

STATE OF TEXAS

RESOLUTION

of the

TEXAS JUDICIAL COUNCIL

Data Committee Recommendations

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, the Council is charged with gathering statistics and other pertinent information from the judges and other court officials of this state; and

WHEREAS, since its formation in 1929 the Council has collected aggregate statistics; and

WHEREAS, the current system of data collection:

1. Is limited in its utility, as it often cannot provide the Council or other policymakers with sufficient detail to support the analysis and monitoring of important policy issues or in the study of the administration of justice generally;
2. Cannot generate essential case management information such as time to disposition and age of pending cases;
3. Does not capture complete information about magistrate and pretrial activities;
4. Does not capture information by court for district courts, county courts at law, or statutory probate courts;
5. Is resource intensive to maintain; and
6. Has been subject to a growing number of legislative mandates requiring the collection of very specific information that are sometimes difficult for local jurisdictions to collect; and

WHEREAS, data collection capabilities vary across jurisdictions due to differing resource levels and the use of case management systems of varying design and levels of sophistication;

WHEREAS, the decentralized and uneven nature of data collection and reporting to the Office of Court Administration compromises the completeness and reliability of statewide data;

WHEREAS, Governor Abbott and Attorney General Paxton sent a letter to the Office of Court Administration and other criminal justice data stakeholders after the mass shooting in Sutherland Springs stressing the need for improved reporting of final case dispositions into the

National Instant Criminal Background Check System (NICS) and noting that incomplete data can have serious consequences; and

WHEREAS, in his School Safety Plan, Governor Abbott proposed that the Office of Court Administration should create a statewide case management system to provide magistrates immediate access to critical information and to speed the timely reporting of court records for federal background checks; and

WHEREAS, in October 2016 the Council formed the Data Committee to “work on guiding the revisions of the court activity reporting database to collect case-level statistical data;” and

WHEREAS, the Council’s Data and Criminal Justice committees have recommended collection of case-level data from all courts and expanding data collection from magistrates; and

WHEREAS, the Council’s Data, Criminal Justice and Civil Justice committees have recommended the establishment of a single statewide case management system to improve the collection, reporting and use of court data to improve the administration of justice;

WHEREAS, the Council believes that the legislative changes will result in meaningful change to improve the collection of court data in our state to support policy, planning, management and budgetary decisions for the justice system, the judiciary, and other policy makers; improve public safety; and increase transparency and accountability;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council requests that the Legislature:

1. Fully fund the collection of relevant case level data by the Council to support policy, planning, management, and budget decisions for the justice system;
2. Direct the Office of Court Administration to develop a single statewide case management system and provide full funding for the system to better facilitate and improve the collection, reporting, and use of court data. The system should:
 - a. assist with transmission of information to the National Instant Criminal Background Check System (NICS);
 - b. include the capability for courts to assign cases to tracks that require differing levels of judicial attention;
 - c. include a dashboard with tools that judges can use to manage cases better; and
 - d. include reporting tools to improve transparency regarding the movement of cases with the trial courts; and
3. Once case level reporting has been implemented, repeal the various statutes requiring specific information that can be obtained by case level reporting; and
4. Amend statutes concerning reporting of mental health/intellectual disability assessments and competency evaluation reports to clarify the responsible party.

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STATE OF TEXAS

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Improving the Judiciary's Response to Disasters

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, the Texas Judicial Council and its members, like so many Texans, witnessed, in many instances personally, the havoc wreaked by Hurricane Harvey in August and September of 2017, which continues in many areas of the State; and

WHEREAS, the judicial system felt the direct effects of this disaster in many ways including physical damage to courthouses and court buildings and few, if any, alternative locations for holding court proceedings; delays in court dockets and jury trials; difficulty in obtaining and communicating with county officials, litigants, attorneys, jurors, court personnel, and others; and challenges to maintaining court security.

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council recommends the following legislative proposals to improve judicial continuity during times of disaster:

- (1) amend Government Code Sec. 22.0035(b) to permit the Supreme Court the discretion to issue orders modifying or suspending court procedures for up to 90 days for an initial emergency order and up to 60 days for each renewal order. Amend the statute to permit the Chief Justice of the Supreme Court of Texas to authorize renewals of emergency orders without requiring a full vote of the Court;
- (2) amend Local Government Code Sec. 292.001 to assist justice courts in times of disaster by providing them a regional source to turn to, such as the presiding judge of the administrative judicial region, when they seek authorization to operate in another precinct or county during a time of disaster (*see, e.g.*, Government Code Sec. 24.003);
- (3) amend Government Code Secs. 24.003, 25.0019, and 26.009 to permit the presiding judge of the administrative region to designate an alternate location for proceedings outside of the district or county during times of disaster;
- (4) explicitly authorize district courts to hold court outside of the county seat at a facility designated by Local Government Code Sec. 292.001, even when there is not a disaster; and
- (5) authorize the presiding judge of the administrative regions to modify court hours and operation schedules during times of disaster, including docket schedules and jury duty reporting.

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Enhancing Court Security

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, after the attempted assassination of Travis County District Judge Julie Kocurek in November 2015, this Council in 2016 passed a resolution calling for statutory changes to improve court security in Texas to ensure that courts remain a safe and open place for individuals to access justice; and

WHEREAS, the 85th Legislature enacted the Judge Julie Kocurek Judicial and Courthouse Security Act of 2017, which:

- Established a Director of Security and Emergency Preparedness at the Office of Court Administration;
- Requires municipal judges and local administrative judges to establish court security committees;
- Requires individuals providing court security to be appropriately certified in specialized court security;
- Amended various statutes to better protect judges' and their spouses' personal security and privacy;
- Authorizes any commissioned police officer in the state to provide personal security to a judge; and
- Requires local law enforcement (rather than a local administrative judge) to report court security incidents to the Office of Court Administration; and

WHEREAS, one of the Act's key features is the protection afforded to judges and their spouses in restricting public access to personal information; and

WHEREAS, judges have informed the Office of Court Administration that the Act's personal privacy protections do not include redaction of residential information from other campaign and ethics filing records; and

WHEREAS, during the trial of Judge Kocurek's attempted assassin, it was revealed that the defendant discovered the make and model as well as photos of Judge Kocurek's vehicle on the Internet, and that this information originated from the Texas Department of Motor Vehicles; and

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WHEREAS, as directed by the Act, the Office of Court Administration established a Court Security Division; and

WHEREAS, the Court Security Division supports court security committees through training and technical assistance, assists courts with conducting and reviewing security and emergency preparedness assessments and developing improvement plans, and supports the implementation of privacy protections for judges by facilitating the restriction of public access to the residence address of a judge or judge's spouse; and

WHEREAS, through June 2018 court security incidents reported for Fiscal Year 2018 to the Office of Court Administration were up 161% from the same period the year prior; and

WHEREAS, the Office of Court Administration's Court Security Director currently handles all of the Court Security Division's responsibilities; and

WHEREAS, the Council believes that additional legislative changes to Texas' court security laws will improve the security of judges at all levels, both in their courthouses and at their homes;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council urges the Legislature to:

1. Amend relevant statutes to keep a judge's home address confidential in campaign and ethics filing records;
2. Require the Department of Motor Vehicles to maintain the confidentiality of license plate and vehicle information for each judge and judge's spouse; and
3. Continue to provide resources to the Court Security Division of the Office of Court Administration to maintain and comply with requirements of the Judge Julie Kocurek Judicial and Courthouse Security Act of 2017.

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Improving Transparency from the State Commission on Judicial Conduct

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, the State Commission on Judicial Conduct reviews allegations of misconduct made against Texas Judges; and

WHEREAS, examples were reported to the Public Trust and Confidence Committee regarding complaints made to the Commission about specific judges, but the Commission deferred action and further investigation due to pending criminal investigations; and

WHEREAS, the Council believes a balance needs to be struck between confidentiality during the investigation process and transparency in judicial conduct complaints; and

WHEREAS, the Council believes increased public understanding of the complaint process, from filing to resolution, would maintain and increase public confidence in the process;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council urges the Legislature to:

1. Require the State Commission on Judicial Conduct's annual report to include the number of complaints that have been deferred pending criminal investigation and the number of complaints referred to law enforcement;
2. Require the State Commission on Judicial Conduct to include on its website an index of pending cases by case number that includes the current status of each case and the age of each pending case; and
3. Require the State Commission on Judicial Conduct to post simple directions on its website with instructions about how to file a complaint, map out in clear and concise detail how a complaint makes its way through the process from filing to resolution, and clarify that confidentiality regarding a complaint applies to the Commission and not to the complainant.

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**Guardianship, Mental Health, and Intellectual/Developmental
Disabilities Committee Recommendations on Guardianship**

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, the population of Texans over 65 years of age is estimated at 3.2 million individuals¹ and is expected to more than double in the next 15 years²; and

WHEREAS, over 750,000 Texans have an intellectual disability, many of whom are individuals with a guardian³; and

WHEREAS, in June 2013 this Council formed the Elders Committee to “assess the ways in which the Texas courts interact with the elderly, including guardianship, probate, elder abuse and other proceedings, and identify judicial policies or initiatives that could be enacted to protect the quality of life” for the elderly and individuals with intellectual disabilities; and

WHEREAS, the Council’s 2014 and 2016 Elders Committee recommendations were adopted by this Council and most were approved by the Legislature, and those recommendations have received praise statewide and nationwide; and

WHEREAS, the only recommendation of the 2014 Elders Committee that was not enacted by the 84th Legislature was the recommendation for the creation of a statewide public guardianship office, a recommendation made consistently by various groups who have studied guardianship in Texas since at least 1992; and

WHEREAS, the Texas Judicial Council made recommendations to expand the Office of Court Administration’s Guardianship Compliance Project in 2016; and

WHEREAS, the 85th Legislature passed legislation to accomplish this expansion, but the legislation was vetoed; and

¹ *Quick Facts: Texas*. United States Census Bureau. Last accessed at <http://www.census.gov/quickfacts/table/PST045215/48> on October 14, 2016.

² *Aging in Texas: Introduction*. Texas Demographic Center. (2016)

³ Know the Facts on Intellectual and Developmental Disabilities in Texas. The Arc of Texas. (2013)

WHEREAS, work on the Guardianship Compliance Project has continued but significant problems with guardianship monitoring continue to be found; and

WHEREAS, it is necessary to expand the guardianship compliance project statewide to ensure that adequate monitoring of the individuals under guardianship occurs; and

WHEREAS, the Texas Judicial Council made recommendations to implement and fund a network of guardianship specialty courts in 2016; and

WHEREAS, the specialized guardianship courts will benefit from the services of the guardianship compliance project staff who would function as court auditors for those new courts; and

WHEREAS, the Council believes that the legislative changes will result in meaningful change in protecting and improving the quality of life for the elderly and incapacitated;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council requests that the Legislature:

- 1) Expand the Office of Court Administration Guardianship Compliance Pilot Project statewide; and
- 2) Establish regional specialized guardianship courts; and
- 3) Establish a statewide public guardianship office.

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Supporting Specialty Courts

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, Texas specialty courts are “problem-solving” specialized dockets that seek to treat underlying substance abuse and mental health issues that bring people into court; and

WHEREAS, an estimated 1.6 million adult Texans and 181,000 children aged 12 to 17 have substance use disorders;¹ and

WHEREAS, over 190 known specialty courts operate across Texas, including adult drug courts, DWI courts, family drug courts, juvenile drug courts, veterans’ treatment courts, mental health courts, commercially sexually exploited persons courts, and public safety employee courts;² and

WHEREAS, although specialty courts are judicially-supervised, Title 2, Subtitle K of the Government Code charges the Governor’s Criminal Justice Division (CJD) with certification and oversight of specialty court programs;³ and

WHEREAS, Texas is one of only two states with specialty court oversight housed under its Executive Branch; and

WHEREAS, centralized administration of specialty courts has increased to better advance quality assurance, training, funding, research and evaluation, technology, and advocacy goals;⁴ and

¹ Texas Statewide Behavioral Health Strategic Plan, Fiscal Years 2017-2021, at 10 (May 2016) (Tex. Health and Human Servs. Comm’n).

² See *Specialty Court Programs*, OFFICE OF THE TEX. GOVERNOR, Criminal Justice Division, https://gov.texas.gov/uploads/files/organization/criminal-justice/Specialty_Courts_By_County_December_2016.pdf

³ See TEX. GOV’T CODE §121.002

⁴ CTR. FOR CT. INNOVATION, STATEWIDE COORDINATION OF PROBLEM-SOLVING COURTS: A SNAPSHOT OF FIVE STATES, https://www.bja.gov/Publications/CCI_ProblemSolvingCoord.pdf

WHEREAS, providing the Texas Judicial Branch with increased oversight of specialty courts would move Texas closer to national practices and would equally tap into the judiciary's expertise in courts policy and court management issues; and

WHEREAS, statewide data on the effectiveness and efficiency of specialty courts is lacking in Texas due the lack of a statewide case management system for the specialty courts;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council requests that the Legislature:

- 1) Amend Title 2, Subtitle K of the Government Code to provide the Judicial Branch with increased oversight of specialty courts; and
- 2) Appropriate funds to the Office of Court Administration for the development of a statewide specialty court case management system.

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Combatting Opioid Abuse

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), between 1999 and 2016 more than 350,000 people died from an overdose involving an opioid; and

WHEREAS, this rash of deaths and the consequence wreaked by opioid abuse and addiction are referred to as the Opioid Epidemic, which can trace its roots to the over prescription of opioids and the increased use of heroin and synthetic opioids; and

WHEREAS, according to a 2018 survey issued to Texas courts regarding opioid addiction, Texas judges indicated opioid addiction was the third most prevalent type of addiction for people appearing in their courts; and

WHEREAS, state leaders have a tremendous opportunity to holistically plan for and confront the opioid epidemic before it impacts Texas the way it has other states; and

WHEREAS, working across disciplines and institutions, a statewide Opioid Task Force would better position Texas to identify training and education needs, prioritize services and resources, and strategically plan for the strain caused by the opioid epidemic;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council requests that the Legislature establish a statewide Opioid Task Force to promote communication and collaboration between local and state leaders, experts, and advocates in confronting the opioid abuse and dependency epidemic as it crosses Texas.

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Criminal Justice Committee Recommendations on Bail

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, since the founding of our great state, Texans have recognized that individuals' liberty should not be withheld except in carefully limited circumstances; and

WHEREAS, the United States Supreme Court has found that bail should not be used as "a device for keeping persons in jail upon mere accusation until it is found convenient to give them trial;"¹ and

WHEREAS, over 42,000 individuals are currently being held in Texas jails awaiting trial; and

WHEREAS, the percentage of individuals being held in Texas jails awaiting trial has increased from 32 percent to 75 percent of the total population since 1994; and

WHEREAS, the annual cost to local governments for housing inmates pretrial amounts to almost \$1 billion; and

WHEREAS, individuals who are held in jails awaiting trial are more likely to be convicted, sentenced to longer terms of incarcerations, and pay more in court costs than individuals released from jail; and

WHEREAS, low-risk individuals who are held in jails awaiting trial for two to three days are significantly more likely to commit new crimes before trial than individuals who are quickly released from jail; and

WHEREAS, low-risk individuals who are held in jails awaiting trial between eight and fourteen days are significantly more likely to commit new crimes within two years after completion of their cases than individuals who are quickly released from jail; and

¹ Stack v. Boyle, 342 U.S. 1, 7-8 (1952)

WHEREAS, a 2017 study *Liberty and Justice: Pretrial Practices* in Texas commissioned by the Council showed that validated risk assessment can successfully predict failure to appear and new criminal activity; and

WHEREAS, pretrial bail detention decisions made without objective information tend to produce decisions that may reflect racial disparities in the bail decision; and

WHEREAS, pretrial bail decisions have negative impacts on individuals' ability to retain employment, financial and residential stability, and support of dependent children; and

WHEREAS, Texas' current system of pretrial decision-making by magistrates:

1. Is primarily void of evidence-based pretrial risk assessment with which to determine the defendant's flight risk or risk to public safety;
2. Addresses ensuring that the defendant will appear and answer the accusation brought against him/her most often through a monetary condition of release;
3. Prohibits managing the risks of pretrial misconduct through the denial of bail. For all defendants charged with a crime, with certain few exceptions, the Texas Constitution requires a bail to be set or the defendant released;
4. Is primarily dependent upon a defendant's ability to post money bail, which, in turn, is dependent upon his/her financial resources;
5. Results in detention of poor defendants who present low risks of flight or danger to the community;
6. Results in release of more affluent defendants who present severe risks of flight or danger to the community;
7. Attempts to mitigate risk of flight or danger to the community through nonmonetary conditions of release, such as interlock devices on vehicles and "no contact" conditions, or through the setting of a high amount of monetary bail;
8. Is dependent upon the defendant's compliance with nonmonetary conditions to protect the public; and
9. Is ineffective in ensuring the defendant's compliance with nonmonetary conditions due to a lack of supervision in place to monitor the defendant's compliance with nonmonetary conditions; and

WHEREAS, in June 2015 this Council formed the Criminal Justice Committee to "assess the impact of pretrial criminal justice statutes and policies in Texas to determine if there are ways in which Texas courts can enhance public safety and social outcomes when making pretrial confinement decisions, and identify judicial policies or initiatives that could be enacted to further those goals;" and

WHEREAS, the Council believes that legislative changes will result in meaningful change in enhancing public safety and social outcomes when making pretrial confinement decisions;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council requests that the Legislature:

1. Require defendants arrested for jailable misdemeanors and felonies to be assessed using a validated pretrial risk assessment prior to appearance before a magistrate under Article 15.17, Code of Criminal Procedure;
2. Amend the Texas Constitution bail provision and related bail statutes to provide for a presumption of pretrial release through personal bond, leaving discretion with judges to utilize all existing forms of bail;
3. Amend the Texas Constitution and enact related statutes to provide that defendants posing a high flight risk and/or high risk to community safety may be held in jail without bail pending trial after certain findings are made by a magistrate and a detention hearing is held;
4. Provide funding to ensure that pretrial supervision is available to defendants released on a pretrial release bond so that those defendants are adequately supervised;
5. Provide funding to ensure that magistrates making pretrial release decisions are adequately trained on evidence-based pretrial decision-making and appropriate supervision levels;
6. Ensure that data on pretrial release decisions is collected and maintained for further review;
7. Expressly authorize the Court of Criminal Appeals to adopt any necessary rules to implement the provisions enacted by the Legislature pursuant to these recommendations; and
8. Provide for a sufficient transition period to implement the provisions of these recommendations.

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Supporting Reforms Impacting Youth in State Custody

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, the Legislature established the Texas Juvenile Justice Department to promote public safety and to produce positive outcomes for youth through supervision and rehabilitation; and

WHEREAS, certain statutory barriers exist that may limit the Texas Juvenile Justice Department's efforts to address treatment needs in a manner most likely to promote a youth's rehabilitation; and

WHEREAS, the use of validated assessments is crucial to ensuring that a court's disposition of a juvenile justice case will reflect a youth's risk and need; and

WHEREAS, optimal treatment for justice-involved youth requires an array of high-quality diversion, treatment, placement, and related service options, which will undoubtedly require additional expenditures;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council requests that the Legislature:

1. Ensure that the Texas Juvenile Justice Department has sufficient flexibility to determine the appropriate placement of and treatment for youth committed to its custody;
2. Clarify that the validated risk and needs assessment juvenile probation departments are required to use must be used before every disposition, including non-judicial dispositions, such as deferred prosecution; and
3. Provide additional funds to local governments for diversionary and other intervention programs designed to ensure youth do not penetrate the juvenile justice system more deeply than risk and need dictate, and for rehabilitation programs for those youth on probation, in post adjudication placement, and committed to the Texas Juvenile Justice Department.

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STATE OF TEXAS

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Addressing the Needs of Dually-Involved Youth

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, youth involved in both the juvenile justice and child welfare systems, known as “dually-involved youth,” experience earlier onset of delinquent behavior, higher rates of recidivism, poorer permanency outcomes, and higher rates of behavioral health problems relative to their peers who are not dually-involved; and

WHEREAS, a youth’s dually status can produce conflict and confusion through contradictory court orders, conflicting treatment plans, duplication of services and hearings, and higher placement costs; and

WHEREAS, the 85th Legislature passed legislation which required the Texas Juvenile Justice Department and the Texas Department of Family and Protective Services to share information to support the early identification of dually-involved youth but additional improvements in strategies used to support the timely sharing of information are needed; and

WHEREAS, the Legislature has established Children’s Courts to assist general jurisdiction trial courts in managing their child abuse and neglect dockets, and judges in these courts receive training focused on the handling of these cases; and

WHEREAS, current law establishes that venue in a juvenile justice case generally lies in the county where a youth allegedly committed an offense, but the same youth may be involved in a child abuse and neglect case in a different county, and current law does not provide for the transfer of venue from a juvenile court in one county to a court with jurisdiction of a youth’s child abuse and neglect case in another county; and

WHEREAS, consolidating cases involving juveniles under a “one family-one judge” approach is considered a best practice in juvenile justice;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council requests that the Legislature:

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1. Modify the data-sharing provisions of HB 932 (2017) and HB 1521 (2017) and require the automatic exchange of information between the Texas Juvenile Justice Department and the Department of Family and Protective Services;
2. Revise the Texas Family Code and the Texas Government Code to expand the jurisdiction of Children's Courts to oversee cases involving dually-involved youth; and
3. Revise the Texas Family Code to allow for the transfer of venue of a juvenile case from a court exercising juvenile jurisdiction to the court with venue over a youth's child welfare case.

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Judicial Compensation Commission Recommendations

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Judicial Compensation Commission was created by the 80th Legislature to recommend the proper salaries to be paid by the state for all justices and judges of the Supreme Court, the Court of Criminal Appeals, the Courts of Appeals and the District Courts; and

WHEREAS, the Judicial Compensation Commission has studied judicial compensation in Texas and found a need for an increase in compensation; and

WHEREAS, while the 83rd Legislature provided an increase in judicial compensation, the Legislature did not fully fund the Commission-recommended increase and indicated a review would occur during the 84th Legislature; and

WHEREAS, the 84th and 85th Legislature did not address judicial compensation; and

WHEREAS, the salary of Texas' Supreme Court justices and Court of Criminal Appeals judges ranks 29th in the nation when compared with the salary of other high court judges; and

WHEREAS, the salary of Texas' Courts of Appeals justices ranks 25th in the nation when compared with the salary of other appellate judges; and

WHEREAS, the salary of Texas' District Court judges ranks 31st in the nation when compared with the salary of other general-jurisdiction court judges; and

WHEREAS, absent an increase in judicial compensation, the salary of Texas' judges will again be below compensation levels from 1991 when one factors in the consumer price index increase; and

WHEREAS, the proper compensation of Texas' judges is essential to attract qualified candidates and retain experienced judges who effectively administer justice.

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council urges the Legislature to adopt the recommendations of the Judicial Compensation Commission to:

- Increase judicial compensation of the justices and judges of the Supreme Court, Court of Criminal Appeals, Courts of Appeals, and District Judges by 15 percent;
- Reduce the number of years required to receive judicial longevity pay from sixteen years of service to four years of service and to provide the judge or justice 0.2 percent of their current monthly state salary for every two years of judicial service; and
- Fund an increase in the salaries of the Children’s Court Associate Judges at 90 percent of a district judge’s salary.

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Supporting Funding for Civil Legal Aid in Texas

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, the Texas Judicial Council embraces the principles that our nation promises justice for all, not just for those who can afford to pay for it; and

WHEREAS, the most recent U.S. Census reports that more than 5.6 million Texans qualify for civil legal aid; and

WHEREAS, low-income Texans are often the most vulnerable in our communities, including veterans, the elderly, persons with disabilities and mental health needs, and survivors of domestic abuse, sexual assault and human trafficking; and for many disadvantaged Texans access to legal help might be all that stands between them and homelessness, health, safety, and income to provide food on their table and shelter for their children; and

WHEREAS, the Texas Access to Justice Foundation was created by Supreme Court Order in 1984 to fund nonprofit organizations that provide free civil legal aid to low-income Texans; and

WHEREAS, Texas ranks 47th in access to legal aid lawyers, with approximately one legal aid lawyer for every 8,000 Texans who qualify for legal aid services; and

WHEREAS, a lack of full funding to meet the legal need results in thousands of Texans being denied critical, life-changing legal representation;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council supports the Supreme Court of Texas' appropriations request for basic civil legal services funding from the Texas Legislature and supports the Texas Access to Justice Commission and Foundation proposals for additional funding for basic civil legal services.

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TEXAS JUDICIAL COUNCIL

Ensuring Adequate Court Funding

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, the Texas Constitution divides the powers of the government of the State of Texas into three distinct departments: the Legislative, Executive and Judicial Departments; and

WHEREAS, the Judiciary, having neither the “sword nor the purse,”¹ relies upon the legislative and executive branches to provide sufficient funding to carry out its constitutional and statutory purposes; and

WHEREAS, a strong judiciary able to uphold the rule of law is critical to attracting business growth and maintaining a prosperous state; and

WHEREAS, delayed justice costs Texas businesses and citizens money, while effective and efficient courts save taxpayers money; and

WHEREAS, the total state appropriations to the Judiciary represented 0.38% of the total state budget in the 2018-19 biennium; and

WHEREAS, the Judiciary has used technology and other administrative measures to increase efficiency and make significant technological improvements; and

WHEREAS, ensuring that an adequate level of funding is provided to the Judiciary is essential to promoting access to the courts for Texans to resolve their disputes and protect the citizenry from abuse of their individual rights; and

WHEREAS, the Judiciary must continue to utilize funding to improve the way it administers justice to better meet the needs of citizens and employers in Texas through innovation, education and technological advances;

¹ Hamilton, Alexander. “Federalist #78.” *The Federalist*. (New York: Fine Creative Media)

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council urges the Legislature and County Commissioners Courts to provide adequate funding to:

- (1) Support core services to the judicial branch, as outlined in the legislative appropriations requests for the state-funded courts and judicial branch agencies;
- (2) Provide sufficient judicial education to the over 3,300 judges of this state;
- (3) Retain and recruit knowledgeable and dedicated employees through targeted salary increases at the courts and judicial branch agencies;
- (4) Protect Texas children by creating new child protection courts for growing CPS caseloads,
- (5) Fund an expansion of the Guardianship Compliance Project to prevent fraud and abuse committed against the elderly and incapacitated;
- (6) Support the creation of a statewide case management system pursuant to the Governor's School Safety Initiative;
- (7) Ensure access to justice is available to individuals seeking justice through continued funding for basic civil legal services and increased funding for basic civil legal services for veterans and their families; and
- (8) Ensure appropriate constitutional protection through criminal indigent defense services.

Honorable Nathan L. Hecht
Chair, Texas Judicial Council

Contact: Jennifer Henry
Chief Financial Officer, Office of Court Administration
512-463-1625

STATE OF TEXAS

RESOLUTION

of the

TEXAS JUDICIAL COUNCIL

In Support of Appropriating All Funds Collected for Improving Indigent Defense

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Texas Indigent Defense Commission (TIDC) is a permanent standing committee of the Texas Judicial Council, created under Chapter 79, Texas Government Code; and

WHEREAS, TIDC is charged with promoting compliance by counties with the requirements of state law related to indigent defense pursuant to the *Fair Defense Act of 2001*; and

WHEREAS, the right to counsel is also guaranteed in the U.S. and Texas Constitutions; and

WHEREAS, the TIDC funding has directly led to improved compliance and innovations that enhance access to quality indigent defense representation; and

WHEREAS, numerous challenges remain in the Texas indigent defense system despite significant progress; and

WHEREAS, the Texas Indigent Defense Commission is funded primarily from the Texas Fair Defense Account, a General Revenue-dedicated fund of the State of Texas; and

WHEREAS, the court costs and fees that fund the Fair Defense Account are collected specifically for the purpose of improving indigent defense; and

WHEREAS, TIDC has historically been provided with spending authority for all inflows into the Fair Defense Account; and

WHEREAS, during the 2018/2019 biennium, the legislature limited the spending authority of TIDC to use approximately \$30 million in projected Fair Defense Account collections to invest in continued indigent defense improvements and solutions to persistent systemic challenges; and

WHEREAS, limiting the spending authority to the Fair Defense Account results in the inability to utilize an estimated \$15 million per year available in the Account for indigent defense purposes; and

Contact: Geoff Burkhart
Executive Director, Texas Indigent Defense Commission
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WHEREAS, to meet its mission more effectively, TIDC needs access to these funds to improve oversight, accountability, access, quality, and transparency in the delivery of indigent defense in Texas;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council recommends that the Texas Legislature restore TIDC's estimated appropriation authority to the Texas Fair Defense Account so that fees collected for the purpose of improving indigent defense can be used for that purpose.

Honorable Nathan L. Hecht
Chair, Texas Judicial Council

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Executive Director, Texas Indigent Defense Commission
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STATE OF TEXAS

RESOLUTION

of the

TEXAS JUDICIAL COUNCIL

**Guardianship, Mental Health, and Intellectual/Developmental
Disabilities Committee Recommendations on Mental Health**

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, the 85th Legislature passed legislation designed to improve the administration of justice for defendants with mental illness or an intellectual or developmental disability, which went into effect on September 1, 2017; and

WHEREAS, feedback from courts, court staff, and stakeholders since that effective date points to the need for refinements of that legislation that will clarify procedures and the meaning of statutory language; and

WHEREAS, the Committee believes additional reforms to the ways that courts and the justice system interact with individuals with a mental health condition or an intellectual or developmental disability would benefit those individuals; and

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council urges the Legislature to:

1. Clarify the meaning of “assessment” under Code of Criminal Procedure 16.22;
2. Amend Health and Safety Code Section 614.0032(b) to authorize the Texas Correctional Office on Offenders with Medical or Mental Impairments to approve and make available an electronic form for use by qualified persons in connection with mental health reporting results under Code of Criminal Procedure Article 16.22, and make this form confidential by law;
3. Amend Code of Criminal Procedure Article 16.22’s monthly reporting requirement to avoid duplicative reporting from magistrates and trial courts;
4. Amend Code of Criminal Procedure Article 42.09 Section 8 to authorize a transfer of mental health-related information when a defendant is moved from county jail to state prison;
5. Amend Government Code Section 54.003(b) to include part-time and full-time magistrates and associate judges appointed under Chapters 54 and 54A of the Government Code;
6. Clarify Health and Safety Code Section 574.034(b)’s standard for court-ordered temporary outpatient mental health services;

7. Create a new provision in Title 7, Subchapter E of the Health and Safety Code covering transfer from inpatient to outpatient treatment;
8. Ensure that the provision addressing status hearings for noncompliance in Health and Safety Code Section 574.037(c-2) is clear, and move the provision to Title 7, Subchapter E;
9. Amend Chapter 574 of the Health and Safety Code to require publicly funded facilities (including private psychiatric facilities receiving payment with public funding to treat an individual under Chapter 574) to coordinate the admission, treatment plan, and discharge plan with Local Mental Health Authorities, and to pay for medication upon discharge;
10. Modify Article 46B of the Code of Criminal Procedure and Chapter 574 of the Health and Safety Code to create a new civil commitment option for Class B misdemeanor defendants;
11. Provide additional funding for community mental health services, including outpatient mental health services; and
12. Grant courts discretion when initially committing a defendant for competency restoration services if the defendant is charged with an offense listed in Article 17.032(a), Code of Criminal Procedure, or the indictment alleges an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure, rather than mandating that all defendants be sent first to a Maximum Security Unit.

Honorable Nathan L. Hecht
Chair, Texas Judicial Council

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STATE OF TEXAS

RESOLUTION

of the

TEXAS JUDICIAL COUNCIL

Civil Justice Committee Recommendations

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, in June 2017 the Council formed the Civil Justice Committee to “study the Conference of Chief Justices’ Civil Justice Initiative Recommendations¹ and the landscape of Texas civil justice² and recommend necessary reforms to improve access to civil justice in the Texas Courts;” and

WHEREAS, the Civil Justice Committee has worked in conjunction with an advisory committee, composed of judges, attorneys, clerks, court officials, legal aid providers, advocacy organizations, and business organizations, and has made recommendations for legislative changes; and

WHEREAS, the Civil Justice Committee has found that:

- The vast majority of civil cases are debt collection, landlord/tenant, and other small claims cases involving relatively modest monetary claims;
- For most litigants, the costs of litigating a case through trial would greatly exceed the monetary value of the case;
- The vast majority of civil cases are disposed of without adjudication on the merits;
- Some litigants with meritorious claims and defenses are effectively denied access to justice, because it is beyond their financial means to litigate; others, who have the resources and legal sophistication to do so, are opting for private alternatives to the civil justice system;
- An increasing number of litigants are seeking to represent themselves; and
- While our legal system promises the just, speedy, and inexpensive resolution of civil cases, too often it does not live up to that promise; and

WHEREAS, the Council finds that the landscape of litigation has changed to the degree that change is necessary to preserve the civil justice system; and

¹ <https://www.ncsc.org/~media/Microsites/Files/Civil-Justice/NCSC-CJI-ExecutiveSummary-Web.ashx>

² <http://www.txcourts.gov/media/1438069/tjc-civil-justice-initiative-june-30-2017.pdf>

WHEREAS, the Council believes that the legislative changes will result in meaningful increases in improving access to justice in the Texas courts;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council requests that the Legislature:

1. Ensure that the judiciary is able to attract the best and brightest minds to promote a fair and experienced judiciary by:
 - a. Considering alternatives to the current method of selection of judges by partisan elections;
 - b. Passing a resolution proposing a Constitutional amendment to modify the qualifications of judges to serve as justices/judges as follows:
 - i. Eliminating or increasing the maximum age restrictions as a qualification to serve as a justice/judge and placing greater emphasis on years of experience; or
 - ii. Alternatively:
 1. Raising the age to preside over statutory county courts and statutory probate courts from 25 to 30 years;
 2. Requiring justices of the peace and municipal judges (not a court of record) to be at least 25 years old if the justice/judge is a licensed attorney or 30 years old if the justice/judge is not a licensed attorney; and
 3. Requiring municipal judges (court of record) to have the same qualifications as a district judge.
 - iii. Requiring Justices of the Peace in counties with a population exceeding 500,000 to be licensed attorneys; and
 - iv. Increasing the required number of years of service as a practicing attorney or judge to twelve years to serve as an appellate justice/judge and to eight years for a district judge.
 - c. Increasing judicial compensation to an amount sufficient to “attract the most highly qualified individuals in the state, from a diversity of life and professional experiences, to serve in the judiciary without unreasonable economic hardship and with judicial independence unaffected by financial concerns;”³
2. Examine the structure and jurisdiction of the courts to increase efficiency by:
 - a. Simplifying the trial court structure by establishing consistent jurisdiction among the various trial courts across the state, as follows:
 - i. Increasing the civil jurisdictional floor for district courts from \$200 to \$10,000;
 - ii. Increasing the civil jurisdictional floor for the statutory county courts in Sec. 25.0003, Tex. Govt. Code, from \$200 to \$5,000;

³ Govt. Code, Sec. 35.102(b)

- iii. For counties with increased qualifications for justices of the peace to require being a practicing attorney, increasing the maximum civil jurisdiction of the justice courts from \$10,000 to \$20,000; and
 - b. Simplifying the court of appeals' structure in an effort to improve jurisprudence and reduce the need for transfer among the courts of appeals;
- 3. Clarify the unauthorized practice of law and barratry statutes to differentiate between providing legal information and legal advice and to authorize legal assistance software applications that provide legal information; and
- 4. Increase the funding for civil legal aid services throughout the state.

Honorable Nathan L. Hecht
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STATE OF TEXAS

RESOLUTION

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TEXAS JUDICIAL COUNCIL

Addressing the Needs of Youth in Class C Misdemeanor Matters

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code; and

WHEREAS, the Council is charged with improving the administration of justice; and

WHEREAS, felony, class A, and class B criminal offenses committed by youth are handled as civil matters in the juvenile courts; and

WHEREAS, in recent years the Legislature has enacted legislation designed to limit youth exposure to the criminal justice system through decriminalization of failure to attend school and through the creation of a special civil process to address truancy; and

WHEREAS, while these changes to the law have significantly reduced the number of non-traffic, Class C/fine-only cases filed against juveniles in justice and municipal courts, the volume of these cases remains high; and

WHEREAS, these remaining Class C/fine-only charges against juveniles are handled as criminal matters in justice and municipal courts, and the handling of these cases in this manner carries with it a variety of potential consequences, including the lack of appointed counsel, the imposition of legal financial obligations that might be difficult to satisfy, and the prospect of a criminal record; and

WHEREAS, a stated purpose of the Family Code is “to remove, where appropriate, the taint of criminality from children committing certain unlawful acts;”¹ and

WHEREAS, current law allows local government entities to employ juvenile case managers to assist courts in administering cases involving juvenile offenders and deterring youth from additional offending; and

WHEREAS, while juvenile case managers are intended to be innovative problem solvers, their specific duties and role are not defined in law and they appear to be underutilized in the state, particularly in rural areas;

NOW THEREFORE, BE IT RESOLVED that the Texas Judicial Council requests that the Legislature:

¹ TEX. FAM. CODE §51.01(2)(B).

Contact: Scott Griffith

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1. Amend current law to allow for the handling of youth charged with Class C/fine only non-traffic offenses as a civil matter in the state's justice and municipal courts.
2. Amend the Code of Criminal Procedure to clarify and expand the role and use of juvenile case managers, to include the use of regional juvenile case managers, as needed.

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