



TEXAS

JUVENILE  JUSTICE  
DEPARTMENT

# **BACKGROUND CHECKS AND MORE APRIL 1, 2026 TAC CHANGES**

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# TOPICS COVERED

- Chapter 341: Diversion; Deferred Prosecution; CRCG; CSE-IT Training
- Chapter 342: Out-of-State Juveniles
- Chapter 343: OC Spray
- Chapter 344: Background Checks

# CHAPTER 341 CHANGES



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# DIVERSION

- Put into standards the statute that requires juvenile board to adopt policies that prioritize diversion from referral to prosecutor juveniles living in a general residential operation, *particularly children alleged to have engaged in misdemeanor involving violence to a person*
- To monitor success of policies, juvenile board shall track:
  - the number of juveniles residing in a GRO who are referred to the juvenile probation department or other intake entity for the juvenile court;
  - the number of those juveniles placed on deferred prosecution; and
  - The GRO where each child resided at the time of the conduct that resulted in the referral
- 341.202

# DEFERRED PROSECUTION FEES

- Removed reference to juvenile board establishing a written policy regarding fee schedule
- Fees removed in statute in 2023
- 341.202

# CSE-IT

- Puts into standards statutory requirement regarding CSE-IT tool
- Before disposition of juvenile's case, JPD must use CSE-IT tool; must be administered by an individual trained to administer the instrument
- 341.502

# CRCG MOU

- Non-substantive change; changed statute number due to legislative renumbering

# CHAPTER 342 CHANGES



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# OUT OF STATE JUVENILES

- Fixed typos to be consistent with statute
- Only entities that may operate post-adjudication or non-secure facility to house juveniles “convicted” of offenses committed against the laws of another state OF the U.S. (not OR) are:
  - Governmental Unit in this state or
  - Private vendor operating under contract with a governmental unit in this state
- Removed reference to pre-adjudication because not in statute
- 342.1

# CHAPTER 343 CHANGES



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# CHEMICAL RESTRAINTS

- Gives authority to use chemical restraints if juvenile board approves
- If approves, must develop policies that specify (within limits of the standard):
  - The specific chemical restraint device that has been approved;
  - Which staff are authorized to use;
  - Which staff are authorized to routinely carry on their person;
  - The training curriculum for staff authorized to use;
  - Procedures for controlling chemical restraints, including how to obtain and return it, to include weighing when obtained and returned as well as after each use
  - Procedures to be followed after each use, to include decontamination procedures and post-incident review

# CHEMICAL RESTRAINTS – WHO MAY USE

- Only certified JSO trained to use it may use it
  - Must be sprayed prior to authorization for use unless exposure to OC is medically contraindicated for staff member
- Only FA, Assistant FA, shift supervisor, detention supervisor, dorm supervisor, and security personnel may routinely carry
  - FA: Individual designated as having ultimate responsibility for managing and operating facility
  - Assistant FA: 2<sup>nd</sup> to FA
  - Shift Supervisor: highest ranking JSO below FA working at the facility during current shift
  - Detention Supervisor: JSO who is serving as assistant to shift supervisor during current shift
  - Dorm Supervisor: highest ranking JSO assigned to a dorm during current shift
  - Security Personnel: staff whose primary responsibility is to patrol the facility and respond to security-related incidents

# CHEMICAL RESTRAINTS – CRITERIA FOR USE

- Requirements in 343.802, 343.804, and 343.806 re: Use of Force Apply
- May be used only when non-physical interventions or other physical interventions have failed or are not practical and it is reasonably believed necessary to:
  - Quell a riot or major disruption
  - Resolve a hostage situation
  - Remove residents from behind a barricade in a riot or self-harm situation
  - Secure an object that is being used as a weapon and that is capable of causing serious bodily injury
  - Protect residents, staff, or others from imminent serious bodily injury; or
  - Prevent escape

# CHEMICAL RESTRAINTS – CRITERIA FOR USE

- Unless reasonably believed necessary to prevent loss of life or serious bodily injury, authorization to use a chemical restraint must be obtained from the facility administrator prior to each use. Standing orders are prohibited
- Unless reasonably believed necessary to prevent loss of life or serious bodily injury, chemical restraints are not authorized for use on a resident when a medical provider has diagnosed the resident with a chronic, serious respiratory problem or other serious health condition identified by or known to the facility (e.g., significant eye problems, known history of severe allergic reaction to OC, or severe dermatological problems)
- A facility that is authorized to use OC spray that accepts residents from other counties is required to ensure those counties are aware that the facility authorizes the use of OC spray

# CHEMICAL RESTRAINTS – DECONTAMINATION

- Any resident affected, whether directly sprayed or not, must be decontaminated with cool water as soon as purpose of restraint has been achieved
- Immediately following decontamination, health care professional must be contacted to examine and, if necessary, treat and monitor all residents and staff affected by restraint

# USE OF FORCE REVIEW BOARD

- All facilities that are authorized to use OC spray must have a use of force review board
- Board must include FA and other staff, as designated by juvenile board in policy
- Must review each use of force involving OC spray no later than 14 calendar days after the restraint
- Reviews all available documents, videos, and sources of information to:
  - Determine if facility policies properly applied;
  - Determine whether documentation was accurate and complete;
  - Identify training needs; and
  - Identify ways to expand prevention efforts
- Written documentation of the names of all in attendance, a list of each incident reviewed, and any corrective actions recommended must be created and saved for each meeting

# BACKGROUND CHECKS



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# DEFINITIONS

- Direct Contact with a Juvenile
  - The ability to
    - Provide care, supervision, or guidance to a juvenile or
    - To exercise any form of control over a juvenile or
    - To routinely interact with a juvenile
- Direct, Unsupervised Access
  - The ability to
    - Physically interact with juveniles in a juvenile justice facility or program without the accompanying physical presence of or constant visual monitoring by a certified officer or other authorized employee of the program or facility
  - Does not include interactions that are incidental momentary
- Conviction
  - Conviction or deferred adjudication for criminal conduct
  - Does not include juvenile adjudication
- 344.100

# CRIMINAL HISTORY CHECK

- Applies to
  - Certified positions (including optional certification who is seeking it) – even if won't have direct, unsupervised access to juveniles
  - Non-certified positions that may have **direct, unsupervised access** to juveniles in **facility or program**
    - Employees, volunteers, interns, contractors (other than employees of a public school district because TEA approves them)
  - Non-certified positions that may have **direct contact with** juveniles in a juvenile justice **facility**
    - Employees, volunteers, interns, contractors (other than employees of a public school district because TEA approves them)
- 344.300

# IMPLEMENTATION CONSIDERATION

- Direct contact is a larger group than direct, unsupervised access
- To ensure you do not miss anyone, you may wish to run on anyone who may have direct contact with juveniles and then determine which provisions to apply if you get a hit

# CRIMINAL HISTORY CHECK

- In addition to before hiring, etc., must run check when:
  - Individual who was not previously certified accepts position requiring certification
  - Certified officer accepts simultaneous or subsequent employment at department or facility operated by or under contract with a different juvenile board
  - Seeking certification for person in a position that allows for optional certification
- 344.320

# CRIMINAL HISTORY CHECK – PRIVATE FACILITIES

- Juvenile probation department serving county where private facility is located is responsible for performing checks and subscribing to FACT
- 344.330

# CRIMINAL HISTORY CHECK

- Does not apply to
  - Juvenile's attorney
  - Juvenile's family members, managing conservator, or guardian
  - Individual's listed on juvenile's approved visitor list
  - Or any other person not listed in 344.300(b)
- 344.300

# CRIMINAL HISTORY – DISQUALIFYING

- No certification or direct, unsupervised access to juveniles in facility or program
  - Any conviction for 42A.054 offense (formerly 3(g) offenses)
  - Any conviction for sexually violent offense as defined in 62.001 CCP

Note: These are permanently disqualifying – length of time since conviction irrelevant

# CRIMINAL HISTORY – DISQUALIFYING

- A person may not be an employee, volunteer, or independent contractor and may not hold any other position that allows direct contact with a juvenile if they have any of the following convictions:
  - Continuous Sexual Abuse of Young Child or Disabled Individual
  - Sexual Assault
  - Aggravated Sexual Assault
  - Prohibited Sexual Conduct
- 344.400

# CRIMINAL HISTORY CHECK – REVIEWABLE

- Current requirement to register as sex offender for offense not considered disqualifying
- Any other felony conviction in last 10 years (date of conviction/def. adj. is start date for count)
- Any jailable misdemeanor in last 5 years

NOTE: This is not the same as CJIS access requirements, so be mindful of those when hiring someone who needs CJIS access

344.410

# MILITARY HISTORY CHECK

- Most recent separation or discharge documents must be reviewed
- If reflect anything other than honorable or honorably discharged, must
  - Attempt to obtain authorization from applicant for release of information and
  - Request additional information from appropriate governmental entity to determine whether reason for discharge was result of disqualifying or reviewable criminal conduct
- 344.302

# OTHER AGENCIES' FACILITIES

- Facilities or programs licensed by DFPS, HHSC, or equivalents in other states are exempt from criminal history and military history check requirements
- Chief or designee must obtain documentation confirming the license of the facility or program is in good standing with licensing entity
- 344.312

# REVIEWS: CRIMINAL OR MILITARY HISTORY

- Position requiring certification or seeking optional certification
  - Must request review from TJJD and get approval before hiring
- Other positions that require criminal history
  - Must request review from juvenile board or designee and get approval before hiring, etc. If designee, designation by juvenile board must be in writing
- Use forms, which are on TJJD website where standards are located
  - Bottom of home page, click on Texas Administrative Code
- 344.360

# ARREST OF CERTIFIED PERSON

- Upon notification of arrest, must notify TJJD certification office within 10 days
- Must provide copies of related law enforcement reports and any available information regarding circumstances of arrest
- Must answer questions from TJJD regarding arrest

# CONVICTION OF CERTIFIED PERSON

- Upon notice of conviction, must remove from any position allowing direct, unsupervised access to juveniles
- If continuous sexual abuse of young child or disabled individual, sexual assault, aggravated sexual assault, or prohibited sexual conduct, must remove from any position allowing direct contact with juvenile in a facility
- Notify TJJD certification office in writing no later than 10 calendar days after receiving notice. Must provide information regarding conviction and answer TJJD questions regarding disposition
- TJJD will review and determine if certification should be revoked or denied
- TJJD will revoke or deny if imprisoned following felony conviction, revocation of probation, or revocation of parole
- 344.430

# CHECKS USING ICIS

- Before employing, contracting with or allowing person to volunteer, intern, or otherwise serve in a position that may be placed in direct contact with or have direct, unsupervised contact to a juvenile, must use ICIS to verify:
  - 1 - TJJD certification has not been revoked
  - 2 - Not designated as ineligible for certification by TJJD
  - 3 - Not currently under order of active suspension by TJJD
  - 4 - Not currently ineligible to take certification exam due to repeated failures to pass
- If yes to 1, 2, or 3, may not hold position that requires certification or that allows for direct contact with or direct, unsupervised access to juvenile in juvenile justice facility or program. Not eligible for review
- If yes to 4, may not hold position that requires certification. Not eligible for review
- 344.350(a)

# CHECKS USING SEMARC

- Before employing, contracting with or allowing person to volunteer, intern, or otherwise serve in a position that may be placed in direct contact with or have direct, unsupervised access to a juvenile, must use SEMARC to determine if person is in any do-not-hire or similar registry of TJJD, TEA, DFPS, or HHSC
- If in TJJD registry, may not hold position that requires certification or that allows for direct contact with or direct, unsupervised access to juvenile in juvenile justice facility or program. Not eligible for review
- If in another registry, may not hold position unless request a review and result is person should not be prevented from serving
- 344.350(b)

# CHECKS USING SEMARC

- Must conduct new review each time person is recertified
- If not a certified person, must conduct review every 2 years
- Need to establish process to check existing persons
- If get a hit on a person who is already serving, must immediately remove and notify TJJD for a review to determine if it will revoke certification or make a person ineligible for certification based on results. Cannot return to position having any contact with juveniles until TJJD makes its decision

# REVIEW: SEMARC

- No reviews allowed for hits in TJJD database
- May request review if hit in other databases/registries
- There is some information about what the person did in SEMARC results – only request review if you still want to hire them, etc. despite that information
- All reviews must be to TJJD, not just certification positions
- Use form promulgated by TJJD

# EMPLOYMENT VERIFICATION

- Applies to all persons who may have direct contact with a juvenile in a juvenile justice facility (Employees, Contractors, Volunteers, Interns, Anything else)
- Facility must conduct employment verification, which consists of contacting all previous employers, to extent possible, before selecting person for applicable position

# EMPLOYMENT VERIFICATION

- Purpose: determine if person was terminated or otherwise disciplined for:
  - 1 – Harassment in workplace
  - 2 – ANE or other mistreatment of child or member of another vulnerable population
  - 3 – If employer serves children or other vulnerable population, if any of the criteria on self-disclosure form exists
- If employment verification reveals person engaged in any of 1 – 3, not eligible to serve in any position in a facility that may be placed in direct contact with a juvenile unless a review requested and results in determination person should not be prevented from being certified or serving in such a position
- Review is TJJD for certified positions; juvenile board or designee for others
- 344.350(c)

# EMPLOYMENT VERIFICATION

- If employment verification reveals person engaged in physical or sexual abuse of child that constitutes continuous sexual abuse of young child or disabled person, sexual assault, agg sex assault, or prohibited sexual conduct, **even if not convicted**, not eligible to serve in any position in a facility that may be placed in direct contact with a juvenile
- Not eligible for review

# EMPLOYMENT VERIFICATION

- Although applies only to person in facility, must do it before a person works in facility, even if the person is already working/serving in a capacity that is not in a facility

# REVIEW: EMPLOYMENT VERIFICATION

- For certification, review is to TJJD
- For non-certified position, review is to juvenile board or designee
- Both use form promulgated by TJJD

# SELF-DISCLOSURE FORM

- Must require person to complete form as part of application process for person who may be placed in direct contact with a juvenile or have direct, unsupervised access to a juvenile
  - Employee, Contractor, Volunteer, Intern, Any other Position
- Disclosures:
  - 1 - Worked, contracted, volunteered, interned, served at or held occupational license with child-serving entity or entity that serves vulnerable populations
  - 2 - Had employment or other status suspended or terminated
  - 3 - Had occupational license revoked or suspended
  - 4 - Had finding of ANE or mistreatment
  - 5 - Placed on do not hire or similar registry re: child serving or vulnerable population entity
- Must contact all entities listed to determine if 2-5 occurred (even if did not disclose) except if contacted as part of employment verification or if entity is searchable through SEMARC
- If 2-5 exists, may request review if wish to hire anyway (unless on TJJD registry)
- Failure to disclose or false info = must report to TJJD so we can determine if will take action

# REVIEW: SELF-DISCLOSURE FORM

- Review for person for certification: To TJJD using form prepared by TJJD. Email to certification officer email address
- Review for person not for certification: To juvenile board or designee using form prepared by TJJD.
- Both reviews may require you to get additional information

# REVIEWS BY JUVENILE BOARD OR DESIGNEE

- **Must take into account:**
  - Facts of the conduct engaged in by the person
  - Length of time since conduct occurred
  - Nature and experience of the person before and after the conduct occurred
- **Purpose:** to determine if person having direct contact with or direct, unsupervised access to juvenile poses a threat of harm
- May seek additional information if warranted
- Person may not appeal decision

# REVIEW BY TJJD

- **Must take into account:**
  - Facts of the conduct engaged in by the person
  - Length of time since conduct occurred
  - Nature and experience of the person before and after the conduct occurred
- **Purpose:** to determine if person having direct contact with or direct, unsupervised access to juvenile poses a threat of harm
- May seek additional information if warranted
- Person may appeal TJJD decision to Executive Director