HUMAN RESOURCES CODE

TITLE 12. JUVENILE JUSTICE SERVICES AND FACILITIES

SUBTITLE B. PROBATION SERVICES; PROBATION FACILITIES

CHAPTER 221. ASSISTANCE TO COUNTIES AND REGULATION OF JUVENILE BOARDS AND JUVENILE PROBATION DEPARTMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 221.001. PROVISION OF PROBATION AND DETENTION SERVICES. (a) The department shall assist counties in providing probation and juvenile detention services by encouraging the continued operation of county and multi-county juvenile boards or probation offices.

(b) If a county discontinues the provision of juvenile probation services, the department may directly provide probation or detention services in the county.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.002. GENERAL RULES GOVERNING JUVENILE BOARDS, PROBATION DEPARTMENTS, PROBATION OFFICERS, PROGRAMS, AND FACILITIES. (a) The board shall adopt reasonable rules that provide:

(1) minimum standards for personnel, staffing, case loads, programs, facilities, record keeping, equipment, and other aspects of the operation of a juvenile board that are necessary to provide adequate and effective probation services;

(2) a code of ethics for probation and detention officers and for the enforcement of that code;

(3) appropriate educational, preservice and in-service training, and certification standards for probation and detention officers or court-supervised community-based program personnel;

(4) subject to Subsection (d), minimum standards for public and private juvenile pre-adjudication secure detention facilities, public juvenile post-adjudication secure correctional

facilities that are operated under the authority of a juvenile board or governmental unit, private juvenile post-adjudication secure correctional facilities operated under a contract with a governmental unit, except those facilities exempt from certification by Section 42.052(g), and nonsecure correctional facilities operated by or under contract with a governmental unit;

(5) minimum standards for juvenile justice alternative education programs created under Section 37.011, Education Code, in collaboration and conjunction with the Texas Education Agency, or its designee; and

(6) minimum standards for the operation of substance abuse facilities or programs that are juvenile justice facilities or juvenile justice programs, as defined by Section 261.405, Family Code.

(b) In adopting the rules, the board shall consider local information and evidence gathered through public review and comment.

(c) The department shall operate a statewide registry for all public and private juvenile pre-adjudication secure detention facilities and all public and private juvenile post-adjudication secure correctional facilities.

(c-1) In adopting rules under Subsection (a)(3), the board shall require probation officers, juvenile supervision officers, and court-supervised community-based program personnel to receive trauma-informed care training. The training must provide knowledge, in line with best practices, of how to interact with juveniles who have experienced traumatic events.

(d) In adopting rules under Subsection (a)(4), the board shall ensure that the minimum standards for facilities described by Subsection (a)(4) are designed to ensure that juveniles confined in those facilities are provided the rights, benefits, responsibilities, and privileges to which a juvenile is entitled under the United States Constitution, federal law, and the constitution and laws of this state. The minimum standards must include a humane physical and psychological environment, safe conditions of confinement, protection from harm, adequate rehabilitation and education, adequate medical and mental health

treatment, and due process of law.

(d-1) In adopting rules under Subsection (a)(4), the board shall authorize a juvenile probation department to house a child committed to the department in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility as the child awaits transfer to the department.

(e) A juvenile board that does not accept state aid funding from the department under Section 223.001 shall report to the department each month on a form provided by the department the same data as that required of counties accepting state aid funding regarding juvenile justice activities under the jurisdiction of the juvenile board. If the department makes available free software to a juvenile board for the automation and tracking of juveniles under the jurisdiction of the juvenile board, the department may require the monthly report to be provided in an electronic format adopted by rule by the board.

(f) A substance abuse facility or program operating under the standards adopted under this section is not required to be licensed or otherwise approved by any other state or local agency.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1351 (S.B. 1356), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 747 (S.B. 1314), Sec. 2, eff. September 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 950 (S.B. 1727), Sec. 29, eff. September 1, 2023.

Sec. 221.003. RULES CONCERNING MENTAL HEALTH SCREENING INSTRUMENT AND RISK AND NEEDS ASSESSMENT INSTRUMENT; ADMISSIBILITY OF STATEMENTS. (a) The board by rule shall require juvenile probation departments to use the mental health screening instrument selected by the department for the initial screening of children under the jurisdiction of probation departments who have been formally referred to a juvenile probation department. The

department shall give priority to training in the use of this instrument in any preservice or in-service training that the department provides for probation officers. The rules adopted by the board under this section must allow a clinical assessment by a licensed mental health professional to be substituted for the mental health screening instrument selected by the department if the clinical assessment is performed in the time prescribed by the department.

(b) A juvenile probation department must, before the disposition of a child's case and using a validated risk and needs assessment instrument or process provided or approved by the department, complete a risk and needs assessment for each child under the jurisdiction of the juvenile probation department.

(b-1) Any risk and needs assessment instrument or process that is provided or approved by the department for a juvenile probation department to use under Subsection (b) must be a validated instrument or process.

(c) Any statement made by a child and any mental health data obtained from the child during the administration of the mental health screening instrument or the initial risk and needs assessment instruments under this section is not admissible against the child at any adjudication hearing. The person administering the mental health screening instrument or initial risk and needs assessment instruments shall inform the child that any statement made by the child and any mental health data obtained from the child during the administration of the instrument is not admissible against the child at any adjudication hearing.

(d) A juvenile probation department shall report data from the use of the screening instrument or clinical assessment under Subsection (a) and the risk and needs assessment under Subsection (b) to the department in the format and at the time prescribed by the department.

(e) The board shall adopt rules to ensure that youth in the juvenile justice system are assessed using the screening instrument or clinical assessment under Subsection (a) and the risk and needs assessment under Subsection (b).

Redesignated and amended from Human Resources Code, Subchapter C,

Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1299 (H.B. 2862), Sec. 36, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 962 (S.B. 1630), Sec. 5, eff. September 1, 2015.

Sec. 221.0035. BEST PRACTICES TO IDENTIFY AND ASSESS VICTIMS OF SEX TRAFFICKING. (a) In this section, "sex trafficking" means an offense under Section 20A.02(a)(7), Penal Code.

(b) The department shall evaluate the practices and screening procedures used by juvenile probation departments for the early identification of juveniles who are victims of sex trafficking for the purpose of developing a recommended set of best practices that may be used by a juvenile probation department to improve the juvenile probation department's ability to identify a juvenile who is a victim of sex trafficking.

(c) Best practices may include:

(1) examining a juvenile's referral history, including whether the juvenile has a history of running away from home or has been adjudicated for previous offenses;

(2) making inquiries into a juvenile's history of sexual abuse;

(3) assessing a juvenile's need for services, including counseling through a rape crisis center or other counseling; and

(4) asking the juvenile a series of questions designed to determine whether the juvenile is at high risk of being a victim of sex trafficking.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1351 (S.B. 1356), Sec. 2, eff. September 1, 2013.

Sec. 221.004. STANDARDS RELATING TO LOCAL PROBATION DEPARTMENTS. (a) The board shall adopt rules that provide:

(1) standards for the collection and reporting of

information about juvenile offenders by local probation departments;

(2) performance measures to determine the effectiveness of probation services provided by local probation departments; and

(3) case management standards for all probation services provided by local probation departments.

(b) The department shall monitor local probation departments for compliance with the standards and measures that the board adopts.

(c) The department shall provide technical assistance to local probation departments to aid compliance with the standards and measures that the board adopts.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.005. TRAINING AND ASSISTANCE TO LOCAL AUTHORITIES. (a) The department shall provide educational training and technical assistance to counties, juvenile boards, and probation offices to:

(1) promote compliance with the standards required under this chapter; and

(2) assist the local authorities in improving the operation of probation, parole, and detention services.

(b) The department shall encourage compliance with educational service standards and rights prescribed by state or federal law by:

(1) facilitating interagency coordination and collaboration among juvenile probation departments, school districts, and the Texas Education Agency; and

(2) developing and supporting a plan to ensure continuity of educational services to juvenile offenders, including special educational services for juveniles with disabilities.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec.

1.004, eff. September 1, 2011.

Sec. 221.006. VIOLENCE PREVENTION AND CONFLICT RESOLUTION TRAINING. The department shall:

(1) provide training on request to juvenile probation departments and juvenile boards in violence prevention and conflict resolution programs that include discussion of domestic violence and child abuse issues; and

(2) encourage the inclusion of a violence prevention and conflict resolution program as a condition of probation.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.0061. TRAUMA-INFORMED CARE TRAINING. The department shall provide trauma-informed care training during the preservice training the department provides for juvenile probation officers, juvenile supervision officers, juvenile correctional officers, and juvenile parole officers. The training must provide knowledge, in line with best practices, of how to interact with juveniles who have experienced traumatic events.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1351 (S.B. 1356), Sec. 3, eff. September 1, 2013.

Sec. 221.007. JUVENILE BOARD RECORDS AND REPORTS. Each juvenile board in the state shall:

(1) keep the financial, programmatic, and statistical records the department considers necessary; and

(2) submit periodic financial, programmatic, and statistical reports to the department as required by the department and in the format specified by the department, including electronic submission.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.0071. CHARTER SCHOOL. (a) Notwithstanding any

other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, the commissioner of education may grant a charter on the application of a detention, correctional, or residential facility established only for juvenile offenders under Section 51.12, 51.125, or 51.126, Family Code, or an eligible entity that has entered into a contract with a facility described by this subsection.

(b) If a local detention, correctional, or residential facility described by Subsection (a) or an eligible entity that has entered into a contract with a facility described by Subsection (a) applies for a charter, the facility or the eligible entity must provide all educational opportunities and services, including special education instruction and related services, that a school district is required under state or federal law to provide for students residing in the district through a charter school operated in accordance with and subject to Subchapter D, Chapter 12, Education Code.

(c) The commissioner of education shall adopt a form and procedure to allow a detention, correctional, or residential facility described by Subsection (a) or an eligible entity that has entered into a contract with a facility described by Subsection (a) to apply for a charter. The application form and procedure must be comparable to the applicable requirements of Section 12.110, Education Code, and must include any requirements provided under Subchapter D, Chapter 12, Education Code.

(d) A charter school operating under a charter granted under this section is entitled to receive open-enrollment charter school funding under Chapter 48, Education Code, in the same manner as an open-enrollment charter school operating under Subchapter D, Chapter 12, Education Code.

(e) The commissioner of education shall adopt rules necessary to implement this section, including rules that modify the requirements for charter schools provided under Chapter 12, Education Code, as necessary to allow a charter school to operate in a detention, correctional, or residential facility described by Subsection (a).

(f) In this section, "eligible entity" has the meaning

assigned by Section 12.101(a), Education Code.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1140 (S.B. 2), Sec. 44, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 418 (S.B. 1177), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.084, eff. September 1, 2019.

Sec. 221.008. INSPECTIONS AND AUDITS. (a) The department may inspect and evaluate a juvenile board and probation department and audit the juvenile board's financial, programmatic, and statistical records at reasonable times to determine compliance with the board's rules.

(b) The department may inspect any program or facility operated on behalf of and under the authority of the juvenile board by the probation department, a governmental entity, or private vendor.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.009. STRATEGIC PLAN; ADOPTION OF PLAN. (a) The board shall develop a strategic plan. The plan must:

(1) identify short-term and long-term policy goals;

(2) identify time frames and strategies for meeting the goals identified under Subdivision (1);

(3) estimate population projections, including projections of population characteristics;

(4) estimate short-term and long-term capacity, programmatic, and funding needs;

(5) describe intensive service and surveillance parole pilot programs to be developed;

(6) include an evaluation of aftercare services

emphasizing concrete outcome measures, including recidivism and educational progress;

(7) identify objective criteria for the various decision points throughout the continuum of juvenile justice services and sanctions to guard against disparate treatment of minority youth;

(8) identify outcome measures by which to evaluate the effectiveness of services provided to youth in the juvenile justice system;

(9) include a plan of implementation for the development of common data sources and data sharing among the department, juvenile probation departments, the Department of Family and Protective Services, the Department of State Health Services, the Health and Human Services Commission, the Texas Education Agency, and other state agencies that serve youth in the juvenile justice system;

(10) include the development of new, or the improvement of existing, validated risk assessment instruments;

(11) include strategies to determine which programs are most effective in rehabilitating youth in the juvenile justice system;

(12) include planning for effective aftercare programs and services, including ensuring that youth in the juvenile justice system have personal identification and appropriate referrals to service providers; and

(13) track performance measures to illustrate the costs of different levels of treatment and to identify the most cost-effective programs in each component of the juvenile justice system in this state.

(b) The board shall make its best effort to develop regularly updated performance measures of the effectiveness of programs and services on outcomes for youths, public safety, and victims, make those measures publicly available online, and use those measures in determining funding levels for programs and services.

(c) The board shall review and adopt the strategic plan as provided by Section 2056.002, Government Code.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.010. COMPLAINTS RELATING TO JUVENILE BOARDS. (a) The department shall maintain a system to promptly and efficiently act on a complaint filed with the department relating to a juvenile board funded by the department. The department shall maintain information about parties to the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.

(b) The department shall make information available describing the department's procedures for the investigation and resolution of a complaint filed with the department relating to a juvenile board funded by the department.

(c) The department shall investigate the allegations in the complaint and make a determination of whether there has been a violation of the department's rules relating to juvenile probation programs, services, or facilities.

(d) If a written complaint is filed with the department relating to a juvenile board funded by the department, the department shall periodically notify the complainant and the juvenile board of the status of the complaint until final disposition, unless notice would jeopardize an undercover investigation.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.012. ANNUAL REPORTS. (a) The department shall report annually to the governor and the legislature on the department's operations and the condition of probation services in the state during the previous year. The report:

(1) may include recommendations; and

(2) must include:

(A) an evaluation of the effectiveness of the community-based programs operated under Section 54.0401, Family

Code; and

(B) information comparing the cost of a child participating in a program described by Paragraph (A) with the cost of committing the child to the department.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1312, Sec. 99(26), eff. September 1, 2013.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(26), eff. September 1, 2013.

SUBCHAPTER B. CONTRACT STANDARDS AND MONITORING

Sec. 221.051. CONTRACT STANDARDS. (a) In each contract with counties for local probation services, the department shall include:

(1) clearly defined contract goals, outputs, and measurable outcomes that relate directly to program objectives;

(2) clearly defined sanctions or penalties for failure to comply with or perform contract terms or conditions; and

(3) clearly specified accounting, reporting, and auditing requirements applicable to money received under the contract.

(b) The department shall require each local juvenile probation department:

(1) to include the provisions of Subsection (a) in its contracts with private service providers that involve the use of state funds; and

(2) to use data relating to the performance of private service providers in prior contracts as a factor in selecting providers to receive contracts.

(c) The department shall consider the past performance of a juvenile board when contracting with the juvenile board for local probation services other than basic probation services. In addition to the contract standards described by Subsection (a), a

contract with a juvenile board for probation services other than basic probation services must:

(1) include specific performance targets for the juvenile board based on the juvenile board's historic performance of the services; and

(2) require a juvenile board to report on the juvenile board's success in meeting the performance targets described by Subdivision (1).

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.052. CONTRACT MONITORING. The department shall establish a formal program to monitor contracts under Section 221.051 made by the department. The department must:

(1) monitor compliance with financial and performance requirements using a risk assessment methodology; and

(2) obtain and evaluate program cost information to ensure that each cost, including an administrative cost, is reasonable and necessary to achieve program objectives.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.053. CONTRACTS FOR OUT-OF-STATE JUVENILE INMATES. (a) The only entities other than the state authorized to operate a correctional facility to house in this state juvenile inmates convicted of offenses committed against the laws of another state of the United States are:

(1) a county or municipality; and

(2) a private vendor operating a correctional facility under a contract with a county or municipality.

(b) The board shall develop rules, procedures, and minimum standards applicable to county or private correctional facilities housing out-of-state juvenile inmates. A contract made under Subsection (a) shall require the county, municipality, or private vendor to operate the facility in compliance with minimum standards

adopted by the board.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.054. DATA COLLECTION. (a) The department shall collect comprehensive data concerning the outcomes of local probation programs throughout the state.

(b) Data collected under Subsection (a) must include:

(1) a description of the types of programs and services offered by a juvenile probation department, including a description of the components of each program or service offered; and

(2) to the extent possible, the rate at which juveniles who enter or complete juvenile probation are later committed to the custody of the state.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Sec. 221.056. RESIDENTIAL TREATMENT FACILITY. (a) The department may contract with a local mental health authority and local intellectual and developmental disability authority for the establishment of a residential treatment facility for juveniles with mental illness or emotional injury who, as a condition of juvenile probation, are ordered by a court to reside at the facility and receive education services at the facility. The department may work in cooperation with the local mental health authority and local intellectual and developmental disability authority to provide mental health residential treatment services for juveniles residing at a facility established under this section.

(b) A residential treatment facility established under this section must provide juveniles receiving treatment at the facility:

(1) a short-term program of mental health stabilization that does not exceed 150 days in duration; and

(2) all educational opportunities and services, including special education instruction and related services, that

a school district is required under state or federal law to provide for students residing in the district through a charter school operated in accordance with and subject to Subchapter D, Chapter 12, Education Code.

(c) If a residential treatment facility established under this section is unable to provide adequate and sufficient educational opportunities and services to juveniles residing at the facility, the facility may not continue to operate beyond the end of the school year in which the opportunities or services provided by the facility are determined to be inadequate or insufficient.

(d) Notwithstanding any other law and in addition to the number of charters allowed under Subchapter D, Chapter 12, Education Code, the commissioner of education shall grant a charter on the application of a residential treatment facility established under this section for a school chartered for the purposes of this section.

Redesignated and amended from Human Resources Code, Subchapter C, Chapter 141 by Acts 2011, 82nd Leg., R.S., Ch. 85 (S.B. 653), Sec. 1.004, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1140 (S.B. 2), Sec. 45, eff. September 1, 2013.

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 7.01, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 950 (S.B. 1727), Sec. 30, eff. September 1, 2023.