

SUBJECT: Limiting TYC commitments to felons and repeat misdemeanants

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 8 ayes — Goodman, Pickett, Isett, P. King, Morrison, Naishtat, A. Reyna, E. Reyna
0 nays
1 absent — Truitt

WITNESSES: For — None
Against — None
On — Steve Robinson, Texas Youth Commission

BACKGROUND: Juvenile courts have jurisdiction over two broad classifications of juvenile conduct: conduct indicating a need for supervision (CINS) and delinquent conduct. In general, CINS represents less serious law violations and certain noncriminal conduct, and probation is the only available punishment.

Delinquent conduct consists of felonies and jailable misdemeanors, except for traffic violations; certain violations of juvenile court orders, except by truancy, running away, or fine-only offenses; contempt of magistrate orders; driving while intoxicated and other related offenses; and third-offense driving under the influence of alcohol. Juvenile courts can commit children who are adjudicated as having engaged in delinquent conduct to the Texas Youth Commission (TYC).

Terminology in a juvenile case differs from that in an adult criminal case. For instance, in the juvenile system, “adjudication” and “disposition” describe what in criminal proceedings are called “trial” and “punishment.”

In 1998, TYC had 5,267 juveniles under its care, with almost 4,000 in state facilities and the rest in contract care, halfway houses, or other programs.

DIGEST:

HB 2947 would allow commitment to TYC at an initial disposition hearing only for juveniles adjudicated for felonies or, under some circumstances, misdemeanors. A child committing a misdemeanor could be committed if:

- ! the child previously had been adjudicated for at least two delinquent-conduct charges of either a felony or misdemeanor;
- ! the conduct constituting one of the previous adjudications occurred after the date of another previous adjudication; and
- ! the conduct constituting the current adjudication occurred after the date of at least two previous adjudications.

Juveniles also could be committed to TYC after a hearing to modify their disposition if they had committed a felony or, in some circumstances, a misdemeanor. A child committing a misdemeanor could be committed if:

- ! the child previously had been adjudicated for at least three felonies or misdemeanors;
- ! the conduct constituting one previous adjudication had occurred after the date of two previous adjudications; and
- ! conduct constituting another previous adjudication had occurred after the date of one other previous adjudication.

HB 2947 would take effect September 1, 1999, and would apply to conduct occurring on or after that date.

**SUPPORTERS
SAY:**

HB 2947 would ensure that state juvenile correctional facilities are used for the most serious juvenile offenders. Limiting admissions to felons and repeat misdemeanants would help ensure that the state can meet its obligation to house the most serious offenders. The Criminal Justice Policy Council estimates that demand for TYC space will outstrip supply by 124 beds in fiscal 2000, by 245 beds in fiscal 2001, and by about 462 beds in fiscal 2003. HB 2947 would result in some misdemeanants being diverted from TYC and in all TYC beds being used for the more serious offenders, even if it did not result in a reduction of overall TYC commitments.

The progressive sanctions guidelines, developed in 1995 to aid juvenile courts in making decisions about juvenile offenders, recommend that only juveniles who have committed a level 6 or 7 offense be committed to TYC. These offenses include first-degree felonies involving the use of a deadly

weapon or causing serious bodily injury, aggravated controlled-substance felonies, or capital felonies. However, following the progressive sanctions guidelines is voluntary, and courts have committed to TYC juveniles adjudicated for lower-level offenses. These juveniles could be handled more appropriately at the local level and, when sent to TYC, occupy spaces that would be better used by more serious offenders.

HB 2947 would require that any misdemeanants sent to TYC were repeat offenders whose offenses occurred one after another. This would ensure that misdemeanants were not sent to TYC for several incidents that happened at the same time, but that these offenders already had had contact with the juvenile justice system and had an opportunity to straighten up before being sent to TYC. Judges still would be able to exercise discretion over whom they sent to TYC as long as the commitments met the bill's criteria.

**OPPONENTS
SAY:**

HB 2947 unwisely would take away juvenile court judges' discretion by limiting who could be sent to TYC. Judges should retain broad authority to send offenders to TYC if appropriate. Institution of the voluntary progressive sanctions guidelines reinforced the discretion of juvenile court judges by recommending — but not requiring — certain actions.

HB 2947 would not necessarily result in different juveniles being sent to TYC. If a prosecutor or a court wanted to send a juvenile to TYC, they might craft the charges against the juvenile so that they would qualify the juvenile for commitment.

Also, the bill would not necessarily result in fewer juveniles being sent to TYC. While certain juveniles may be sent to TYC when the progressive sanctions guidelines recommend they stay at the local level, other juveniles for whom the guidelines recommend commitment are not sent to TYC. A juvenile court judge could send to TYC all juveniles who met HB 2947's criteria without keeping any at the local level.

NOTES:

The fiscal note estimates a positive fiscal impact of about \$13.8 million for fiscal 2000-01 because about 300 misdemeanants would be diverted from TYC.