

BILL ANALYSIS

C.S.H.B. 2895
By: Allen
Corrections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Youth Commission (TYC) has grown in size and complexity over the past eight years since the major juvenile justice reforms of the 74th Legislature in 1995. The changes continue to require legislative attention in several areas. First, it has always been implied in the law, but needs to be explicitly stated, that all records of youth in TYC are confidential -- including any personally identifiable information -- and that youth and parents' access to information about the youth is authorized as long as it is not detrimental to treatment or have a chilling effect on receiving information from similar sources in the future.

Second, TYC has for many years met constitutional due process requirements for parole revocation hearings, but unlike the Board of Pardons and Paroles and Texas Department of Criminal Justice, has not been excepted from the other requirements for contested cases under the Texas Administrative Procedure Act. Some of these requirements are inappropriate and exceed constitutional requirements. Also, TYC needs the same subpoena authority the two adult correctional agencies have to compel the attendance of witnesses at the hearings.

Finally, an optional referral to a local mental health authority for outpatient services is needed for non-sentenced youth who must be discharged following completion of their minimum length of stay because of their inability to progress in the regular treatment program. CSHB 2895 attempts to address these issues.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Sec. 61.073, Human Resources Code, is amended to make explicit that all files and records pertaining to TYC youth, including personally identifiable information, are confidential, not just the records that have a treatment purpose.

SECTION 2. Sec. 61.0731, Human Resources Code, is added to make it explicit that TYC is authorized to disclose information about a youth to the youth and the youth's parent or guardian only if the disclosure would not materially harm the youth's treatment and rehabilitation and would not decrease the likelihood of receiving information from the same or similar sources in the future. It provides that a youth who is age 18 or older must give consent for disclosure to a parent or guardian and that TYC may disclose information regarding a youth's location and committing court when there is a legitimate need for it.

Sec. 61.0751, Human Resources Code, is added to grant subpoena authority to TYC hearings examiners in parole revocation and other administrative hearings. It authorizes the hearings examiners to administer an oath. Peace officers, TYC apprehension specialists, TYC parole officers or other commissioned officials are authorized to serve the subpoenas.

A court of record having original jurisdiction of criminal actions may, on the commission's application, enforce the subpoenas by contempt or in the same manner as the court may otherwise compel the production of evidence.

SECTION 3. Sec. 61.0772(b), Human Resources Code, is amended to require TYC to refer a youth to an appropriate mental authority who is being discharged because of mental illness that prevents the youth from progressing in the agency's rehabilitation program and who needs outpatient psychiatric treatment. Referrals for court-ordered mental health services continue for such youth needing inpatient psychiatric treatment.

SECTION 4. Sec. 2001.223, Government Code, is amended to add TYC proceedings related to the release of youth under supervision and parole revocation to similar proceedings of the Board of Pardons and Paroles and the Texas Department of Criminal Justice that are excepted from contested case provisions of the Texas Administrative Procedure Act.

SECTION 5. Effective date.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute modifies the original by removing the provisions in the original regarding composition and terms of TYC's governing board, Sunset Commission review, and substance abuse treatment. The substitute adds new SECTIONS 1, 2, 3, and 4.