



INTERIM REPORT

TO THE 88TH TEXAS LEGISLATURE

HOUSE COMMITTEE ON
JUVENILE JUSTICE & FAMILY ISSUES
JANUARY 2023

**HOUSE COMMITTEE ON JUVENILE JUSTICE AND FAMILY ISSUES
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2022**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
88TH TEXAS LEGISLATURE**

**VICTORIA NEAVE CRIADO
CHAIR**

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Committee On
Juvenile Justice and Family Issues

January 3, 2023

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Chair

P.O. Box 2910
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The Honorable Dade Phelan
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on Juvenile Justice and Family Issues of the Eighty-seventh Legislature hereby submits its interim report to the Eighty-eighth Legislature.

Respectfully submitted,

Victoria Neave Criado
Victoria Neave Criado, Chair

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Introduction

The Honorable Dade Phelan, Speaker of the House of Representatives, appointed nine members of the 87th Legislature to serve on the House Committee on Juvenile Justice and Family Issues (Committee). The following members were appointed to the committee: Victoria Neave Criado (Chairman), Valoree Swanson (Vice-Chairman), David Cook, James Frank, Jeff Leach, Ana-Maria Ramos, James Talarico, Cody Vasut, and Gene Wu.

Pursuant to House Rule 3, Section 17 (87th Legislature)¹, the Committee has jurisdiction over all matters pertaining to:

- (1) the commitment and rehabilitation of youths;
- (2) the construction, operation, and management of correctional facilities of the state and facilities used for the commitment and rehabilitation of youths;
- (3) juvenile delinquency and gang violence;
- (4) criminal law, prohibitions, standards, and penalties as applied to juveniles;
- (5) criminal procedure in the courts of Texas as it relates to juveniles;
- (6) civil law as it relates to familial relationships, including rights, duties, remedies, and procedures; and
- (7) the following state agencies: the Texas Juvenile Justice Board, the Texas Juvenile Justice Department, the Office of Independent Ombudsman for the Texas Juvenile Justice Department, and the Advisory Council on Juvenile Services.

Following the 87th Legislature Regular Session and three special sessions, Speaker Phelan assigned the Committee six interim charges to study, advise findings, and make recommendations for the 88th Legislature.²

The Committee has completed its hearings and has issued the following final report including findings and recommendations. The Committee wishes to express appreciation to the state agencies, local government entities, organizations, and citizens who testified at the public hearings.

Interim Study Charges

- CHARGE I:** Monitor the agencies and programs under the Committee’s jurisdiction and oversee the implementation of relevant legislation passed by the 87th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation, including the following:
- HB 4544, relating to providing children committed to the Texas Juvenile Justice Department with certain documents on discharge or release, authorizing a fee.
- CHARGE II:** Complete study of assigned charges related to the Texas-Mexico border issued in June 2021:
- Monitor the impact of children, including unaccompanied minors, crossing the Texas-Mexico border on the juvenile justice system, including gang violence. Identify any particularized services that children, including unaccompanied minors, will need and assess the costs of providing these services.
 - Examine current caseloads and capacity issues for courts handling matters related to the Texas-Mexico border. Evaluate the preparedness of the court system to handle increases in caseloads that may result from the border crisis response and make recommendations to ensure the continued fair and efficient administration of justice in the state in addressing any increased caseloads. (Joint charge with Committee on Judiciary and Civil Jurisprudence)
- CHARGE III:** Examine obstacles to the reporting of domestic violence and how these obstacles contribute to the difficulty in obtaining and enforcing a protective order. Examine new technologies that could facilitate domestic violence reporting without putting victims at risk of further violence and harm.
- CHARGE IV:** Explore ways to modernize the juvenile justice system for youth on probation and incarcerated youth. Review statewide resource allocation, including available staffing, and identify potential geographic limitations. Investigate the best practices of smaller specialized facilities for youth committed to the Texas Juvenile Justice Department while leveraging the Department's current facilities and staff. Analyze the current gaps in county-level services and funding and make recommendations to address those gaps.

CHARGE V:

Examine workforce issues at state and local juvenile correctional facilities and consider the state's incentives to recruit quality staff. Consider the geographic areas where specialty providers are concentrated and the viability of opening specialized facilities for the state's youth with the highest therapeutic need to relieve the state's current rural facilities struggling with staffing. Consider consistent investments the state can make in local probation to encourage their facilities to divert youth from the juvenile justice system.

CHARGE VI:

Study how child support is calculated and administered in Texas and how the Texas method compares to other states' plans for calculating child support, including identifying modern trends across the country for calculating child support. Consider how alternative methods for calculating child support affect each parents' share of responsibility for child support, health care, childcare, and other matters in other jurisdictions compared to Texas.

Charge I: Oversight Jurisdiction of the Committee

Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 87th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation, including the following: HB 4544, relating to providing children committed to the Texas Juvenile Justice Department with certain documents on discharge or release, authorizing a fee.

Agencies and Programs Under the Committee's Jurisdiction

Sec. 21. JUVENILE JUSTICE AND FAMILY ISSUES. The committee shall have nine members, with jurisdiction over all matters pertaining to:

- (1) the commitment and rehabilitation of youths;
- (2) the construction, operation, and management of correctional facilities of the state and facilities used for the commitment and rehabilitation of youths;
- (3) juvenile delinquency and gang violence;
- (4) criminal law, prohibitions, standards, and penalties as applied to juveniles;
- (5) criminal procedure in the courts of Texas as it relates to juveniles;
- (6) civil law as it relates to familial relationships, including rights, duties, remedies, and procedures; and
- (7) the following state agencies: the Texas Juvenile Justice Board, the Texas Juvenile Justice Department, the Office of Independent Ombudsman for the Texas Juvenile Justice Department, and the Advisory Council on Juvenile Services.

Texas Juvenile Justice Department

The Texas Juvenile Justice Department (TJJD) is committed to the highest professional standards in the execution of our agency's mission and interactions with the youth in our care. To ensure the safety and security of individuals in the juvenile justice system, two independent groups work diligently to investigate alleged misconduct: the [Office of the Inspector General \(OIG\)](#) and the [Office of the Independent Ombudsman \(OIO\)](#).

The Office of Internal Audit (OIA) is established by Texas Government Code Chapter 2102 (Texas Internal Auditing Act) to provide the agency audit and consulting services that enhance accountability and assist the agency in accomplishing its mission and objectives through managing risk, increasing control awareness, improving processes, facilitating change, and promoting best practices. Internal Audit is overseen by the Chief Auditor who is appointed by and reports directly to the Texas Juvenile Justice Board. Internal audit adheres to the Institute of Internal Auditor's (IIA) International Professional Practices Framework, the U.S. Government Accountability Office's (GAO) Government Auditing Standards, and the Texas Internal Auditing Act.

The Office of the Inspector General (OIG) was created by the Texas Legislature and is charged

with investigating (1) crimes committed by department employees, including parole officers employed by or under contract with the department; and (2) crimes and delinquent conduct committed at a facility operated by the department, a residential facility operated by another entity under a contract with the department, or any facility in which a child committed to the custody of the department is housed or receives medical or mental health treatment.

The chief inspector is a commissioned peace officer, and is authorized to appoint additional peace officers to fulfill the statutory duties of the office. The chief inspector is appointed by, and reports directly to, the TJJD board. The inspector generals have all of the power and duties afforded to peace officers under the Texas Code of Criminal Procedure. The OIG reports directly to the chairman of the TJJD board of directors.

Office of Independent Ombudsman for TJJD

The Independent Ombudsman is a state agency established for the purpose of investigating, evaluating, and securing the rights of the children committed to the Texas Juvenile Justice Department (TJJD).

Responsibilities include:

- Review complaints, other than those alleging criminal behavior, filed with the IO and investigate each complaint in which it appears that a child may be in need of assistance.
- Provide assistance to a child in the custody of TJJD who the IO determines is in need of assistance, including advocating with an agency, provider, or other person in the best interests of the child.
- Inspect periodically the facilities and procedures of the facilities where a child in the custody of TJJD has been placed to ensure that the rights of children are fully observed.
- Review the procedures established by TJJD and evaluate the delivery of services to children to ensure that the rights of children are fully observed.
- Review reports relating to complaints regarding juvenile probation programs, services, or facilities and analyze the data contained in the reports to identify trends in complaints.
- Report a possible standards violation by a local juvenile probation department to the appropriate division of the department.

Texas Juvenile Justice Board

The Texas Juvenile Justice Department Board has 13 members. Pursuant to Senate Bill 653 of the 82nd Legislature, the Texas Juvenile Justice Department combined the Texas Youth Commission and Texas Juvenile Probation Commission to create a unified juvenile justice agency to work in coordination with other state and county offices to produce positive outcomes for youths, their families and communities.

Advisory Council on Juvenile Services

(Provided by Chief Edward J. Cockrell, Sr; Chair of Advisory Council on Juvenile Services)

The Texas Juvenile Justice Department's Advisory Council on Juvenile Services is a legislatively mandated body that reports directly to the TJJD Board of Directors. Advisory Council membership consists of the following appointments: TJJD Executive Director, TJJD Director of Probation Services, Executive Commissioner of Health and Human Services, One County Commissioner, two County Court Judges and seven Chief Juvenile Probation Officers.

The legislatively mandated duties of the Advisory Council consist of:

- Determining the needs and problems of county juvenile boards and probation departments.
- Conducting long-range strategic planning.
- Reviewing and proposing revisions to existing or newly proposed standards affecting juvenile probation programs, services, or facilities.
- Analyzing the potential cost impact on juvenile probation departments of new standards proposed by the board.
- Advising the board on any other matter on the request of the board.

Below are some of the areas the AC is currently working on.

We are working with DFPS on youth that are detained in county detention centers and are involved with DFPS. The approach is to have a regionalization juvenile justice liaison and regional county program administrators' liaisons working together with the county probation department to staff these cases and work together to look for solutions for that individual youth. We continue to have discussions on how we can work together for DFPS CWOP (children in need of placement) youth that are involved in the juvenile justice system.

A Regionalization Task Force has been developed and is working to strengthen the original regionalization plan. The task force has met twice. The task force is slowly revising the original plan and are hoping that the plan will be completely revised by the end of the year. Thus far, the task force has revised the background and target population sections and are now getting into the regional sections of the plan.

The AC has a Family First Prevention Services Act (FFPSA) workgroup. The workgroup has been working on the negotiations process between DFPS, Administration for Children and Families (ACF) at the federal level and TJJD to try to get proposals approved.

The AC's Chapter 55 Workgroup have completed proposed revisions to Chapter 55 of the Texas Family Code. A draft of the proposed revisions have been provided to Molly Davis of the Juvenile Commission of Mental Health. Revisions were presented to the JCMH during the month of September 2022. Representative Wu has served on the workgroup.

Other areas the AC have been working on in the recent past are workgroups that worked on Long Range Strategic Planning, approval of TAC rule revisions, and approval of the funding formula for FY2023 to be proposed to the TJJD Board.

Inadequate funding to address systemic challenges of the juvenile justice system as a

whole, and the growing backlog of violent offenders who have been lawfully committed to state custody but have to be held in county operated facilities due to inadequate staffing at the state institutions are at the forefront of concerns of the advisory council. These two issues alone have contributed at both the state and local level to systemic difficulties including but not limited to:

- Inability to recruit and retain qualified staff;
- Increased operational cost and liability for counties and departments who continue to hold violent, state-committed offenders;
- Reduced operational capacity for detention beds for violent youthful offenders;
- Increased tax burden for counties and departments at the local level to meet growing needs.

HB 4544

Relating to providing children committed to the Texas Juvenile Justice Department with certain documents on discharge or release; authorizing a fee.

Background

House Bill 4544³ was authored by Representative Valoree Swanson/Senator John Whitmire and relates to the issuance of personal identification certificates to youths committed to the Texas Juvenile Justice Department (TJJD). As finally passed, House Bill 4544 requires that children waiting to be released under supervision or final discharge from TJJD be provided with documents that are necessary after release or discharge including identification papers that include a person's identification certificates, if available.

TJJD, the Department of Public Safety (DPS) and the vital statistics unit of the Department of State Health Services (DSHS) shall adopt a memorandum of understanding that establishes their respective responsibilities with issuance of identification certificate to a child. The department may also charge the child's parents or guardian for the cost. In addition, before releasing a child under supervision, the department must determine whether the child has a certified birth certificate and a copy of a child's social security card. If the child does not have these documents, the department shall submit a request for the issuance for documents. The department shall submit a request before the discharge of the child and provide the child with such documents when the department releases the child. This does not apply to a child who is not legally present in the U.S. or not a resident of the state before the child was placed in custody of the department.

Before the enactment of House Bill 4544, DSHS was fulfilling TJJD's requests to electronically verify birth certificates through existing contracts. Additionally, DSHS provided electronic verification of a child's identity to DPS upon request. In July 2021, DSHS met with DPS and TJJD to assess whether existing processes satisfied the requirements in H.B. 4544. After discussing the bill with internal and external stakeholders, DSHS confirmed that the current contract with TJJD satisfies the bill's requirements. DPS and TJJD confirmed that nothing further was needed from DSHS to comply with H.B. 4544. DSHS determined that H.B. 4544 codified existing practices of collaborating with DPS and TJJD on issuing identification documents and verifying identities for children exiting the juvenile justice system. DPS and TJJD agreed.

Charge II: Texas-Mexico Border

Complete study of assigned charges related to the Texas-Mexico border issued in June 2021.

Background

On June 29, 2021, Speaker Phelan charged the Committee to the following interim charge⁴ regarding the Texas-Mexico Border:

JJFI Specific Charge: *Monitor the impact of children, including unaccompanied minors, crossing the Texas-Mexico border on the juvenile justice system, including gang violence. Identify any particularized services that children, including unaccompanied minors, will need and assess the costs of providing these services.*

Joint Charge with Committee on Judiciary and Civil Jurisprudence: *Examine current caseloads and capacity issues for courts handling matters related to the Texas-Mexico border. Evaluate the preparedness of the court system to handle increases in caseloads that may result from the border crisis response and make recommendations to ensure the continued fair and efficient administration of justice in the state in addressing any increased caseloads.*

JJFI Specific Border Charge

As reported by TJJD, there is limited to no impact of children, including unaccompanied minors, crossing the Texas-Mexico border, on the Texas juvenile justice system. The reason for this is that unaccompanied minors are taken to federal and not state custody. The Departments of Homeland Security and Health and Human Services have primary responsibility for the children.

When encountered, unaccompanied children are transported to the nearest U.S. Border Patrol station where they are identified and undergo a health screening. Del Rio Sector has juvenile coordinators assigned to the Uvalde Border Patrol Station that assist with the care and processing of unaccompanied children. Once processing is complete, juvenile coordinators work to transfer unaccompanied minors to the care of the Office of Refugee Resettlement and Health and Human Services.

Unaccompanied minors as young as 7 years old are being placed in holding facilities until they are transferred to the custody of the Department of Health and Human Services, which works to find them a safe sponsor—usually a family member in the United States—until their immigration case is decided by the courts.

The law clearly states that children cannot be held in a Border Patrol holding cell for more than 72 hours. But because the system is so overwhelmed right now, children are often being held longer. And as holding centers overflow, children are being placed in facilities meant for adults, or even moved to temporary influx shelters in places like convention centers.

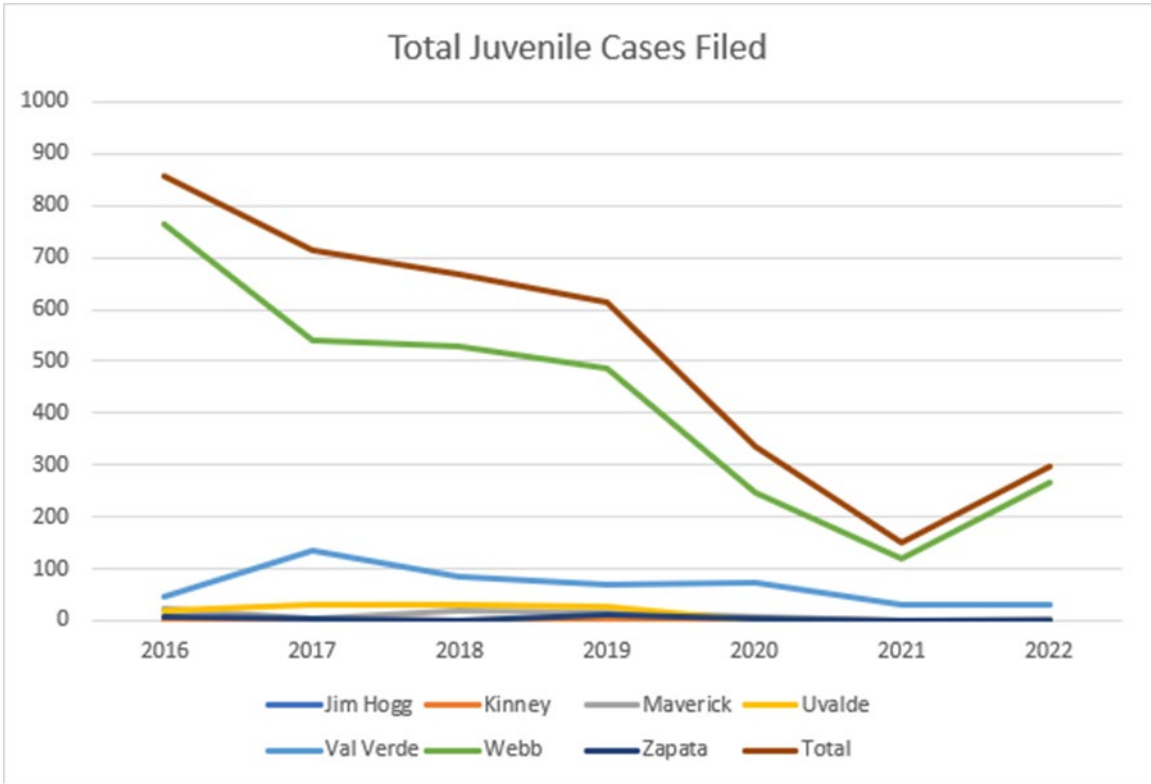
Joint Charge with Committee on Judiciary and Civil Jurisprudence

The Committees held a joint hearing on October 3, 2022. Invited witnesses to the hearing were The Office of Court Administration, the Border Prosecution Unit, Lubbock Private Defender's Office (Project Lone Star), Texas Indigent Defense Commission, Texas Civil Rights Project, and Children's Defense Fund.

The Office of Court Administration provided information post hearing on unaccompanied minors. They explained that OCA did not have the ability to collect case level data, and therefore they are unable to know what type of criminal cases are filed on a juvenile other than a few categories, and they are unable to determine whether a case has any nexus to Operation Lone Star. The two most common cases for Operation Lone Star, they explained, were felony Smuggling of Persons and misdemeanor Criminal Trespass - and neither of these crimes are specifically reported. Generally, they explained, DPS does not arrest many juveniles for OLS nexus offenses. OCA hypothesized that this could possibly be due to detention capabilities in the region. Only a small segment of the 54 counties in Texas where a disaster has been declared with relation to border issues actually have significant law enforcement focus. This small segment, OCA explained, consists of seven counties and is where OCA is currently supporting the centralized magistration process. OCA cautioned that extraneous factors such as criminal justice reform, the COVID-19 pandemic, and school threats would have an effect on juvenile filings during the time period in which OLS began (July of 2021).

(Both graphs below were sent by Louis Tomasetti from OCA)

Total Juvenile Cases Filed (as of 10/6/22)								
State Fiscal Year	Jim Hogg	Kinney	Maverick	Uvalde	Val Verde	Webb	Zapata	Total
2016	0	0	24	18	45	765	6	858
2017	0	3	3	30	134	540	4	714
2018	0	0	20	31	86	528	1	666
2019	0	4	15	25	71	487	10	612
2020	0	4	7	0	74	248	2	335
2021	0	0	1	0	31	120	0	152
2022	0	0	2	0	31	265	1	299



Charge III: Domestic Violence and Protective Orders

Examine obstacles to the reporting of domestic violence and how these obstacles contribute to the difficulty in obtaining and enforcing a protective order. Examine new technologies that could facilitate domestic violence reporting without putting victims at risk of further violence and harm.

Background

Currently, Texas Family Code Title 4, Subtitle B, Chapter 85 governs the issuance of protective orders.

(The below background was sourced from www.texaslawhelp.org; <https://texaslawhelp.org/article/protective-order-fact-sheet>)

What is a protective order?

If you have been a victim of violence, stalking or sexual abuse, you can apply for a court order to keep your abuser away from you. This order is called a Protective Order (PO). There are different kinds of PO's for victims of domestic abuse, dating violence, sexual assault, and stalking.

A PO orders an abuser not to hurt, threaten, or harass you or your children, either directly or through another person; to stay away from you, your family, your home, workplace, and children's daycare or school; and not to carry a gun, even with a license.

The judge can also:

- order the separation of your cell phone (and the cell phone used by a child in your custody) if your cell phone is under/connected to the abuser's account,
- order payment of child support and medical support,
- set terms and conditions for visitation with the children,
- order the abuser to attend anger management classes,
- order drug testing,
- order the abuser to attend a substance abuse treatment program,
- order the offender out of the home ("kick out order").

How do I get a protective order?

There are several ways to apply:

- Contact your local county or district attorney's office,
- Contact your local family violence shelter. Call 800-799-SAFE (7233) to find the nearest one,
- Contact your local legal aid office.
- Hire a private attorney,
- Complete the **do-it-yourself PO Kit**⁵ available from TexasLawHelp.org. Trying to get a protective order without an attorney should be your last resort.

What if the abuser agrees to a protective order?

The parties may agree in writing to a protective order, but it must be approved by the court.

What must I show to get a protective order?

What you must show depends on the type of protective order.

For a family violence protective order, you must be able to show that violence has occurred and it is likely that violence will continue in the future.

For stalking, sexual assault, and human trafficking protective orders, you must be able to show the abuser committed either stalking, sexual assault, or trafficking.

Some considerations:

- Family violence includes any intimate partner violence, including dating violence and violence between same-sex partners,
- A specific relationship with the abuser is not required for sexual assault, stalking and human trafficking protective orders.
- Call the police when an incident occurs. If you have made reports before, it is more likely that a PO will be granted,
- Don't delay in applying for a protective order. Apply right after the incident. Waiting will reduce your chances of getting a PO, because the threat of immediate danger has passed.
- Document incidents of abuse. Photograph injuries, save threatening voice messages, texts, and emails. The more details you provide, the more likely you are to get a PO.

How long does a protective order last?

It depends on the type of abuse (stalking, dating violence, sexual assault, family violence); the seriousness of the harm, if children were present, if an arrest was made, past violence, the likelihood of future violence, and other factors. PO's for family violence usually last two years, but can be for any duration, including for life. Sexual assault and stalking POs can last for life. POs can last for life.

What happens if someone violates a protective order?

If the abuser violates a protective order, he or she can be arrested and charged with a crime. Multiple violations can result in felony charges.

Summary of Committee Action

The Committee held a hearing on September 23, 2022 to address Interim Charge 3.

Multiple witnesses who spoke at the hearing discussed codifying virtual protection order hearing options for applicants. Marvinna Robinson of the Tarrant County District Attorney's Office explained that victims do not trust law enforcement to act on reports of domestic violence, particularly when the violence is long-term, and victims are reluctant to report domestic violence

when the report may result in additional adverse issues such as custody, housing, employment and strained relationships with family/household members, employers and colleagues. She explained that she frequently had to explain to law enforcement that temporary protective orders were in fact enforceable when officers were unsure of what action they were able to take when an order was violated. She also explained that if a pop-up notification could happen if a person was stopped for any issue, then the officer would be able to ascertain that a protective order was in place and would be able to check whether or not the respondent was in possession of a firearm in violation of such order.

Krista DelGallo of the Texas Council on Family Violence (TCFV) testified to the helpfulness of virtual protective orders, explaining that the Office of Court Administration had given all courts Zoom licensing so they could utilize the technology for protective orders. She explained that the attendance on the hearings was significantly improved, and added that persons experiencing difficulties with internet access were welcome to utilize TCFV and other advocates locations to get internet access to attend hearings. It would also save petitioners and respondents money, since they would not have to be paying an attorney for a full day and instead would only have to pay for the fifteen or so minutes of the actual hearing time.

Carlos Salinas, a family law attorney with experience helping clients who needed protective orders, explained that with domestic violence cases, many people moved locations and addresses and there may be witnesses in other states. He testified that in addition to the benefits to the applicant and respondent, virtual hearings also had the benefit of witnesses being more willing to testify because they did not have to take off of work and sit in the courtroom all day/pay for gas or parking in order to participate. It also reduced significant travel barriers for some witnesses who may live far from the courthouse but whose testimony would be beneficial to the proceeding.

Texas Advocacy Project (TAP), an organization that provides civil legal services relating to protective orders and other family law related issues, stated that virtual court encourages reporting and follow through and is safer for survivors. This option also allows both parties to be able to attend virtually, reducing time both must take off of work to attend, and eliminates the need for either party to obtain childcare and pay for gas or parking or other costs of transportation to get to the courthouse. TAP also recommended removing “likelihood of future violence” from the section of Family Code pertaining to protective orders. As it currently stands, the statute for obtaining a protective order is a two-pronged requirement that the court find that family violence has occurred and is likely to occur in the future. The prong requiring a finding that it was likely to occur in the future is vague and difficult for court officials to define and therefore created unnecessary barriers. Removing this language, they stated, would also bring Family Violence Protective Orders’ criteria in line with required findings under the Code of Criminal Procedure Article 7B.003. Under that code, the court must only find “whether there [is] reasonable grounds to believe that the applicant is the victim of sexual assault or abuse.” TAP explained that these two legislative changes would dramatically increase support given to survivors pursuing freedom from their abusers.

The El Paso County Attorney, Aaron Setliff, testified to the helpfulness of virtual hearings as well, and also mentioned that El Paso has a questionnaire on their website which they believe reduces barriers and assists persons in obtaining a protective order. The questionnaire is taken online by the person seeking the order, and then, once submitted, a person from El Paso County Attorney’s Office contacts the petitioner via email to assist them with the process.

Sharron Archie, the Assistant District Attorney for the Dallas County District Attorney's Office and Chief Prosecutor in the Protective Order unit, testified that both respondents and petitioners preferred to do the hearings virtually. She explained that her office previously spent considerable time reassuring victims, walking victims out to their vehicles afterwards, and even helping with childcare for victims during hearings and that all of these obstacles were alleviated by virtual hearings. She testified that previously, respondents had followed the applicant/victim to the shelter location at which they were staying after a hearing had concluded, which further compromised the safety of the applicant. She explained that respondents benefited from the virtual hearings as well because since it was easier for them to attend, they were able to address issues such as if they still needed items from the residence (tools, clothes, etc) and that was able to be addressed at the hearing so that someone could get those items for the respondent or they could get them if accompanied by a police officer.

Mary Beth Kopsovich with The Family Place is a licensed master social worker who has also served as an expert witness on the issue of domestic violence for the Tarrant County Criminal District Attorney's Office. She also testified to the use of virtual hearings as a way to reduce barriers. Among the previously discussed reasons, she added that revictimization was less likely to occur with virtual hearings and discussed that the use of Air Tags and other tracking devices has happened by the abusive partner when the petitioner of a protective order has parked their vehicle to go into the court hearing, and a virtual hearing eliminated this occurring at the time of the hearing. She also explained that a virtual hearing reduced anxiety or fear or actual violence against the petitioner because they wouldn't be followed from the courthouse into a parking garage and wouldn't have to ask for a bailiff or security to escort them to their vehicle. Additionally, she explained, petitioners did not have as much fear at virtual hearings since they did not have to be in the same physical space as the respondent. She also explained that virtual hearings can assist in expediting the court's docket, since the parties would be in the virtual waiting room and easily visible, eliminating the need for the bailiff to go to the hallway and call for the missing party, and that advocacy groups had more ability to accompany their clients to hearings since they could do so in the office or shelter they worked in instead of having to leave to travel to the courthouse.

Overall, advocates expressed support for codifying virtual hearings for protective orders. Allowing virtual translators could further assist in making the process efficient for all parties.

Charge IV: Modernization of the Juvenile Justice System

Explore ways to modernize the juvenile justice system for youth on probation and incarcerated youth. Review statewide resource allocation, including available staffing, and identify potential geographic limitations. Investigate the best practices of smaller specialized facilities for youth committed to the Texas Juvenile Justice Department while leveraging the Department's current facilities and staff. Analyze the current gaps in county-level services and funding and make recommendations to address those gaps.

Background

People often think of the juvenile justice system as a penal system similar to that of adults. While there are similarities, the adult system focuses on public safety and punishment for criminal conduct. While public safety and accountability are certainly considerations for youth, the juvenile correctional system emphasizes treatment and rehabilitation.

Even when it is necessary to incarcerate youth, the setting is designed to be protective, not punitive, and the goal is to educate youth about discipline, values, and work ethics, thus guiding them toward becoming productive citizens. In most cases, juvenile records are sealed so that youth are given a second chance at life without the stigma of having been in trouble with the law. Some exceptions include youth who have to register as sex offenders and youth who have committed serious offenses requiring them to complete their sentences in the adult system.

In Texas, a JUVENILE is defined legally as a person who was at least 10 years old but not yet 17 at the time he or she committed an act defined as “delinquent conduct” or “conduct in need of supervision.”

DELINQUENT CONDUCT is generally conduct that, if committed by an adult, could result in imprisonment or confinement in jail.

CONDUCT IN NEED OF SUPERVISION (CINS) is generally conduct that, if committed by an adult, could result in only a fine or would not even be considered a violation of the law. Examples of CINS violations include truancy or running away from home.

ADJUDICATION is a finding that a youth has engaged in delinquent or CINS conduct. It is similar to a “conviction” in adult court

A juvenile who engages in delinquent conduct or commits a CINS violation can be referred to juvenile court, where several things can happen. The juvenile can be dealt with informally and returned home.

If the county decides to charge the juvenile with delinquent conduct, the juvenile is afforded the same legal rights as an adult charged with a crime. In certain circumstances, the county can request to have a youth certified as an adult. If such is granted, the person is considered an adult for criminal purposes and will no longer be in the juvenile justice system. The rest of this overview does not apply to persons certified as adults.

If the juvenile is “adjudicated” for delinquent conduct, there are several possible disposition options, or outcomes, as follows:

1. The juvenile may be placed on probation; or
2. The juvenile may be sent to the Texas Juvenile Justice Department with an indeterminate sentence (only felony offenses); or
3. The juvenile may be sent to the Texas Juvenile Justice Department with a determinate sentence (only certain offenses).

A juvenile who is placed on probation (and not sent to TJJD) must be discharged from the probation by the time he or she turns 18.

A juvenile sent to TJJD with an indeterminate sentence must be discharged by the time he or she turns 19.

A juvenile sent to TJJD with a determinate sentence may be transferred starting at age 16 to adult prison depending on his or her behavior and progress in TJJD programs.

Each youth, depending on his or her offense and history, plus a number of other factors, has a unique journey through the juvenile justice system. However, in general, the progressive sanctions and interventions model is designed to start with the least amount of intervention or sanctions possible, progressively getting more serious and intensive as necessary to help juveniles learn to become productive, law-abiding citizens. The ultimate goal is to keep juveniles from entering the adult prison system.

On the spectrum of services, law enforcement and county juvenile probation departments, under the guidance and direction of TJJD, serve vital frontline roles. TJJD facilities provide a critical last attempt to reach the most serious cases. Youth at TJJD secure facilities have committed felonies, with the most frequent committing offenses being aggravated robbery, burglary or aggravated assault.

Summary of Committee Action

At the hearing, TJJD discussed how their staff had extremely high turnover rates and indicated it was due at least partly to their inability to offer competitive salaries. Staffing was particularly difficult to attain and maintain in more rural areas where facilities were located, due to a smaller pool of qualified applicants in addition to higher salaries being offered at lower risk jobs in those rural communities.

Lone Star Justice Alliance has several recommendations posted on their website to address what may constitute best practices. (<https://www.lonestarjusticealliance.org/>)

These include:

- Minimizing system engagement as much as possible
- Growing probation resources and preserve local control
- Focusing on the specific, individualized needs of youth

-
- Providing scalable, graduated options to meet youth and system needs
 - Committing to the shortest appropriate time period for youth to be in the system
 - Having youth stay as close to their community wherever possible according to their best interests, with a focus on keeping youth out of the adult criminal legal system
 - Infusing trauma-informed care into all interventions.

In Texas, individual counties provide services to all youth referred to the juvenile courts, and prosecute juvenile cases, either through their district or county attorney's office. County juvenile probation departments handle most of the sanctions and therapeutic interventions the courts may impose.

State law requires each county to have a juvenile board that oversees the operation of the juvenile probation system in that county. Some of these boards govern multiple counties. The board's duties include designating juvenile judges, appointing the chief juvenile probation officer and setting the policy and budget for the juvenile probation department.

At the hearing, multiple probation chiefs testified and/or provided written testimony. Jill Mata, the Chief Juvenile Probation Officer for Bexar County, testified that Bexar County was a large urban department that included San Antonio. Bexar, she explained, runs a detention facility with a maximum capacity of 278 beds and a 96 bed post-adjudication secure treatment facility. She explained they have contracts with many surrounding counties to help them with detention and placement, but due to the pandemic and related staffing issues, they had to suspend intakes of all out of county children in the prior 8 months in order to concentrate on attempting to meet their jurisdictional needs.

Chief Mata testified:

“Our [Bexar] county is experiencing the very same workforce challenges as TJJD. It is a bit easier to manage since we only have two (2) facilities and they are geographically closer than the state's facilities, but it is by far our biggest current challenge.

“[Bexar County] has utilized several creative solutions to improve recruitment, hiring, and retention, but it has been a huge struggle. Our approach has been to provide incentive pay for the newly hired, hazard pay for existing staff, referral pay, and we have increased the rate we provide to our afterhours (“pool”) staff, who are usually Probation Officers who are dually certified as JSOs. Starting this year we also now require that all of our Probation Officers hold dual certifications so that we are prepared for any emergency; however, this places a great strain on the Probation Officers to work in this additional capacity. We have also worked on improving culture throughout this time, by having senior staff frequently visit and work in detention, providing snacks for those JSOs who are kept over their shift, encouraging and responding to staff using the suggestion box, and acknowledging good achievements. Until the sheer numbers improve, it is hard to improve culture, but it is a daily conversation. Our commitment to training throughout this crisis is also important as folks feel the investment we make in them. We also encourage those who want to quit, to have conversations with their entire chain of command, in order to see if we can improve and accommodate a specific need or concern. Our county has provided two (2) 5% salary adjustments over the past 12 months, and we are awaiting a budget decision for our request

for an increase in pay grade for the JSO positions.

“The effectiveness of our juvenile justice system in Texas has a direct impact on community safety. In order to achieve and maintain safety, there must be significant investments in an array of graduated interventions. In order to be successful we need:

- significant investments in community prevention and diversion programs such as early intervention and first offender programs, aimed at keeping kids out of the justice system;
- increased availability and access to specialized treatments and mental health professionals, and family based services to treat children in the community to keep kids shallow in the criminal justice system and reduce the need for out-of-home placements;
- financial support for continued and expanded regional diversions where children can receive appropriate treatments closer to their home; and finally
- the ability for the state to receive and treat those youth who cannot be treated locally. There will always be a need for certain children to be committed to the state, but to be effective that placement must be developmentally appropriate to deal with immature, high-risk/high-needs youth, so that they have the best chance of success and reintegration. Children do find success after their TJJD commitment. There will be some children who will need to be transferred to TDCJ, but that is not the majority of committed children, and there are legal processes in place to allow for and support those transfers. The state’s Special Prosecution Units must be adequately funded and supported to accomplish their important role.

“There have been conversations about relocating state facilities to larger urban areas, to allow for broader applicant pools to address JCO staffing. Having facilities located near urban centers will also increase chances of recruiting clinical staff, especially because you can develop partnerships with local universities. Stipends, salaries, flex schedules (including job sharing) would all need to be considered and increased in order to compete with the lure of telehealth, but it is not impossible. Most clinicians go into this field to make a difference, but many are young and starting families of their own so they must consider finances and flexible schedules when making employment decisions.

“The caveat to this is that all the urban and many not-so-urban locales are struggling to find staff themselves. If TJJD facilities are relocated to those communities, with higher state salaries, this will create direct competition for those employees. This could inadvertently place greater demands on the state justice systems. If the county systems are not robust, more kids are committed to TJJD. It is critical to keep county systems healthy and vibrant, and staffing is at the core of that. Many counties have historically offered services to an entire region. The pandemic has highlighted what happens when we are unable to do so. Increasing the daily rate of reimbursement to more accurately reflect the true cost of county care will allow counties to pay staff a more competitive wage.

“It is important to consider that the needs and issues of the youth from rural communities are likely different than the needs and issues of youth from the urban areas. We are essentially describing a tiered system. One existing solution within the tiered system is the diversion placement funding that is made available to the counties and that will hopefully

expand as some of the post-adjudication facilities recruit staff by offering higher salaries through increasing their daily rate.

“There is also a growing subset of kids that cannot get their needs met through a traditional post-adjudication facility. In the years immediately prior to the pandemic shutdowns, many of the youth that our Department was asked to consider for placement at Krier assessed with relatively low criminogenic risk, but presented with significant mental health and behavioral issues. While we are equipped to provide the treatment needed, these low-risk youth should not be around the more criminogenic youth typically treated at Krier. Regular psychiatric facilities or RTCs will often reject admission of these children because they have assaultive, self-injurious or destructive behaviors. We recognize that on the surface physical aggression can be perceived as a sign of criminality, however after a child has had time to stabilize, we often learn that the physical aggression was a response to extensive trauma or due to the child’s limited, yet possible, ability to manage their behavioral health condition. Probation departments, child welfare, and the community as a whole, need options for those children who may not meet the psychiatric commitment criteria of suicidal or homicidal ideation, but do present with behavioral health needs that may require a longer inpatient stabilization stay. With an increase in hospitalization reimbursement rates and expanded support for accessible aftercare interventions such as family partners, partial hospitalization, home-based caregiver training, respite care, and treatment foster care, the needs of children with severe behavioral health conditions could be effectively addressed. Furthermore, if such resources were offered to families earlier in a child’s life, we would likely see less children with behavioral health conditions in the juvenile justice and child welfare systems.

“The biggest need at the state level is for a highly effective capital or violent offender program for highly criminogenic youth with complex needs. They are the most challenging population for counties to treat due to their highly specialized needs and the challenges encountered when trying to ensure separation from lower criminogenic risk youth. Treatment interventions for these high risk children should be trauma informed, should appropriately address accountability and responsibility, and should be extremely tailored to developing the tools and skills necessary for a child to change their maladaptive behaviors. Most therapists who specialize in this work will tell you that this subset of youth have potential to change, but require a higher level of structure and intense programing in order to develop the necessary insight and skills, in an environment that does not jeopardize the safety and treatment of less criminogenic youth.

“Much effort and progress has been made to improve juvenile justice in Texas over the past 20 years and we have seen the positive results of those reforms, with fewer kids being referred and moving deeper in the system. Dividing the Agency, and moving Institutions to the adult system would be counterproductive and counter intuitive to this work. TDCJ has their own very challenging and important work to do. Taking on the Juvenile Corrections piece would significantly detract from their mission and responsibilities. The significant and elevated risks and liabilities associated with juvenile populations, the training and supervision standards, the federal and state oversight, and the interplay between juvenile justice, child welfare and education systems make this work unique and not interchangeable.

“Our Texas Juvenile Justice Stakeholders have the expertise, creativity and professional will to improve our system and make it work for our communities and our children. What we desperately need is an established *guiding coalition* with enough power to shape, implement and sustain these efforts, and that power comes from the support of our political stakeholders who will fight for the resources needed to get the job done.”

Charge V: Workforce

Examine workforce issues at state and local juvenile correctional facilities and consider the state's incentives to recruit quality staff. Consider the geographic areas where specialty providers are concentrated and the viability of opening specialized facilities for the state's youth with the highest therapeutic need to relieve the state's current rural facilities struggling with staffing. Consider consistent investments the state can make in local probation to encourage their facilities to divert youth from the juvenile justice system.

Summary of Committee Action

The following information on TJJD turnover and staffing was provided to the Committee by TJJD.

With regards to workforce issues at the state facilities, TJJD has the worst staff turnover rate among large state agencies, with a correctional officer turnover rate of 71 percent in FY2021. Current staffing levels sit at around 63%. Officers who have left the department cite non-competitive salaries and poor working conditions as the top reasons for their departure. This turnover creates a vicious cycle because as people leave, overtime becomes mandatory, resulting in more staff wanting to leave due to the working conditions. Additionally, the actual physical locations of the state facilities pose hurdles in recruitment.

In addition to the reasons and barriers mentioned above, staffing the state facilities is a difficult task as juvenile correctional officers have unique responsibilities. Chapter 242 of the Texas Human Resources Code defines a juvenile correctional officer as an “employee whose primary duties include the custodial supervision of children”. Unlike correctional officers employed by TDCJ, training for juvenile correctional officers is statutorily mandated to include information on adolescent development, trauma informed care, counseling techniques, and other instructions on how to appropriately and effectively supervise children committed to the department.

As the agency attempts to operate in a constant state of crisis, it is forced to divert its attention away from its regionalization duties as mandated by statute, and focus its attention on addressing immediate crisis needs, such as how to staff facilities so officers can provide basic care to youth. However, due to the difference in agency approach, officer training, and the TDCJ correctional officer shortage, there are complex barriers to leveraging TDCJ staff in TJJD facilities and could have the potential to pose significant safety risks to both the officers and the youth.

Ostensibly, incentives to recruit quality staff would be in order to ensure the health, welfare, and safety of children within the system. “The Texas Juvenile Justice Department is a state agency focused on youth and public safety. We are looking for talented, dedicated professionals in positions that range from Youth Development Coaches and Case Managers to Lawyers and Accountants.” is the statement on the Careers page of the TJJD website (<https://www.tjjd.texas.gov/index.php/careers>). The Texas Juvenile Justice Department announced in June of 2022 that it was offering a 15% permanent pay raise for direct-care staff effective on July 1 as it worked to address high staff turnover and employee shortages.

The raise was to apply to the following positions:

- Youth Development Coaches (Juvenile Correctional Officers)
- Team Leaders (Dorm Supervisors)
- Case Managers and Case Manager Supervisors
- Cooks
- Food Service Managers
- Youth Safety Managers
- Parole Officers and Parole Supervisors

According to the TJJD, the raise also makes permanent a temporary pay raise that was instituted as an emergency measure in April. Additionally, the raise increases the starting annual pay for Youth Development Coaches (JCO IIIs) from \$36,238 to \$41,700.

The funding for these pay hikes comes through cost savings from vacant positions and de-prioritizing other planned spending. The TJJD said it will also shift funds from certain contract services that are not currently being used from planned re-entry enrichment programs that will now be postponed.

The department said that, based on projections, it will be able to absorb the cost of raising salaries this biennium through appropriated general revenue.

"TJJD leadership recognizes that this is not the only solution but believes that making pay more competitive will address the immediate crisis of high turnover and begin to stabilize the agency's workforce," said Interim Executive Director Shandra Carter. "The conversion of the 15% bonus to a permanent salary ladder increase is the first step in stabilizing the agency. Recruiting and retaining qualified staff is a critical component necessary to meet our responsibilities. We are steadfastly committed to helping keep our communities safe and rehabilitating the youth in our care and custody. We will continue to problem solve and seek creative and innovative solutions to the secure facility staffing and county detention bed crisis."

CoNEXTions

(The following information on CoNEXTions was sourced from the TJJD website, <https://www2.tjtd.texas.gov/programs/conections.aspx>)

CoNEXTions© is an integrated, system-wide rehabilitative program offering various therapeutic techniques and tools that are used to help individual TJJD youth. The name, CoNEXTions©, stems from the basic goal of the program – to prepare youth to take the NEXT step, to connect youth to healthy, law-abiding relationships with their peers, families, and communities. The name symbolizes the hope that once youth are properly connected with other people, they are in a better position to connect to their futures, or the NEXT phase of their lives, with an optimistic and realistic outlook.

The CoNEXTions Approach

The Traditional Approach:

- Establish control over offenders
- Fix youth problems with professional services
- Increase sanctions for anti-social behavior

The TJJD Approach

- Connect youth with positive social forces and assets
- Draw on community resources to engage youth
- Engage youth in pro-social activities and opportunities

CoNEXTions© focuses on two questions:

- What causes youth to come into the juvenile justice system? (risk factors)
- What keeps youth from returning to the system? (protective factors)

CoNEXTions© uses an evidence-based, automated assessment, the Positive Achievement Change Tool (PACT), to assess individual youth risk factors and protective factors. The PACT provides the foundation for designing individual treatment plans targeting skill building to reduce a youth's risk factors and increase protective factors. The basic assumption of CoNEXTions© is that intense and system-wide implementation of thinking skills training and interventions specific to risk and protective factors will decrease recidivism and crime among youth in the program.

Risk and protective areas that are addressed include:

- Attitudes, values, and beliefs
- Influences and associations with people
- Effects of abuse of alcohol/drugs
- Personality traits
- Ability to control behavior
- Current family dynamics and supportive relationships within the family
- Academic/vocational achievement
- Use of leisure time

CoNEXTions© Step-By-Step

Assessment & Orientation

Upon admission to the TJJD assessment units, youth are assessed in multiple areas: mental health; education; vocation; and medical needs, and are evaluated for specialized treatment needs. Risk and protective factors are identified and an initial case plan is developed to begin targeting these factors. Youth are classified according to their committing offense and needs, designated a minimum length of stay, and are assigned to a placement dependent upon their rehabilitation needs, proximity to home, and risk level. During the assessment and orientation process, youth are introduced to a skills program – Thinking for a Change (T4C). Planning for transition/reintegration into the community begins during assessment

and the plan is revised as the youth progresses while in TJJD.

General Rehabilitation Program

CoNEXTions© is an integration of programs within TJJD, including education and workforce development, and provides a comprehensive case plan of rehabilitation for each youth and addresses their specific needs. The Thinking for a Change (T4C) curriculum is woven into daily interactions between youth and staff members, with “thinking reports” used to process problems when they arise. Four times each week, youth attend structured skills groups that target risk factors and help youth develop or improve the skills they need to live successfully in their communities. One day each week, youth participate in a skills application group. In this group, youth have an opportunity to discuss and practice new skills, thereby increasing protective factors in those areas. These skills include: communicating effectively with others, managing emotions, evaluating their alcohol and drug use decisions, problem solving, family living skills, and making wise choices/decisions.

Required Supplemental Groups

In addition to attending skills groups, youth may be required to attend other types of groups which assist them in areas of special needs. Required supplemental groups are conducted up to four times per week and target specific risk factors, focusing on areas such as anger management, alcohol and other drug education, mental health support, and psycho-sexual development.

Specialized Treatment Programs

Specialized treatment is provided for youth identified as having a significant need in a specific area. The specialized treatment programs are: Capital and Serious Violent Offender Treatment Program, Alcohol and Other Drug Treatment, Mental Health Treatment Program, and Sexual Behavior Treatment Program. In these programs, youth receive treatment services from specially trained or licensed staff and participate in programming that is designed around their specific needs in that target area. Youth in specialized treatment programs receive ongoing support and staff receive specialized training to maintain the advanced skills and knowledge needed to work with special-needs populations.

Leisure Skills Building Groups

Leisure Skills Building Groups are held on weekends and evenings and are offered by staff, volunteers or professionals with an interest and training in the chosen topic: money management, guitar lessons, painting, sculpting, etc. These groups provide the youth additional opportunities that are not solely focused on rehabilitation, but target the building of pro-social leisure skills.

Family Involvement

Family involvement and interaction is encouraged and supported. Each facility has unique

strategies for increasing family involvement, including educational workshops, open house meetings, family day activities, multi-disciplinary team meetings, and facility orientations. Families are encouraged to be actively involved in developing their youth's community re-integration plan. At all facilities, visits and letters are encouraged and welcomed. Multi-family conferences are held quarterly to assist parents and guardians to understand and support youth in the TJJD facilities. In addition to the case plan, the family is provided a written overview of the youth's progress every 90 days.

Education, Vocational Training & Workforce Development

The educational needs of each youth are individualized and supportive of the youth's goals. Youth are provided the opportunity to improve basic academic skills, particularly reading and math, and to work toward earning their high school diploma and/or a GED. Workforce Development programs offer employment preparation and reintegration services in both facilities and aftercare. The vocational goals are gender sensitive and provide both traditional and non-traditional programming. Vocational programs are aligned with industry standards and certifications where possible. Teachers, with the assistance of juvenile correctional officers, use classroom management skills that provide an environment favorable to learning for all youth.

Multi-Disciplinary Team and Case Planning

Youth are evaluated monthly by a multidisciplinary team, which consists of their case manager, an assigned educator, and juvenile correctional officers, who work with the youth on a regular basis. Medical input is provided to ensure any medical issues are properly addressed in daily living and in case planning. Parents are also invited to participate in the monthly multi-disciplinary team meeting. The multi-disciplinary team formally reassesses a youth's progress each month, changing case plan objectives as needed to meet the individual youth's needs, targeting specific skills to develop, and assessing their overall "stage" in CoNEXTions©.

Evaluating progress – Stages of CoNEXTions©

Progression through CoNEXTions© is measured through five stages, beginning with Stage 1 and ending with Youth Empowerment Status (YES). The youth's stage assignment reflects the stage objectives on which the youth is currently working. Once those objectives are completed, the youth is promoted to the next stage. Each stage has objectives for the youth to complete that will assist with the following outcomes:

- increase understanding of personal risk and protective factors and how those relate to success/lack of success in the community;
- movement toward developing a concrete community reintegration plan; and
- engagement of the youth's family in programming; and
- understanding how the youth's committing offense was related to risk factors, including their underlying attitudes, values and beliefs.

The youth's consistent and active participation in all areas of programming – development and completion of case plan objectives, groups, specialized treatment programs (if

applicable), academic and workforce development programs, and consistent application of learned skills in daily behavior is also required for stage promotion.

Positive Behavior Change System

The Positive Behavior Change System (PBCS) is designed to bring out the best in youth, offering them strong incentives to behave in ways that contribute to a safe, therapeutic culture. At the same time, youth learn skills which help them solve problems and manage emotions that can lead to negative behaviors. All staff and youth are expected to follow five basic rules:

- Be in the right place at the right time
- Follow directions;
- Participate in activities;
- Respect others; and
- Accept consequences.

Youth are provided a daily rating of their performance in following the five basic rules. Aside from privileges awarded to youth based on their progress in the stages of CoNEXTions©, youth may receive additional privileges based upon their daily and weekly performance ratings. These ratings also contribute to evaluating the youth's stage progression.

Program Completion

Youth who reach and maintain the highest stage, Youth Empowerment Status (YES), and meet other objective release criteria are considered to have successfully completed the program. These youth are released from high restriction facilities under the authority of the local administrator. Youth who do not achieve YES, and who are not committed to TJJD with a determinate sentence (a sentence of up to 40 years imposed by the court), may still be released to the community after completion of their minimum length of stay. The Release Review Panel (RRP) reviews these youth. If the RRP determines the youth has no rehabilitative needs requiring continued confinement to a residential facility, the RRP authorizes the youth's release to parole or discharge the youth from TJJD supervision.

Community Re-entry and Parole

Community re-entry planning begins upon admission to TJJD. As youth near completion of their minimum lengths of stay, case managers, parole officers, youth and their parents or guardians formalize individualized transition plans. These plans include all of the elements required for the youth to be successful upon return to the community. Youth must engage in productive activity once in the community and continue to reduce risk factors and increase protective factors. They receive help and support from not only their parole officers, but from re-entry teams which include family and educational liaisons, workforce development specialists, and other community resource providers. This ensures the needs of youth and families, especially those exhibiting high or multiple needs, are addressed.

Roles in CoNEXTions©

Simply put, CoNEXTions© is the “way we do business” in TJJD. Therefore, every staff member, every family member, every volunteer and every youth has a role to play in CoNEXTions© and in the success of youth committed to the Texas Youth Commission. TJJD staff promote a “CoNEXTions© Culture” by:

- Practicing/Modeling the five basic rules
- Participating actively in multi-disciplinary teams
- Asking youth about their community re-integration plan
- Coaching youth according to their individual risk and protective factors
- Setting limits by giving youth options paired with consequences
- Using “thinking reports” when problems arise
- Modeling partnership, teamwork and effective communication
- Proactively engaging families and volunteers
- Celebrating positive accomplishments, emphasizing educational achievement
- Using the common language of CoNEXTions©

At the August 8, 2022 hearing, the Committee heard from several Chief Probation Officers throughout the state.

Jill Mata, the Chief Probation Officer for Bexar County, testified to the following:

“If the county systems are not robust, more kids are committed to TJJD. It is critical to keep county systems healthy and vibrant, and staffing is at the core of that. Many counties have historically offered services to an entire region. The pandemic has highlighted what happens when we are unable to do so. Increasing the daily rate of reimbursement to more accurately reflect the true cost of county care will allow counties to pay staff a more competitive wage.

It is important to consider that the needs and issues of the youth from rural communities are likely different from the needs and issues of youth from the urban areas. We are essentially describing a tiered system. One existing solution within the tiered system is the diversion placement funding that is made available to the counties and that will hopefully expand as some of the post-adjudication facilities recruit staff by offering higher salaries through increasing their daily rate. There is a growing subset of kids that cannot get their needs met through a traditional post-adjudication facility. In the years immediately prior to the pandemic shutdowns, many of the youth that our Department was asked to consider for placement at Krier assessed with relatively low criminogenic risk, but presented with significant mental health and behavioral issues. While we are equipped to provide the treatment needed, these low-risk youth should not be around the more criminogenic youth typically treated at Krier. Regular psychiatric facilities or RTCs will often reject admission of these children because they have assaultive, self-injurious or destructive behaviors. We recognize that on the surface physical aggression can be perceived as a sign of criminality, however after a child has had time to stabilize, we often learn that the physical aggression was a response to extensive trauma or due to the child’s limited, yet possible, ability to manage their behavioral health condition. Probation departments, child welfare, and the community as a whole, need options for those children who may not meet the psychiatric

commitment criteria of suicidal or homicidal ideation, but do present with behavioral health needs that may require a longer inpatient stabilization stay. With an increase in hospitalization reimbursement rates and expanded support for accessible aftercare interventions such as family partners, partial hospitalization, home-based caregiver training, respite care, and treatment foster care, the needs of children with severe behavioral health conditions could be effectively addressed. Furthermore, if such resources were offered to families earlier in a child’s life, we would likely see less children with behavioral health conditions in the juvenile justice and child welfare systems.”

Nikki Pressley with Texas Public Policy Foundation agreed, explaining that,

“Moving forward, the legislature and TJJD should prioritize regionalization, beginning with building out a new detailed strategic plan, focusing on ways to increase the number of youth diverted from state facilities and how to incentivize collaboration between county probation departments. This plan should be reassessed frequently, possibly yearly. By moving facilities to more urban settings, the department could better recruit and maintain employees while also leveraging pre-existing area resources. When determining specific locations, it is critical for future success that the agency considers local factors such as unemployment rates, average salaries, cost of living, and pre-existing mental health/wrap-around services. Additionally, the agency should consider ways to leverage existing universities and hospitals that may provide a large pool of eligible employees and robust resources.”

Charge VI: Child Support

Study how child support is calculated and administered in Texas and how the Texas method compares to other states' plans for calculating child support, including identifying modern trends across the country for calculating child support. Consider how alternative methods for calculating child support affect each parents' share of responsibility for child support, health care, childcare, and other matters in other jurisdictions compared to Texas.

Written Testimony from the Child Support Division of the Attorney General's Office

Chair Neave, Vice Chair Swanson, members of the committee, thank you for the opportunity to share information with you about the Office of the Attorney General – Child Support Division and the Texas Child Support Guidelines.

The Office of the Attorney General is the Title IV-D agency for the state of Texas. Title IV-D is the section of the Social Security Act that requires states to operate a child support program as a condition of receiving public assistance funds. The responsibility for administering the child support program in Texas has resided within the Office of the Attorney General since 1985.

Our office is responsible for locating absent parents; establishing paternity; establishing child, medical, and dental support orders; and enforcing those orders. Uniquely, in Texas, unlike in many other states, our office also facilitates the establishment of conservatorship and parenting time orders.

The Child Support Division has a strong tradition of excellence, innovation, and service, even in the face of challenges, such as a steadily increasing demand for our services. Since 2005, the caseload has grown 67%, or more than 613,000 cases, with virtually no increase in staff.

In that same time, our collections have grown from nearly \$1.9 billion in support in 2005 to over \$4.38 billion in support collected last fiscal year. Currently, we have approximately 1.5 million cases, serving over 1.6 million children. Notably, that means nearly 1 in 4 Texas children are served by our program. Since 2007, Texas has led the nation in the highest collections annually of any state child support program, and we continue to lead in several other measures, including collections per full time employee and cost-effectiveness. Last fiscal year, our collections per employee were approximately 2.85 times greater than the national average of other states. In raw numbers, we collected more for families than 25 other states combined, and almost \$2 billion more than the next highest state, California.

All of that said, at the Office of the Attorney General – Child Support Division, our vision is a Texas in which all children consistently receive the financial and emotional support of both of their parents. We are proud of our accomplishments, because our success means the success of the families we serve – but as long as even one child goes without support, we know we have work to do. Our aim is not simply to be the best child support program in the nation as compared to other programs, but to be the best program we can be, because

Texas children and families deserve nothing less.

The Child Support Division has undertaken a number of transformative efforts, all with the goal of improving the performance of our program. Notably, a key initiative is the modernization of our legacy technology system, TXCSES, using an Agile-at-scale model and low code development tools to iteratively deploy quality applications. The ultimate goal of this initiative is to remove all dependencies on legacy mainframe technology in the coming years. This effort, combined with business process enhancements, promises to not only ensure the stability of the technology systems that enable our mission long-term, but to allow for innovations.

Similarly, we recognize the opportunity to modernize elements of the Texas child support guidelines and look forward to engaging with this body and other stakeholders toward that end. We are grateful for your interest in and support of this critical function of state government. Our program is comprised of nearly 2,700 public servants who are wholly committed to our mission and vision, and we look forward to working together to deliver on that promise for the children and families of Texas.

Guidelines Overview

Each state has laws in place regarding the calculation of child support because it is required by federal law and regulations. In Texas, the laws regarding child support are found in Chapter 154 of the Texas Family Code. Child Support Guidelines is a reference to the laws found in the Family Code. These laws were enacted to guide the court in determining an equitable amount of child support.

Child support guidelines are an essential part of the laws of Texas. The guidelines ensure courts across Texas have a statutory prescription for calculating child support and ensure that similarly situated families receive equitable treatment in the calculation of support obligations. Additionally, the guidelines reduce litigation expenses for Texas families by providing clear legal principles that govern this aspect of family litigation.

Description of Texas Child Support Guidelines Model

Federal law and regulations require each state to establish guidelines for calculating child support; however, federal laws and regulations do not dictate the specific method or model to be used in calculating child support. Today, three main types of child support guideline formulas are used by states:

- Percentage of Income
- Income Shares
- the Melson Formula

These three models were based upon economic studies regarding the cost of raising children and significant variations exist within the specific models adopted by each state. In 1987, Texas adopted the basic structure of the current guidelines. Texas guidelines are based upon a Percentage of Income model. These rules were codified in 1989. Under

Texas' Percentage of Income model, child support is based upon the available resources of the obligor.

The calculation of support in Texas is generally a three-step process:

1. Determine the income or resources of the obligor.
2. Determine the number of children to be supported by the obligation.
3. Apply the appropriate percentage to the obligor's net resources.

The percentage applied to the obligor's net resources is contained within the Texas child support guidelines and is based upon the number of children to be supported by the obligation. After the initial determination of support is calculated, the court may make further adjustments or deviations from the amount calculated as permitted under Texas law.

This simple, straightforward method of calculating child support has been in place in Texas for over 30 years.

Other Child Support Guidelines Models

Texas has chosen the Percentage of Income model to calculate support. Because the federal government does not prescribe the model states chose when adopting child support guidelines, the model varies amongst states. Variations exist in each state in both the general model chosen and the nuances of the formula used to calculate child support.

The two other main models adopted by states, in addition to the percentage of income model, are the Income Shares model and the Melson Formula. These two models consider the income of both parents in the calculation of support. Although the income of both parents is considered, the resulting child support is not necessarily higher or lower than child support calculated under a Percentage of Income model. The controlling factor in whether an Income Shares calculation is higher or lower than a calculation under a Percentage of Income model is based upon a list of contributing factors such as:

- Whether the parties have equal income or whether one party has resources that are significantly higher than the other parent.
- Whether the calculation contains an adjustment for parenting time.
- Whether the calculation contains a self-sufficiency reserve.

Calculations of child support under an Income Shares model are a five-step process, and calculations using the Melson Formula are a six-step process. The reason these formulas are more complicated than a Percentage of Income calculation is that these formulas are not simply adding the two incomes together, then pro-rating them out, and applying a percentage. Instead, these models require:

- A determination of the combined resources of both parties
- Use of a table or a formula to determine the basic support obligation for the child(ren) based on the combined resources (the basic support obligation found in these tables already has the percentages used to calculate support applied as these

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- percentages are variable based upon the resources of the parties).
- Addition of other expenses such as child-care and extraordinary medical expenses to the basic child support obligation.
 - Determination of each parent's percentage share of the obligation by dividing each parent's income by the combined income of both parents.
 - Apportioning each parent's support obligation based upon their portion of the income.

In addition to these steps, the Melson Formula involves subtracting a self-sufficiency reserve from the income of each party when determining the resources available for support.

As you can see, the Percentage of Income models have the perceived strengths of simplicity, transparency, and efficiency. Awards are generally consistent for obligors with similar incomes throughout the state. However, a perceived weakness of this model is that obligors may presume that the model is less fair because it does not consider the income of the custodial parent. Income Shares and the Melson Formula models consider the incomes of both parents. As a result, obligors with similar incomes may pay substantially different amounts in child support. An additional perceived weakness of models that consider both parents' incomes is that additional computation steps add complexity to the calculation. Additionally, if two incomes are considered in the calculation, there is the opportunity for two incomes (instead of just one) to change over time, which could lead to an increase in the number of legal actions filed in courts to seek modification of child support due to changes in income of either, or both, parents.

Guidelines Review Process

Federal law and regulations require states to have child support guidelines and review those guidelines at least once every four years. In accordance with those laws and regulations, the Office of the Attorney General conducts a review of the child support guidelines every four years and submits its findings and recommendations to the Legislature to help ensure the state's guidelines align to the needs of Texas children and families.

Summary of Findings from Recent Texas Guidelines Review

It has been over 30 years since Texas adopted the current child support guidelines.

While the guidelines have served Texas well, the most recent review highlights the need for more clarity on the purpose and economic rationale for the guidelines to ensure that assessment of the guidelines are consistent and more effective. Updating the guidelines to include an economic rationale and a formula based upon current economic studies of families and the needs of Texans would require statutory changes. If the Legislature is interested in adopting Income Shares type guidelines, then sufficient time is needed to enlist experts to conduct an economic analysis and build the basic support tables used in typical Income Shares guideline models.

Public Policy Statement and Economic Rationale

The Legislature may wish to consider adoption of a more robust public policy statement on what the guidelines are expected to accomplish. The Legislature may also wish to explore including ways to gauge success and achievement of objectives and a specific economic rationale for the Texas child support guidelines.

Stakeholder Input in Next Review Cycle

Texas is required by federal regulations to seek public input from external stakeholders in the next review of its child support guidelines. Such input could be of value in assisting the Legislature with the development of a robust public policy statement and in the evaluation of potential economic rationales.

Logistical Factors for Consideration

Updating the Texas child support guidelines will impact children, parents, attorneys, judges, and child support computer systems, policies, and processes. Any update to the Texas child support guidelines will impact current system modernization and will require extensive training both internally for the Office of the Attorney General – Child Support Division and externally for attorneys, judges, and Texas families. Today, child support calculators are available to assist parties in calculating support, which did not exist 30 years ago. However, updating the child support guidelines will require significant programming efforts on the part of both the Office of the Attorney General – Child Support Division, as well as private entities that assist parties in the calculation of support. Any change to the Texas child support guidelines must build in time for:

- Enlisting experts to conduct an economic analysis and build the basic support tables used in typical income shares guidelines.
- Essential programming efforts.

Child support guidelines impact millions of Texas families and they deserve child support guidelines that are thoughtfully and methodically developed and implemented. Creating a roadmap for developing any new guideline model in Texas should account for these important logistical considerations and provide for sufficient time for all relevant factors and viewpoints to be considered and addressed.

The Office of the Attorney General – Child Support Division looks forward to working with stakeholders, as we always do, to ensure that the Texas child support guidelines continue to serve the needs of families.

Respectfully submitted,

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Endnotes

¹ Texas House Rules, 87th Legislature. 2021. https://house.texas.gov/_media/pdf/House-Rules-of-Procedure-87.pdf

² Texas House Committee Interim Charges. 2021. https://house.texas.gov/_media/pdf/interim-charges-87th.pdf

³ <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=HB4544>

⁴ Texas House Committee Interim Charges, Texas-Mexico Border. 2021.

https://house.texas.gov/_media/pdf/committees/reports/87interim/Interim-Committee-Charges-Related-to-the-Texas-Mexico-Border.pdf

⁵ <https://texaslawhelp.org/toolkit/i-need-protective-order>