

BILL ANALYSIS

Senate Research Center
86R4369 LHC-D

H.B. 3648
By: Guillen (Whitmire)
Criminal Justice
5/12/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3648 amends current law relating to the powers and duties of the office of independent ombudsman for the Texas Juvenile Justice Department.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 261.001, Human Resources Code, by amending Subdivision (1) and adding Subdivisions (1-a) and (1-b), as follows:

(1) Defines "child."

(1-a) Defines "facility."

(1-b) Creates this subdivision, defining "independent ombudsman," from existing text.

SECTION 2. Amends Section 261.002, Human Resources Code, to provide that the office of independent ombudsman (office) is a state agency established for the purpose of investigating, evaluating, and securing the rights of the children placed in or committed to a facility, rather than securing the rights of the children committed to the Texas Juvenile Justice Department (TJJD), including a child released under supervision before final discharge.

SECTION 3. Amends Section 261.055(b), Human Resources Code, as follows:

(b) Requires the independent ombudsman to immediately report to the Texas Juvenile Justice Board, the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor, and the office of the inspector general of TJJD any particularly serious or flagrant:

(1) case of abuse or injury of a child placed in or committed to a facility, rather than case of abuse or injury of a child committed to TJJD;

(2) problem concerning the administration of a facility program or operation, rather than a TJJD program or operation;

(3) problem concerning the delivery of services in a facility, rather than a facility operated by or under contract with TJJD; or

(4) interference by an operator of a facility, rather than of TJJD, with an investigation conducted by the office.

SECTION 4. Amends Section 261.056(a), Human Resources Code, to require the operator of a facility to allow any child placed in or committed to the facility to communicate with the independent ombudsman or an assistant to the ombudsman, rather than requiring TJJD to allow

any child committed to TJJD to communicate with the independent ombudsman or an assistant to the ombudsman.

SECTION 5. Amends Section 261.057, Human Resources Code, to make conforming changes.

SECTION 6. Amends Section 261.058(b), Human Resources Code, to make conforming changes.

SECTION 7. Amends Section 261.060(a), Human Resources Code, as follows:

(a) Requires the office to accept, both before and after publication, comments from the board or the operator of a facility, as applicable, concerning the following types of reports published by the office under this chapter (Independent Ombudsman), rather than requiring the office to accept, both before and after publication, comments from the board concerning the following types of reports published by the office under this chapter:

(1) and (2) makes no changes to these subdivisions;

(3) makes a conforming change to this subdivision.

SECTION 8. Amends Section 261.101(a), Human Resources Code, as follows:

(a) Requires the independent ombudsman to:

(1) makes no changes to this subdivision;

(2) makes a conforming change to this subdivision;

(3) conduct investigations of complaints, other than complaints alleging criminal behavior, if the office determines that:

(A) a child placed in or committed to a facility, rather than a child committed to TJJD, or the child's family may be in need of assistance from the office; or

(B) a systemic issue in the provision of services by an operator of a facility is raised by a complaint, rather than a systemic issue in TJJD's provision of services, is raised by a complaint;

(4) review or inspect periodically each facility and the procedures of each facility to ensure that the rights of children are fully observed, rather than review or inspect periodically the facilities and procedures of any institution or residence in which a child has been placed by TJJD, whether public or private, to ensure that the rights of children are fully observed;

(5) and (6) makes no changes to these subdivisions;

(7) makes a conforming change to this subdivision;

(8) makes no changes to this subdivision;

(9) makes a conforming change to this subdivision;

(10) and (11) makes no changes to these subdivisions; and

(12) immediately report the findings of any investigation related to the operation of a facility, rather than a post-adjudication correctional facility, in a county to the chief juvenile probation officer and the juvenile board of the county.

SECTION 9. Amends Section 261.102, Human Resources Code, as follows:

Sec. 261.102. New heading: TREATMENT OF EMPLOYEES WHO COOPERATE WITH INDEPENDENT OMBUDSMAN. Makes a conforming change.

SECTION 10. Amends Section 261.104, Human Resources Code, as follows:

Sec. 261.104. MEMORANDUM OF UNDERSTANDING. (a) Requires the office and an operator of a facility, rather than TJJD, to enter into a memorandum of understanding concerning:

(1) makes no changes to this subdivision; and

(2) the procedures for handling overlapping monitoring duties and activities performed by the office and TJJD or a county.

(b) Requires the memorandum of understanding entered into under Subsection (a), at a minimum, to:

(1) makes no changes to this subdivision;

(2) makes conforming changes to this subdivision;

(4) ensure opportunities for sharing information between the office and TJJD or county for the purposes of assuring quality and improving programming within the facility, rather than ensure opportunities for sharing information between the office and TJJD for the purposes of assuring quality and improving programming within TJJD; and

(5) makes conforming changes to this subdivision.

SECTION 11. Amends Sections 261.151(a) and (c), Human Resources Code, to make conforming changes.

SECTION 12. Amends Section 261.152, Human Resources Code, to make conforming changes.

SECTION 13. Repealer: Section 261.101(e) (relating to certain powers of the office), Human Resources Code, as added by Section 11(b), Chapter 854 (S.B. 1149), Acts of the 84th Legislature, Regular Session, 2015.

Repealer: Section 261.101(e) (relating to certain powers of the office), Human Resources Code, as amended by Chapter 962 (S.B. 1630), Acts of the 84th Legislature, Regular Session, 2015.

SECTION 14. Effective date: September 1, 2019.