESSES: None (*considered in a formal meeting on April 27*)

BACKGROUND: **Texas Juvenile Justice Department.** In 2011, the 82nd Legislature abolished the Texas Youth Commission and the Texas Juvenile Probation Commission and transferred those functions to the newly created Texas Juvenile Justice Department (TJJD). TJJD's purpose is to provide a full continuum of services for justice-involved youth, promote public safety, and produce positive outcomes for youth, families, and communities. TJJD performs the following duties:

- houses youth committed to TJJD's custody in its five state correctional facilities, halfway houses, and contract facilities, and supervises youth on parole;
- provides residential treatment programs, mental health services, and education to youth in TJJD's facilities;
- regulates and monitors 165 county juvenile probation departments, 76 county facilities, and eight contract facilities, and distributes grants to the probation departments;
- develops a regionalization plan to divert youth from commitment to TJJD's state secure facilities and increases collaboration between seven regions in the state;
- certifies county-level employees who work with justice-involved youth; and

- investigates allegations of criminal and administrative misconduct within TJJD, county, and contract facilities through the Office of the Inspector General.

Governing structure. TJJD is led by a board of 13 members appointed by the governor. Board members serve six-year staggered terms and appoint and supervise TJJD's executive director, chief inspector general, and internal auditor. The 14-member Advisory Council on Juvenile Services assists the board with county-level issues, long-term strategic planning, and the development of standards for county probation departments and facilities.

Funding. In fiscal 2021, TJJD received about \$325 million, mostly from the general revenue fund. That year, TJJD spent about \$311 million, mostly on county grants, county operations, and programs in state facilities.

Staffing. TJJD employed about 1,900 staff at the end of fiscal 2021, and over 70 percent worked in one of TJJD's state secure facilities. Most facility staff are juvenile correctional officers who directly supervise youth.

Office of the Inspector General. The Office of the Inspector General investigates allegations of criminal and administrative misconduct against youth and staff at state, county, and contract facilities. The office also operates a 24-hour hotline for individuals to report complaints and crimes.

TJJD would be discontinued on September 1, 2023, if not continued in statute.

Office of the Independent Ombudsman. In 2007, the 80th Legislature created the Office of the Independent Ombudsman (OIO) to investigate, evaluate, and secure the rights of youth in state facilities and released on parole. Today, OIO also secures the rights of all post-adjudicated youth in county-level and private contract facilities and continues to operate as an independent state agency. OIO performs the following duties:

- conducts site visits at facilities that house post-adjudicated youth and at TJJD parole offices;
- investigates complaints involving youth rights and responds to requests for assistance from youth, parents, and other applicable individuals; and
- reports findings to state and local leadership in the event of a possible standards violation.

Governance. OIO's independent ombudsman is appointed by the governor with the advice and consent of the Senate to serve a two-year term.

Funding. In fiscal 2021, OIO received about \$970,000 from the general revenue fund, most of which was spent on salaries and other personnel costs. Funding for the OIO is appropriated separately from TJJD, but TJJD provides indirect support and administrative resources to the office.

Staffing. In fiscal 2021, OIO employed 12 staff, most of whom conduct site visits and investigate complaints at facilities and parole offices.

OIO is subject to review by the Sunset Advisory Commission but not abolishment.

DIGEST:

CSSB 1727 would continue the Texas Department of Juvenile Justice (TJJD) and adopt certain policy recommendations from the Sunset Advisory Commission relating to regionalization plan requirements, the Texas Juvenile Justice Board's composition and duties, inspection procedures, and certification requirements for juvenile probation officers. The bill also would update the duties and authority of Office of the Inspector General of TJJD and the Office of the Independent Ombudsman.

The Texas Juvenile Justice Board and the Texas Juvenile Justice Department would be continued until September 1, 2029.

Regionalization plan. CSSB 1727 would amend provisions on TJJD's regionalization plan for keeping children closer to home in lieu of

commitment to TJJD secure facilities and would require resource mapping to identify gaps in each region served by the juvenile justice system.

TJJD would be required to update and submit the regionalization plan to the Sunset Advisory Commission and appropriate legislative committees by December 1 of each even-numbered year. Before submitting the plan, TJJD would be required to present an updated draft of the regionalization plan to the board for public comment and board approval.

The bill would specify relevant stakeholders with whom TJJD would have to consult in developing the plan, including the Advisory Council on Juvenile Services, individuals formerly involved in the juvenile justice system, and parents and guardians of children in TJJD's custody, among others. CSSB 1727 would remove certain diversion goals for the regionalization plan and would establish required components of the updated plan, including an analysis of commitment rates to TJJD facilities and relevant recommendations regarding trends in those rates.

The plan also would have to include specific, actionable steps for TJJD to increase regional capacity, coordination, and collaboration among juvenile probation departments to keep children closer to home while ensuring access to programs and the supervision necessary to maintain public safety. In developing such steps, TJJD would have to consider:

- options to target or expand funding for juvenile probation departments to enhance community-based programs and maximize the use of existing juvenile justice beds;
- opportunities to use financial and other incentives to encourage diversion and facilitate cooperation within and across regions;
- plans for creating additional capacity to minimize gaps in juvenile justice beds and local services, including the expansion or development of beds and facilities designated specifically for regional use; and
- processes for downsizing, closing, or repurposing large state secure facilities to shift toward a more regionally based juvenile justice system.

State aid. TJJD could incorporate measures in the basic probation funding formula that would create incentives for diverting children from the juvenile justice system. When revising the funding formula, TJJD would be required to consult and coordinate with the Advisory Council on Juvenile Services and the Legislative Budget Board. The bill also would authorize TJJD to incorporate incentives into discretionary state aid grant funding protocols to encourage collaboration between juvenile probation departments.

The bill would require the board to adopt rules requiring a juvenile probation department to apply for the placement of a child in a regional specialized program before a juvenile court committed the child to TJJD's custody. The board could establish exceptions to this requirement. TJJD would be required to submit the first updated regionalization plan no later than December 1, 2024.

Resource mapping. CSSB 1727 would require TJJD to partner with institutions of higher education to inventory and map resources available for children in the juvenile justice system. TJJD would be required to partner with certain stakeholders in determining the types of information needed to identify and address gaps in probation regions that resulted in commitments to TJJD facilities.

The bill would require the Juvenile Justice Board to adopt rules requiring juvenile probation departments to report relevant information to TJJD on resource, program, and service gaps identified by TJJD's inventory and resource mapping. The reports would have to include information on the needs of children committed to TJJD that were not being met with community resources and the types of resources that, if available in the community, could allow juvenile probation departments to keep children closer to home as an alternative to commitment to a TJJD facility.

Texas Juvenile Justice Board. CSSB 1727 would change the composition and qualifications of members of the Texas Juvenile Justice Board, specify the qualifications and duties of TJJD's executive director,

and provide for the establishment of advisory committees.

CSSB 1727 would reduce the Juvenile Justice Board's membership from 13 to 11 members by decreasing the number of representatives from the general public and from a county commissioners court from three each to two each. The county commissioner board members would be required to have juvenile justice experience. The bill also would give the governor the option to appoint a representative from a local mental health authority who had experience working with children instead of a licensed adolescent mental health treatment professional. CSSB 1727 would require that an educator appointed as a board member have juvenile justice experience and would also give the governor the option to appoint a juvenile justice professional with experience managing a secure juvenile justice facility operated by a department or a county instead of an educator.

The bill would establish that the term for a board member who was serving on September 1, 2023 would expire on that date. A board member serving on that date could continue to serve until a majority of appointments to the board were made. Such board members would be eligible for reappointment.

CSSB 1727 also would require juvenile justice professionals appointed to the board to avoid the appearance of a conflict of interest by not voting in decisions that would solely benefit or impact the juvenile probation department or facility the member was employed by or worked for under contract. In addition to these provisions, the board would be authorized to adopt additional recusal requirements.

The Texas Juvenile Justice Board could delegate its responsibilities to TJJD's executive director as the board determined appropriate. In delegating responsibilities, the board would be required to provide, as appropriate, clear direction, performance measures, and reporting requirements to the director. The board also would have oversight authority to ensure that the delegated responsibilities were performed according to TJJD's mission and funding priorities.

Executive director. CSSB 1727 would establish that the executive director of TJJD was a full-time employee of the board and would be required to perform the regular administrative functions of the board and any other duty as the board directed but could not perform a decision-making function of the board. The bill also would establish experience and education qualifications for TJJD's executive director.

TJJD would be required to track certain actions taken by the executive director, such as the authorization of early discharge for a child on parole or the selection of a child for a home placement. The executive director would be required to provide the board and the Sunset Advisory Commission with this data quarterly.

Advisory Council on Juvenile Services and advisory committees. The bill would add the commissioner of the Department of Family and Protective Services (DFPS) to TJJD's Advisory Council on Juvenile Services. The Texas Juvenile Justice Board would be required to adopt rules regarding the purpose, role, responsibility, goals, duration, and other duties of the advisory council. The council would be required to assist TJJD in assessing and developing recommendations to improve information sharing between agencies that served children, including agencies that served children in the juvenile justice and child welfare systems.

The bill would authorize the Texas Juvenile Justice Board to establish advisory committees to make recommendations to the board on the board's programs, rules, and policies. CSSB 1727 would require the board to adopt certain rules governing advisory committees. The bill would require the board to establish a youth career and technical education advisory committee to assist TJJD with overseeing and coordinating vocational training for youth in TJJD's custody. Certain provisions relating to a department industries advisory committee would be repealed.

Risk-based inspections. CSSB 1727 would remove annual inspection requirements for county correctional facilities and replace those requirements with a risk-based inspection schedule.

The bill would require TJJD to develop a comprehensive set of risk factors to use in assessing the risk level of TJJD's state and county facilities and entities. Risk factors could include past and repeat standard violations, high staff turnover, and negative media attention, among others. TJJD would be required to use these risk factors to guide the inspections process by developing risk assessment tools with clear, objective standards to use in assessing the overall risk level of each entity.

TJJD would be required to adopt a policy prioritizing inspections of entities based on relative risk level and using the risk assessment tools to determine how frequently and intensively TJJD would conduct inspections. At the request of TJJD, a juvenile probation department or private facility under TJJD's jurisdiction would be required to provide information to assist TJJD in implementing a risk-based inspection schedule.

Employee qualifications and certification. The bill would remove experience and education requirements for certified probation officers and would require TJJD by rule to establish minimum education and experience requirements for juvenile probation officers. Such rules would have to be the least restrictive rules possible to ensure juvenile probation officers were qualified to protect children and public safety without creating barriers to entry to the profession.

The bill would authorize TJJD to issue a provisional certification to an employee of a juvenile probation department or a private facility that housed youth on probation until the employee was certified under applicable provisions.

Facilities. CSSB 1727 would authorize juvenile probation departments to house a child committed to TJJD in a pre- or post-adjudication secure facility while the child awaited transfer to TJJD.

The bill also would allow rather than prohibit TJJD and juvenile probation departments to use or contract with a facility that was constructed or

previously used to confine adult offenders if TJJD determined that the facility was appropriately retrofitted to accommodate youth-specific requirements and needs.

CSSB 1727 would require TJJD to place a child in the most restrictive setting appropriate while the child awaited adjudication or prosecution for conduct constituting a first- or second-degree felony offense. The board by rule would be required to establish placement procedures that guided TJJD in determining the most appropriate setting based on rehabilitative needs while preserving due process rights.

Juvenile justice data. CSSB 1727 would repeal certain provisions relating to data sharing and would add new provisions relating to the dissemination of juvenile justice data collected by TJJD.

CSSB 1727 would establish that the department could allow access to identifiable data, which would mean information containing a juvenile offender's name or other personal identifiers, to certain entities for TJJD-approved research projects. TJJD would be required to grant access to non-identifiable data for research and statistical purposes to certain entities including the Texas Education Agency and the Department of Family and Protective Services.

The bill would require TJJD to publish on its website annually and quarterly, as applicable, aggregated information on the number of children committed to TJJD and its other facilities categorized by offense level, sentence type, age, and sex. The information could not identify an individual child.

Statistical analysis of complaints: TJJD would be required to publish a statistical analysis of the complaints received against TJJD officers on its website. The bill would specify the information required to be included in the analysis.

Office of the Inspector General. CSSB 1727 would remove certain references to the Office of the Inspector General (OIG), update OIG's

statute, and match provisions with the office's current practices regarding duties and reporting requirements.

The bill would apply certain provisions relating to the installation and use of tracking equipment and access to communications to OIG and law enforcement officers appointed by the inspector general. Such officers would be authorized to possess, install, operate, or monitor certain tracking and communications equipment under certain conditions. The inspector general of TJJD or the inspector general's designee would be required to submit to TJJD's director a list of peace officers authorized to possess, install, operate, or monitor the equipment and a written report of expenditures made to purchase the equipment. The inspector general also would be authorized to issue administrative subpoenas to certain communications service providers.

The bill would grant OIG concurrent jurisdiction on agreement with a local law enforcement agency to conduct a criminal investigation into a criminal complaint.

CSSB 1727 also would revise provisions related to leave and compensation for OIG peace officers, and would require OIG peace officers to be classified as a Schedule C salary position by the bill's effective date.

Office of the Independent Ombudsman. CSSB 1727 would amend provisions relating to the duties of the Office of the Independent Ombudsman (OIO) of TJJD. OIO would be authorized to investigate, evaluate, and secure the rights of children adjudicated for an offense and placed in a county-level facility.

CSSB 1727 would require TJJD and juvenile probation departments to notify OIO regarding any private facility with which TJJD or the juvenile probation department contracted to place children adjudicated for certain conduct. This report would have to be updated annually and at any time a new contract was entered into with a private facility.

The bill would require OIO to establish a risk assessment tool for the purposes of implementing a risk-based inspection schedule.

Standard recommendations. The bill would add standard across-the-board provisions relating to board member training requirements and OIO complaint notifications.

The updated provisions for board member training would apply to a member of the board appointed on, before, or after the bill's effective date. A board member who completed previous training requirements would be required only to complete additional training on subjects added by the bill. Such board members would not be allowed to vote, deliberate, or be counted as a member in attendance at a meeting of the board held on or after December 1, 2023, until the member completed the additional training.

Other provisions. The bill would revise language which referred to "mental retardation" and "the mentally ill" with references to "intellectual disability" and "persons with mental illness", and would allow TJJD to reduce the minimum length of stay for certain youth in residential treatment programs.

The bill would take effect September 1, 2023.

**SUPPORTERS
SAY:**

SB 1727 would continue the Texas Juvenile Justice Department for six years as the agency's mission and functions continue to be necessary despite TJJD's operational challenges. Since its inception, TJJD has faced a cycle of instability marked by crises, frequent leadership changes, and quick reforms that have prevented the agency from focusing on long-term plans and effective legislative reforms designed to keep youth out of TJJD custody. Abolishing or restructuring TJJD would not necessarily address the issues that TJJD must handle to stabilize the juvenile justice system.

TJJD should continue operating its facilities until county-level capacity is increased. Recent strains on juvenile probation departments, including the impact of absorbing TJJD's intake backlog and staff shortages,

demonstrate that juvenile probation departments do not yet have the capacity to take on youth in TJJD custody. TJJD also provides oversight to ensure county-level facilities and services are safe and effective, a role that some county departments may not have the resources to fulfill.

While some recommend transferring TJJD's functions or merging it with another agency such as the Texas Department of Criminal Justice (TDCJ), such action would not necessarily provide substantial benefits. Though both agencies provide similar services, TJJD and TDCJ serve different populations with different rights, needs, and risks. Such a merger would require TDCJ to implement federal standards for youth in adult facilities that could create operational challenges. Expanding a program for youth under TDCJ would require capital improvements, pay parity, and training, rather than investment in measures to address current challenges and expand regionalization. Further, TDCJ would have to take on a variety of TJJD's regulatory functions that would be new to the agency.

Rather than abolish or transfer TJJD, CSSB 1727 would improve agency functions by advancing regionalization reforms, strengthening the Texas Juvenile Justice Board's oversight and training requirements, and adjusting certification requirements for county-level employees, among other measures.

Regionalization plan. By requiring TJJD to update its regionalization plan biennially, incentivize diversion in its grantmaking process, and partner with universities to map resources and identify gaps in services for justice-involved youth, CSSB 1727 would ensure that TJJD was taking appropriate steps to maximize regionalization resources and diversion opportunities. The bill would require the plan's contents to be relevant and actionable, which could help the agency and its stakeholders remain engaged in advancing regionalization efforts. Additionally, authorizing TJJD to incentivize diversion through its financial incentives would enable TJJD to better implement regionalization reforms and maximize the use of state resources. CSSB 1727 would provide for diligent regionalization planning with opportunities for collaboration between stakeholders to ensure that counties were equipped to continue providing

local resources as an alternative to state commitment.

Facilities. The provision in CSSB 1727 authorizing TJJD to retrofit facilities previously used for confining adults would help to provide a small number of probation departments with the resources needed to safely supervise youth. This facility would still be required to meet federal standards to ensure it was suitable for youth.

CRITICS
SAY:

The provisions in CSSB 1727 may not be enough to address TJJD's systemic issues. Without certain structural changes, TJJD could continue in its cycle of crisis and reform that has prevented the agency from providing rehabilitative services and keeping youth closer to home. The bill should include a provision requiring TJJD to develop a plan for the staggered closure of the five state facilities and a model to serve youth at the county level in their communities, where recidivism and costs are lower. While TJJD has made strides in reducing commitments to state facilities with diversion and regionalization efforts, the state could go further by ensuring that TJJD had a plan to close its secure facilities. Such a plan could allow TJJD to focus on its grant making and regulatory role, services that juvenile probation departments will continue to need and that could improve rehabilitation outcomes and reduce recidivism.

Regionalization plan. CSSB 1727 should require TJJD to broaden the focus of its regionalization plan. While the bill's requirement that TJJD submit an updated regionalization plan is necessary, such a plan should focus on expanding community-based services and collaboration among youth-serving state agencies. Building out community services, such as mental health, substance abuse, and parent skill-building services by providing flexible grant funding to community service providers and increasing collaboration and information-sharing among youth-serving agencies could help children stay in their homes and communities and out of facilities altogether.

Facilities. The bill's provision allowing TJJD to retrofit facilities that formerly served adults should be removed. Adult facilities are not built to serve youth, and the environment of a facility is an important component

in making youth feel safe. Is it unclear whether an adult facility could be properly altered to be an effective placement for youth.

OTHER
CRITICS
SAY:

CSSB 1727 should transfer TJJD's functions and duties to TDCJ to provide the juvenile justice system better administrative and financial backing. TDCJ could comply with federal standards by operating a separate facility for youth. Because TDCJ is a larger agency with more financial resources, such a merger could ensure that the juvenile system had the oversight and stability it needs.

NOTES:

According to estimates by the Legislative Budget Board, CSSB 1727 would have a negative impact of \$5,233,280 to general revenue related funds through fiscal 2024-25.