

Sunset Commission Meeting November 10, 2022

Decision Material

Texas Commission on Environmental Quality
Texas Low-Level Radioactive Waste Disposal Compact Commission

Texas Juvenile Justice Department
Office of the Independent Ombudsman

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT COMMISSION

Issue 1

TCEQ's Policies and Processes Lack Full Transparency and Opportunities for Meaningful Public Input, Generating Distrust and Confusion Among Members of the Public. (Page 13)

Change in Statute

Rec. 1.1 (Page 22)

Clarify statute to require public meetings on permits to be held both before and after the issuance of the final draft permit.

Chairman Schwertner Proposed Modification

Replace Recommendation 1.1 with the following: Require the public comment period for a permit application remain open for at least 36 hours after the conclusion of a public meeting for air permit applications with a consolidated notice of receipt of application and intent to obtain permit (NORI) and notice of application and preliminary decision (NAPD), if a public meeting is held.

Senator Perry Proposed Modification

Replace Recommendation 1.1 with the following: Direct TCEQ to extend the deadline to request a contested case hearing to 36 hours after the conclusion of a public meeting for air permit applications with a consolidated notice of receipt of application and intent to obtain permit (NORI) and notice of application and preliminary decision (NAPD), if a public meeting is held. (Management action - nonstatutory)

Management Action

Rec. 1.2 (Page 22)

Direct the commission to vote in a public meeting on key foundational policy decisions that establish how staff approach permitting and other regulatory actions.

Senator Perry Proposed Modification

Replace Recommendation 1.2 with the following: Direct the commission to vote in a public meeting on the acceptable level of health-based risk used in the development of toxicity factors for permitting and other regulatory actions.

Rec. 1.3 (Page 22)

Direct TCEQ to develop a guidance document to explain how it uses the factors in rule to make affected person determinations.

Vice Chairman Holland Proposed Modification

Replace Recommendation 1.3 with the following: Direct TCEQ to develop a guidance document that explains what information the commission needs to evaluate whether a person is potentially affected by a permit application and states that each request is reviewed on a case-by-case basis, considering all the factors in its rule, including — but not limited to — distance.

Rec. 1.4 (Page 23)

Direct TCEQ to adopt a policy guiding its rule review process to ensure that identified deficiencies in the rules are addressed.

Rec. 1.5 (Page 23)

Direct TCEQ to review and update its website to improve accessibility and functionality.

Chairman Schwertner Proposed Modification

Modify Recommendation 1.5 by adding a statutory change to require TCEQ to post all permit applications and associated materials on TCEQ's website once the agency determines the application to be administratively complete and include the website's address in any public notice issued for the permit. For water right permit applications, the posting would also include maps and supporting material. Posting online may be in lieu of placing the required documents in a public building. Under this recommendation, TCEQ would be required to consider and accommodate if there are affected persons in areas of the state lacking internet availability that might need assistance with access to the documents, particularly if there is heightened interest or in response to comment or request.

Chairman Schwertner Proposed Modification

Modify Recommendation 1.5 to direct TCEQ, when updating their website, to make easily accessible to the public, and provide to regional water planning groups, the webpage link to the database of GCDs, MUDs, SUDs, river authorities, water systems, WCIDs, etc. with contact information and separated by county.

Rec. 1.6 (Page 23)

Direct TCEQ to evaluate its current use of advisory committees to provide more public involvement in rulemaking and other decision-making processes, and continue advisory committees by rule, as appropriate.

Issue 2

TCEQ's Compliance Monitoring and Enforcement Processes Need Improvements to Consistently and Equitably Hold Regulated Entities Accountable. (Page 27)

Change in Statute

Rec. 2.1 (Page 39)

Require TCEQ's compliance history rating formula to consider all evidence of noncompliance while decreasing the current emphasis on site complexity, and direct the agency to regularly update compliance history ratings.

Chairman Schwertner Proposed Modification

Replace Recommendation 2.1 with the following: Direct TCEQ to review and update the agency's compliance history rating formula to ensure it accurately reflects a regulated entity's record of violations, including considerations of site complexity and cumulative violations or multiple violations of the same type. TCEQ should specifically consider major, moderate, and repeat occurrences of the same minor violations when calculating compliance history ratings. Finally, TCEQ should regularly update an entity's compliance history rating throughout the year as the agency receives additional information that could alter the rating. (Management action - nonstatutory)

Vice Chairman Holland Proposed Modification

Modify Recommendation 2.1 to also direct TCEQ to re-evaluate its compliance history rating formula to ensure a facility's compliance rating does not improve if the facility reports an unauthorized air pollution emission and seeks an affirmative defense. (Management action - nonstatutory)

Rec. 2.2 (Page 39)

Require TCEQ to consider all violations when classifying an entity as a repeat violator.

Rec. 2.3 (Page 40)

Require TCEQ-regulated entities with temporary or open-ended permits to annually confirm their operational status.

Management Action

Rec. 2.4 (Page 40)

Direct TCEQ to reclassify recordkeeping violations based on the potential risk and severity of the violation.

Rec. 2.5 (Page 40)

Direct TCEQ to develop and implement clear guidance to evaluate affirmative defense requests for air emissions.

Vice Chairman Holland Proposed Modification

In conjunction with Recommendation 2.5, direct TCEQ to establish a centralized committee of agency staff authorized to review and approve all applications for affirmative defense related to unauthorized air pollution emissions.

Rec. 2.6 (Page 40)

Direct TCEQ to modify its approach to nuisance complaints to make better use of the agency's investigative resources.

Issue 3

TCEQ's Oversight of Water Could Better Protect the State's Scarce Resources.
(Page 43)

Change in Statute

Rec. 3.1 (Page 49)

Remove the abolishment clause for the E-Flows Advisory Group and E-Flows Science Advisory Committee, and require the advisory group to adopt a biennial statewide work plan for adaptive management updates of environmental flow standards.

Senator Johnson Proposed Modification

Rather than disband and re-establish Bay and Basin Stakeholder Committees and Expert Science Teams every ten years for adaptive management, continue those groups in effect with renewable five-year terms for members that continue in effect until a replacement member is named or a vacancy occurs through resignation or inability to continue to serve.

Rec. 3.2 (Page 50)

Require TCEQ to hold its annual meeting regarding priority groundwater management area studies in a public setting.

Management Action

Rec. 3.3 (Page 50)

Direct TCEQ to conduct a comprehensive study of its water usage data and initiate cancellation proceedings for water right permits with nonuse over 10 years.

Senator Perry Proposed Modification

Replace Recommendation 3.3 with the following: Direct TCEQ to publish a report on the status of its water availability models (WAMs) as they are updated, including the development and structure of WAMs, information on ongoing WAM updates, prioritization for other WAM dataset updates, and estimated cost for the prioritized updates. As part of the recommendation, TCEQ should post this report on its website.

Issue 4

TCEQ and OPIC Lack Certain Transparent and Efficient Processes for OPIC to More Effectively Represent the Public’s Interest. (Page 53)

Management Action

Rec. 4.1 (Page 56)

Direct OPIC to consider developing and using umbrella contracts to procure expert assistance.

Rec. 4.2 (Page 56)

Direct TCEQ commissioners to take formal action on OPIC’s rulemaking recommendations.

Issue 5

The State Has a Continuing Need for the Texas Commission on Environmental Quality. (Page 59)

Change in Statute

Rec. 5.1 (Page 62)

Continue the Texas Commission on Environmental Quality for 12 years and remove the Sunset date of the agency’s enabling statute.

Rec. 5.2 (Page 62)

Update the standard across-the-board requirement related to board member training.

Rec. 5.3 (Page 62)

Update the standard across-the-board requirement regarding the separation of duties of commissioners from those of staff.

Issue 6

The State Benefits From Continued Legislative Oversight of the Texas Low-Level Radioactive Waste Disposal Compact Commission. (Page 67)

Change in Statute

Rec. 6.1 (Page 71)

Amend the compact commission's Sunset review date to 2035.

Proposed New Recommendations

Chairman Schwertner Proposed New Recommendation 1

Require TCEQ, when posting or sending out notices on all permit applications and permit amendments, to include, at a minimum, the name of the applicant, type of permit, and address of the proposed or existing site.

Vice Chairman Holland Proposed New Recommendation 2

Create in statute a new permit for the operation of a temporary concrete batch plant that supports a public works project. This new public works permit will operate under the existing environmental regulations required by the standard concrete batch plant permit. This new permit can only be used in conjunction with a specific public works project.

Vice Chairman Holland Proposed New Recommendation 3

Require TCEQ to provide notice when it receives an application to create a new district, such as municipal utility districts (MUDs), to state representatives and senators that represent any portion of the proposed district's boundaries.

Vice Chairman Holland Proposed New Recommendation 4

Authorize TCEQ to review and potentially suspend a facility's compliance history rating in the event of exigent circumstances, such as an emergency event causing death or injury.

Vice Chairman Holland Proposed New Recommendation 5

Create in statute the Compliance Training and Safety Program within TCEQ's Small Business and Local Government Assistance program. As part of this recommendation, authorize TCEQ to divert qualifying facilities to receive additional training and on-site follow-up by TCEQ staff in response to minor or moderate violations that do not present an imminent threat to public health or safety, rather than formal enforcement action. Establish that facilities would be eligible for participation in the program once in a 24-month period.

Senator Johnson Proposed New Recommendation 6

Increase statutory limits on administrative penalties for all violations with a current cap of \$25,000 per day to \$50,000 per day.

Senator Johnson Proposed New Recommendation 7

Expand TCEQ's statutory authority to include both newspaper and electronic publication notice for pending environmental permit applications. The electronic publication should include posting on a website as well as an option to receive notifications through email. Federal requirements for newspaper or public location notification would be in addition to electronic publication. Under this recommendation, TCEQ would be required to consider and accommodate if there are affected persons in areas of the state lacking internet availability that might need assistance with access to the notices, particularly if there is heightened interest or in response to comment or request.

Senator Perry Proposed New Recommendation 8

Amend statute to expressly authorize the commission the discretion to hold virtual public meetings in lieu of in-person public meetings. The commission will consider and accommodate if there are affected persons in areas of the state lacking internet availability that might need assistance with access to the meetings, particularly if there is heightened interest or in response to comment or request.

Senator Perry Proposed New Recommendation 9

Direct TCEQ, upon receiving public comments that are not under the jurisdiction of the agency, to answer the comment with information on the agency or organization with the relevant jurisdiction. (Management action - nonstatutory)

Representative Canales Proposed New Recommendation 10

Direct TCEQ to prepare and deliver a report by September 1, 2023, to the legislature on its efforts to enhance public participation and language access as part of its November 3, 2020, Informal Resolution Agreement with the EPA. (Management action - nonstatutory)

Representative Canales Proposed New Recommendation 11

Direct TCEQ to consider developing Spanish language versions of its online form through which individuals may submit a complaint. (Management action - nonstatutory)

TEXAS JUVENILE JUSTICE DEPARTMENT

OFFICE OF THE INDEPENDENT OMBUDSMAN

Issue 1

Unless TJJD's Critical Staffing Issues are Adequately Addressed, the Juvenile Justice System Will Remain In a Cycle of Instability, Unable to Fully Achieve Legislative Goals. (Page 17)

Change in Appropriation

Rec. 1.1 (Page 31)

The House Appropriations and Senate Finance committees should consider increasing TJJD's appropriation to stabilize staffing levels and ensure the agency accomplishes its statutory regionalization duties.

Chairman Schwertner Proposed Modification

Replace Recommendation 1.1 with the following: Express the will of the Sunset Commission that the Legislature consider appropriating additional funding to TJJD for the construction of two new state secure facilities. The appropriative committees could consider:

- a. The number of new beds necessary to adequately house and treat youth adjudicated of a felony offense and committed to the state's care, which the commission suggests should be at least 200.
- b. Suitable locations for the facilities near population centers that offer sufficient workforces to support the staffing, treatment, and programming needs of committed youth.
- c. Opportunities for either or both of the new facilities to specialize in specific treatment and programming for committed youth, such as crisis stabilization and mental health care.

As a related management action to assist with the appropriative committees' work, the recommendation would direct TJJD to collaborate with relevant stakeholders, including other state agencies, in developing suggested locations for both facilities. The recommended locations may include particular counties or regions of the state, rather than precise sites where construction would occur. The agency would submit its two recommended locations to the Sunset Commission and the Legislature by January 6, 2023. When providing TJJD's recommended locations, agency staff should include relevant information and statistical data demonstrating why the locations were selected, such as increased

access to treatment providers and proximity to population centers. The agency may also recommend whether either or both facilities should specialize in specific treatment and programming.

Change in Statute

Rec. 1.2 (Page 32)

Require TJJJ to update its regionalization plan biennially to ensure its contents are up-to-date and actionable.

Rec. 1.3 (Page 33)

Authorize TJJJ to incentivize diversion within and collaboration between Texas counties through its grantmaking processes.

Chairman Schwertner Proposed Modification

Modify Recommendation 1.3 by adding the Legislative Budget Board as one of the stakeholders TJJJ should consult and coordinate with when developing updates to its funding formula used to calculate financial assistance for county juvenile boards.

Rec. 1.4 (Page 33)

Continue TJJJ for six years.

Chairman Schwertner Proposed Modification

Replace Recommendation 1.4 with the following: Continue TJJJ as the state's stand-alone juvenile justice agency for two years, until September 1, 2025. Direct Sunset Commission staff to conduct a limited-scope review of TJJJ during the 2024-25 biennium focused on the following:

- a. Implementation of Sunset management recommendations adopted by the commission and statutory recommendations passed by the Legislature during the 2022-23 biennium.
- b. Barriers to implementing Sunset management recommendations adopted by the commission and statutory recommendations passed by the Legislature during the 2022-23 biennium.
- c. Any changes needed to improve coordination between TJJJ and the Texas Department of Criminal Justice (TDCJ), particularly for youth transferred from TJJJ's custody to TDCJ's custody.
- d. Decision-making processes involving TJJJ's board and executive director to evaluate any needed changes in board engagement, delegation of duties, staff discretion, and transparency.

Additionally, specify Sunset’s recommendations to the 89th Legislature may include any recommendation the commission considers appropriate based on the limited-scope review.

Management Action

Rec. 1.5 (Page 33)

Direct TJJJ to complete statutorily required regionalization duties that remain unfinished or underdeveloped.

Rec. 1.6 (Page 34)

Direct TJJJ to seek guidance from the State Office of Risk Management to develop strategies for addressing and minimizing employee injuries.

Issue 2

TJJJ’s Board Must Vastly Improve Its Governance and Engagement to Overcome the Agency’s Operational Crises and Leadership Instability. (Page 37)

Change in Statute

Rec. 2.1 (Page 44)

Require the board to provide oversight and accountability for any duties the board delegates to the executive director.

Rec. 2.2 (Page 45)

Authorize the board to appoint advisory committees.

Senator Paxton Proposed Modification

In addition to Recommendation 2.2, require TJJJ to create a Youth Career & Technical Education advisory committee to oversee and coordinate ongoing and future vocational training for youth in TJJJ’s custody, including opportunities for TJJJ to partner with community colleges and other local entities to provide this training.

Rec. 2.3 (Page 45)

Require the board to adopt rules for the Advisory Council on Juvenile Services.

Rec. 2.4 (Page 46)

Abolish the inactive statutory advisory committee on vocational education and employment programs.

Rec. 2.5 (Page 46)

Update the standard across-the-board requirement related to board member training and improve the usefulness of the training.

Senator Perry Proposed Modification

Modify Recommendation 2.5 by expanding training topics for TJJJ board members to include overviews of the disbursement of state grant funding to county juvenile probation departments, and the composition, duties, and functions of the Advisory Council on Juvenile Services. (Management action - nonstatutory)

Management Action

Rec. 2.6 (Page 46)

Direct the board to evaluate and update its own policies and practices to more efficiently and effectively perform its duties.

Rec. 2.7 (Page 47)

Direct TJJJ to adopt a four-year rule review plan and rules that are required by statute.

Rec. 2.8 (Page 47)

Direct TJJJ to seek representation by the Office of the Attorney General to pursue a modification of the Parrie Haynes and John C. Wende trusts that would appoint a qualified third party trustee and an advisory committee to assist the trustee.

Issue 3

Key Elements of TJJJ's Statute, Rules, and Procedures Do Not Conform to Common Regulatory Standards. (Page 51)

Change in Statute

Rec. 3.1 (Page 57)

Require TJJJ to establish a risk-based approach to inspections for county- and state-level entities, including contract facilities operated by private entities.

Rec. 3.2 (Page 57)

Remove prescriptive education and experience requirements for juvenile probation officers (JPOs) from statute.

Senator Perry Proposed Modification

Modify Recommendation 3.2 by prohibiting TJJJ from adopting rules specifying JPOs must acquire a degree higher than an associate's degree from an accredited college or university to be eligible for officer certification.

Rec. 3.3 (Page 58)

Clearly require TJJJ to develop guidelines for evaluating applicants' criminal history for all of its certifications.

Rec. 3.4 (Page 58)

Remove subjective certification requirements for county-level officers.

Rec. 3.5 (Page 58)

Authorize TJJJ to issue provisional certifications to officer applicants upon employment with a county juvenile probation department or relevant private entity while they complete their required training.

Rec. 3.6 (Page 58)

Require TJJJ to adopt rules governing its administrative investigation process to provide adequate due process for certified officers.

Rec. 3.7 (Page 58)

Require TJJJ to collect, maintain, and make publicly available detailed statistical information on complaints regarding certified officers.

Management Action

Rec. 3.8 (Page 59)

Direct TJJJ to comply with statutory requirements by developing rules and procedures regarding certification of military service members, veterans, and military spouses.

Rec. 3.9 (Page 59)

Direct TJJJ to develop a formal process to refer nonjurisdictional complaints to the appropriate agency.

Issue 4

The Office of the Independent Ombudsman Needs Clearer Authority and Formalized Policies to Better Secure the Rights of Youth in the Juvenile Justice System. (Page 61)

Change in Statute

Rec. 4.1 (Page 65)

Require TJJD and county juvenile probation departments to notify OIO about contract facilities in which they place post-adjudicated youth.

Rec. 4.2 (Page 65)

Require OIO to establish a risk-based approach to site visits for county- and state-level entities, including contract facilities operated by private entities.

Rec. 4.3 (Page 66)

Update the standard across-the-board requirement related to developing and maintaining a complaints system and making information on complaint procedures available to the public.

Management Action

Rec. 4.4 (Page 66)

Direct OIO to create policies and procedures for consistently collecting and tracking findings from its site visits.

Rec. 4.5 (Page 66)

Direct OIO to formalize its policies and procedures for including key site visit findings and trends in its quarterly reports.

Chairman Schwertner Proposed Modification

Modify Recommendation 4.5 by adding a directive to TJJD's board specifying members should formally discuss and, if needed, take action during public meetings on key site visit findings and trends included in quarterly reports submitted by OIO.

Rec. 4.6 (Page 66)

Direct OIO to develop clear procedures for referring and tracking nonjurisdictional complaints regarding licensed professionals to relevant state agencies for further inquiry.

Issue 5

TJJD's Statute and Processes Do Not Reflect Some Standard Elements of Sunset Reviews. (Page 69)

Change in Statute

Rec. 5.1 (Page 71)

Combine two TJJD reports related to the effectiveness of youth rehabilitation efforts, and continue all other reporting requirements for TJJD.

Rec. 5.2 (Page 71)

Update TJJD's statute to reflect the requirements of the person-first respectful language initiative.

Management Action

Rec. 5.3 (Page 71)

Direct TJJD to improve and update its website content.

Proposed New Recommendations

Chairman Schwertner Proposed New Recommendation 1

Sweep the existing Texas Juvenile Justice Board and reduce its size from 13 to nine members, including the following members appointed by the governor with the advice and consent of the Senate:

- a. One member who is a district court judge of a court designated as a juvenile court.
- b. One prosecutor in a juvenile court.
- c. One county commissioner with past or current juvenile justice experience.
- d. One chief juvenile probation officer of a juvenile probation department serving a county with a population that includes fewer than 7,500 persons younger than 18 years of age.
- e. One chief juvenile probation officer of a juvenile probation department serving a county with a population that includes at least 7,500 persons but fewer than 80,000 persons younger than 18 years of age.
- f. One chief juvenile probation officer of a juvenile probation department serving a county with a population that includes 80,000 or more persons younger than 18 years of age.

- g. One licensed adolescent mental health treatment professional or a representative from a local mental or behavioral health authority who has past or current experience working with juveniles.
- h. One certified educator with past or current juvenile justice experience.
- i. One juvenile justice professional with past or current experience operating a county- or state-level secure juvenile justice facility.

Require the juvenile justice professional appointed under (i) to recuse themselves from voting on or participating in decisions — including matters involving abuse and neglect — that solely impact the department for which they work or contract, or the facility which they oversee.

The recommendation would provide that all current board member terms expire on September 1, 2023, and new members would serve staggered six-year terms. Current members would be eligible for re-appointment if so determined by the governor to maintain needed expertise. Board members serving on August 31, 2023, would continue to do so until a majority of new appointments are made.

Chairman Schwertner Proposed New Recommendation 2

Amend statute to include requirements regarding the TJJJ executive director’s qualifications and duties. Statute would require TJJJ’s board to employ an executive director who possesses the following minimum qualifications:

- a. Five years of experience in the field of juvenile corrections or congregate care in an administrative capacity;
- b. Three years of experience in the field of juvenile corrections or congregate care in an administrative capacity and a graduate degree from an institution of higher education in a relevant field, such as penology, adolescent development, behavior management, or rehabilitative services; or
- c. Seven years of experience in management and administration of a government agency, institution of higher education, or business enterprise of size comparable to the department.

Statute would also require the executive director to acknowledge and discuss all internal audits with the board.

Chairman Schwertner Proposed New Recommendation 3

Require TJJJ to track the frequency with which the executive director takes the following actions:

- a. Selecting youth for conditional placements.

- b. Selecting youth for home placements.
- c. Waiving the requirement for determinate-sentenced youth to spend their entire minimum period of confinement in a high-restriction facility.
- d. Waiving the requirement for youth to be on intensive supervision when initially released on parole.
- e. Authorizing early discharges for youth on parole.
- f. Finalizing appeals brought forward by advocacy groups or social service providers who were denied certain access to TJJJ facilities.

Require the executive director to provide the Sunset Commission and TJJJ's board with quarterly aggregated data on the number of times the agency took actions described in (a)-(f) during the previous quarter, broken down by action type.

Chairman Schwertner Proposed New Recommendation 4

Direct TJJJ's board to periodically convene state staff and county stakeholders to gather feedback on the implementation of and any needed changes to the Texas Model for Reform in state- and county-level facilities. (Management action - nonstatutory)

Chairman Schwertner Proposed New Recommendation 5

Express the will of the Sunset Commission that the Legislature consider appropriating additional funding to TJJJ specifically to increase the capacity of pre- and post-adjudication facilities operated at the county level of the juvenile justice system. While considering opportunities to expand this capacity, the appropriative committees could consider:

- a. Opportunities to broaden the accessibility and impact of existing grant programs that directly fund the operation of beds in county-level facilities.
- b. The number of state-funded, county-operated pre- and post-adjudication beds needed to keep more justice-involved youth at the county level while still maintaining public safety.
- c. Options for ensuring the accessibility and availability of additional capacity across the state's seven juvenile probation regions.

Chairman Schwertner Proposed New Recommendation 6

Express the will of the Sunset Commission that the Legislature consider amending Rider 4 (Restrictions, State Aid) of TJJJ's bill pattern in the General Appropriations Act to authorize local juvenile probation boards to provide certain salary increases for individual personnel.

As a related management action, direct TJJJ to work with the Legislative Budget Board on clarifying Rider 4. The clarification should authorize local juvenile probation boards to provide salary increases that exceed 112 percent of an individual personnel's salary from the previous year, provided the boards use non-state funds to pay for the portion of any increase above 112 percent.

Chairman Schwertner Proposed New Recommendation 7

Require TJJJ, in consultation with the Advisory Council on Juvenile Services, to adopt rules specifying county juvenile probation departments must apply for state diversion funding before a juvenile court commits a youth to TJJJ, unless the youth committed certain high-level offenses, as defined in rule.

Chairman Schwertner Proposed New Recommendation 8

Amend statute to specify an individual is not eligible for adult community supervision if the individual is convicted of a felony that occurred when they were:

- a. At least 17 years old;
- b. Committed to TJJJ's custody; and
- c. Confined in a TJJJ facility.

Chairman Schwertner Proposed New Recommendation 9

Require TJJJ to transfer a youth to the most restrictive setting appropriate as the youth awaits a juvenile adjudication or adult conviction for committing a first- or second-degree felony while in TJJJ's custody. Require TJJJ to adopt rules establishing the transfer process, which must include procedures for determining the most appropriate setting for the youth based on their rehabilitative needs while preserving due process rights.

Chairman Schwertner Proposed New Recommendation 10

Require TJJJ to refer a youth to the juvenile court that entered the order of commitment for approval of a transfer to the Texas Department of Criminal Justice for confinement if the youth was:

- a. Committed to TJJJ's custody with a determinate sentence; and
- b. Subsequently convicted or adjudicated of a first- or second-degree felony or assault of a public servant that was committed when the youth was at least 16 years old and in TJJJ's custody.

Chairman Schwertner Proposed New Recommendation 11

Prohibit a juvenile court from waiving its exclusive original jurisdiction and transferring a person to a district court or criminal district court for criminal proceedings if the person is:

- a. A child and allegedly committed a state jail felony; or
- b. 18 years or older and allegedly committed a state jail felony when they were between 15 and 17 years old.

Chairman Schwertner Proposed New Recommendation 12

Allow a youth who commits a first-, second-, or third-degree felony while in TJJJ's custody to be eligible for a determinate sentence.

Chairman Schwertner Proposed New Recommendation 13

Direct TJJJ to consult with the Office of the Inspector General and Special Prosecution Unit before discharging from custody or releasing under supervision a youth committed to TJJJ without a determinate sentence who has completed their minimum length of stay but is:

- a. Alleged by a pending petition to have committed a felony while in TJJJ's custody; or
- b. Under indictment for a felony that occurred while in TJJJ's custody. (Management action - nonstatutory)

Senator Johnson Proposed New Recommendation 14

Require TJJJ to publish data on its website by October 1 of each year providing aggregated information on the number of youth committed to its custody during the previous fiscal year, broken down by:

- a. Committing offense level
- b. Sentence type
- c. Youth age
- d. Youth gender

Additionally, require TJJJ to publish quarterly aggregated data on its website providing a one-day snapshot of the information in (a)-(d) for TJJJ facilities as a whole and for each TJJJ facility individually. For any data published online, the agency must ensure the aggregated information does not enable data users to identify individual youth.

Senator Johnson Proposed New Recommendation 15

Require TJJJ to develop and provide optional training — whether in person or virtually — to staff within county juvenile probation departments and juvenile courts on the use of validated risk and needs assessment tools. This training could include information on the purpose of these tools and how departments and courts can use them to inform decisions about a youth’s disposition.

Senator Paxton Proposed New Recommendation 16

Require TJJJ to partner with a public or private university, or universities, to inventory and map available resources for justice-involved youth in Texas. TJJJ would also consult university partners, the Advisory Council on Juvenile Services, and other relevant stakeholders, as needed, to determine the types of data TJJJ requires to timely identify and address regional resource, program, and service gaps that cause commitments of youth to the agency’s custody. TJJJ would be required to adopt rules specifying that county juvenile probation departments must, at useful and reasonable intervals, report to TJJJ relevant data on resource gaps, including the particular needs of youth the county has committed to the state’s custody and the types of resources, programs, and services that — if available in the community — might allow these youth to receive treatment at the county level of the juvenile justice system.

Senator Paxton Proposed New Recommendation 17

Update the composition of the Advisory Council on Juvenile Services to also include the commissioner of the Department of Family and Protective Services or the commissioner’s designee. Among its other duties, require the advisory council to assist TJJJ in assessing and developing recommendations to improve information-sharing processes between youth-serving entities, particularly those serving youth in both the juvenile justice and child welfare systems.

Senator Perry Proposed New Recommendation 18

Direct TJJJ, in consultation with the Advisory Council on Juvenile Services and the Department of Family and Protective Services, to develop written comments describing the implementation status of HB 932 and HB 1521 passed by the 85th Texas Legislature. The comments should discuss barriers to efficiently sharing information about youth who are dually involved in the juvenile justice and child welfare systems, as well as recommendations to improve data request and response processes. The agency should provide these written comments to the Sunset Commission and legislative committees with primary jurisdiction over TJJJ by January 6, 2023. (Management action - nonstatutory)

Senator Perry Proposed New Recommendation 19

Require TJJJ to adopt rules authorizing county juvenile probation departments to confine youth committed to TJJJ within either a pre- or post-adjudication facility as the youth awaits transfer to the state's custody.

Senator Perry Proposed New Recommendation 20

Authorize TJJJ and local juvenile probation departments to use or contract with a facility that was constructed or previously used for the confinement of adult offenders, provided the facility is appropriately retrofitted to accommodate youth-specific requirements and needs.