

BILL ANALYSIS

Senate Research Center

H.B. 2733
By: White (Whitmire)
Criminal Justice
5/12/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that recent legislative efforts regarding the administration and operation of the Texas Juvenile Justice Department need clarification. H.B. 2733 seeks to address this concern.

H.B. 2733 amends current law relating to the administration and operation of the Texas Juvenile Justice Department.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.1141, Government Code, as follows:

Sec. 411.1141. New heading: ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS JUVENILE JUSTICE DEPARTMENT. (a) Entitles the Texas Juvenile Justice Department (TJJD) to obtain from the Department of Public Safety of the State of Texas (DPS) criminal history record information maintained by DPS that relates to:

- (1) Makes no change to this subdivision;
 - (2) an applicant for a certification from TJJD;
 - (3) a holder of a certification from TJJD;
 - (4) a child committed to the custody of TJJD by a juvenile court;
 - (5) a person requesting visitation access to a facility of TJJD; or
 - (6) any person, as necessary to conduct an evaluation of the home under Section 245.051(a) (relating to authorizing TJJD to release under supervision any child in TJJD's custody and place the child in the child's home or in any situation or family approved by TJJD), Human Resources Code.
- (b) Prohibits information obtained by TJJD, rather than the Texas Youth Commission (TYC), under Subsection (a), from being released to any person except, for purposes of an administrative hearing held, or an investigation conducted, by TJJD, rather than TYC, concerning the person who is the subject of the criminal history record information; a juvenile board by which a certification applicant or holder is employed; or as approved by Subsection (c) or (f).
- (c) Provides that TJJD, rather than TYC, is not prohibited from releasing criminal history record information obtained under Subsection (a) to:

(1) Makes no change to this subdivision; or

(2) a business entity or person described by Subsection (a)(1), rather than (a)(4) or (a)(5), who uses or intends to use the services of the volunteer or intern or employs or is considering employing the person who is the subject of the criminal history record information.

(d) Authorizes TJJD, rather than TYC, to charge an entity or a person who requests criminal history record information under Subsection (c)(2), rather than (a)(4) or (a)(5), a fee in an amount necessary to cover the costs of obtaining the information on the person's or entity's behalf.

(e) Requires TJJD, after a person is certified by the TJJD, to destroy the criminal history record information that relates to a person described by Subsection (a)(2).

(f) Provides that TJJD is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by TJJD.

SECTION 2. Amends Section 552.117(a), Government Code, to provide that information is excepted from the requirements of Section 552.021 (Availability of Public Information) if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the certain persons or that reveals whether the person has family members, including a current or former employee of TJJD or of the predecessors in function of TJJD, regardless of whether the current or former employee complies with Section 552.1175; a juvenile probation or supervision officer certified by TJJD, or the predecessors in function of TJJD, under Title 12 (Juvenile Justice Services and Facilities), Human Resources Code; or employees of a juvenile justice program or facility, as those terms are defined by Section 261.405 (Investigations in Juvenile Justice Programs and Facilities), Family Code.

SECTION 3. Amends the heading to Section 552.1175, Government Code, to read as follows:

Sec. 552.1175. CONFIDENTIALITY OF CERTAIN PERSONAL INFORMATION OF PEACE OFFICERS, COUNTY JAILERS, SECURITY OFFICERS, AND EMPLOYEES OF CERTAIN CRIMINAL OR JUVENILE JUSTICE AGENCIES OR OFFICES.

SECTION 4. Amends Section 552.1175(a), Government Code, to provide that this section applies only to certain persons, including juvenile probation and supervision officers certified by TJJD, or the predecessors in function of TJJD, under Title 12, Human Resources Code; employees of a juvenile justice program or facility, as those terms are defined by Section 261.405, Family Code; and current or former employees of TJJD or the predecessors in function of TJJD.

SECTION 5. Amends Section 203.001, Human Resources Code, by adding Subsection (d), to authorize the Texas Juvenile Justice Board (board) to delegate to the executive director of TJJD (executive director) or to any other employee any authority given to the board under this chapter except the authority to adopt rules.

SECTION 6. Amends Section 203.0081(a), Human Resources Code, to provide that the advisory council on juvenile services consists of certain persons, including the director of state programs and facilities of TJJD or the director's designee.

SECTION 7. Amends Section 222.002, Human Resources Code, as follows:

Sec. 222.002. New heading: MINIMUM STANDARDS FOR SUPERVISION OFFICERS. Requires a person who was not employed as an officer, rather than a detention officer, before September 1, 2005, to be eligible for appointment as a supervision officer, rather than a detention officer, to fulfill certain criteria.

SECTION 8. Amends Section 222.003(b), Human Resources Code, to require that the certification standards adopted under Subsection (a) (relating to requiring the board by rule to adopt certification standards for persons who are employed in nonsecure correctional facilities that accept only juveniles) be substantially similar to the certification requirements for supervision officers, rather than detention officers, under Section 222.002.

SECTION 9. Amends the heading to Section 222.004, Human Resources Code, to read as follows:

Sec, 222.004. PERSONS WHO MAY NOT ACT AS CHIEF ADMINISTRATIVE, JUVENILE PROBATION, OR SUPERVISION OFFICERS.

SECTION 10. Amends Section 222.004(a), Human Resources Code, to change a reference to a detention officer to a supervision officer.

SECTION 11. Amends Section 222.005(a), Human Resources Code, to change a reference to a detention officer to a supervision officer.

SECTION 12. Amends Sections 242.002(b) and (d), Human Resources Code, as follows:

(b) Requires TJJJ, on or before December 31 of each even-numbered year, to make a report on the effectiveness of the programs to the Legislative Budget Board.

(d) Requires TJJJ, if TJJJ is unable to offer or make available programs described by Subsection (a) (relating to requiring TJJJ to annually review the effectiveness of TJJJ's programs for the rehabilitation and reestablishment in society of children committed to TJJJ) in the manner provided by Subsection (c), to, not later than December 31 of each even-numbered year, rather than not later than January 10 of each odd-numbered year, provide the standing committees of the senate and house of representatives with primary jurisdiction over matters concerning correctional facilities with a report explaining certain criteria.

SECTION 13. Amends Section 242.010, Human Resources Code, by amending Subsections (b), (c), and (d), and adding Subsections (b-1), (b-2), and (b-3), as follows:

(b) Requires TJJJ, rather than the executive director, to review the national criminal history record information, state criminal history record information maintained by DPS, and previous and current employment references of each person who:

(1) is an employee, volunteer, ombudsman, or advocate working for TJJJ or working in a TJJJ facility or a facility under contract with TJJJ, rather than an employee, contractor, volunteer, ombudsman, or advocate working for TJJJ or working in a TJJJ facility or a facility under contract with TJJJ;

(2) is a contractor or an employee or subcontractor of a contractor who has direct access to children in TJJJ facilities;

(3) Makes no change to this subdivision; or

(4) Makes a nonsubstantive change.

(b-1) Authorizes TJJJ to review criminal history record information of:

(1) a person requesting visitation access to a TJJJ facility; or

(2) any person, as necessary to conduct an evaluation of the home under Section 245.051(a).

(b-2) Prohibits TJJD from denying visitation access to an immediate family member of a child committed to TJJD based solely on a review of criminal history record information under Subsection (b-1)(1).

(b-3) Requires TJJD, if visitation access is denied or limited based in part on a review of criminal history record information under Subsection (b-1)(1), to retain the criminal history record information of the person for whom access is denied or limited until the child the person requested visitation access to is released from TJJD.

(c) Requires the board, to enable TJJD, rather than the executive director, to conduct the review, to adopt rules requiring a person described by Subsection (b) to electronically provide DPS with a complete set of the person's fingerprints in a form and of a quality acceptable to DPS and the Federal Bureau of Investigation.

(d) Requires TJJD, rather than the executive director, for each person described by Subsection (b), to review on an annual basis the person's national criminal history record information.

SECTION 14. Amends Section 245.0535(i), Human Resources Code, to require TJJD, not later than December 31, rather than December 1, of each even-numbered year, to deliver a report of the results of research conducted or coordinated under Subsection (h) (relating to requiring TJJD to conduct and coordinate research to determine whether the comprehensive reentry and reintegration plan developed under this section reduces recidivism rates) to the lieutenant governor, the speaker of the house of representatives, and the standing committees of each house of the legislature with primary jurisdiction over juvenile justice and corrections.

SECTION 15. Amends Section 261.051(b), Human Resources Code, to provide that a person appointed as independent ombudsman is eligible for reappointment, rather than provides that a person appointed as independent as independent ombudsman is eligible for reappointment but is prohibited from serving more than three terms in that capacity.

SECTION 16. Repealer: Section 411.137 (Access to Criminal History Record Information: Texas Juvenile Probation Commission), Government Code.

SECTION 17. Effective date: September 1, 2013.