

By: Allen

H.B. No. 2895

A BILL TO BE ENTITLED

AN ACT

relating to the operations of the Texas Youth Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 61.073, Human Resources Code, is amended to read as follows:

Sec. 61.073. RECORDS OF EXAMINATIONS AND TREATMENT. The commission shall keep written records of all examinations and conclusions based on them and of all orders concerning the disposition or treatment of each child subject to its control. Except as provided by Section 61.093(c), these records and all other information concerning a child, including personally identifiable information, are not public and are available only according to the provisions of Section 58.005, Family Code, Section 61.0731 of this code, and Chapter 61, Code of Criminal Procedure.

SECTION 2. Subchapter E, Chapter 61, Human Resources Code, is amended by adding Sections 61.0731 and 61.0751 to read as follows:

Sec. 61.0731. INFORMATION AVAILABLE TO CHILDREN, PARENTS, AND OTHERS. (a) In the interest of achieving the purpose of the commission and protecting the public, the commission may disclose records and other information concerning a child to the child and the child's parent or guardian only if disclosure would not materially harm the treatment and rehabilitation of the child and would not substantially decrease the likelihood of the commission

1 receiving information from the same or similar sources in the
2 future. Information concerning a person who is age 18 or older may
3 not be disclosed to the person's parent or guardian without the
4 person's consent.

5 (b) The commission may disclose information regarding a
6 child's location and committing court to a person having a
7 legitimate need for the information.

8 Sec. 61.0751. SUBPOENAS. (a) A hearings examiner
9 appointed by the commission may issue a subpoena requiring the
10 attendance of a witness or the production of any record, book,
11 paper, or document the hearings examiner considers necessary for a
12 determination of treatment under Section 61.075.

13 (b) The hearings examiner may sign a subpoena and administer
14 an oath.

15 (c) A peace officer, apprehension specialist, parole
16 officer, or other commission official may serve the subpoena in the
17 same manner as similar process in a court of record having original
18 jurisdiction of criminal actions is served.

19 (d) A person who testifies falsely, fails to appear when
20 subpoenaed, or fails or refuses to produce material under the
21 subpoena is subject to the same orders and penalties to which a
22 person taking those actions before a court is subject.

23 (e) On application of the commission, a court of record
24 having original jurisdiction of criminal actions may compel the
25 attendance of a witness, the production of material, or the giving
26 of testimony before the hearings examiner, by an attachment for
27 contempt or in the same manner as the court may otherwise compel the

1 production of evidence.

2 SECTION 3. Section 61.0772(b), Human Resources Code, is
3 amended to read as follows:

4 (b) Before a child who is identified as mentally ill is
5 discharged from the commission's custody under Section 61.077(b), a
6 commission psychiatrist shall examine the child. The commission
7 shall refer a child requiring outpatient psychiatric treatment to
8 the appropriate mental health authority. For a child requiring
9 inpatient psychiatric treatment, the [The] commission shall file a
10 sworn application for court-ordered mental health services, as
11 provided in Subchapter C, Chapter 574, Health and Safety Code, if:

12 (1) the child is not receiving court-ordered mental
13 health services; and

14 (2) the psychiatrist who examined the child determines
15 that the child is mentally ill and the child meets at least one of
16 the criteria listed in Section 574.034, Health and Safety Code.

17 SECTION 4. Section 2001.223, Government Code, is amended to
18 read as follows:

19 Sec. 2001.223. EXCEPTIONS FROM DECLARATORY JUDGMENT, COURT
20 ENFORCEMENT, AND CONTESTED CASE PROVISIONS. Section 2001.038 and
21 Subchapters C through H do not apply to:

22 (1) the granting, payment, denial, or withdrawal of
23 financial or medical assistance or benefits under service programs
24 of the Texas Department of Human Services;

25 (2) action by the Banking Commissioner or the Finance
26 Commission of Texas regarding the issuance of a state bank or state
27 trust company charter for a bank or trust company to assume the

1 assets and liabilities of a financial institution that the
2 commissioner considers to be in hazardous condition as defined by
3 Section 31.002(a) or 181.002(a), Finance Code, as applicable;

4 (3) a hearing or interview conducted by the Board of
5 Pardons and Paroles, ~~[or]~~ the pardons and paroles division of the
6 Texas Department of Criminal Justice, or the Texas Youth Commission
7 relating to the grant, rescission, or revocation of parole or other
8 form of administrative release; or

9 (4) the suspension, revocation, or termination of the
10 certification of a breath analysis operator or technical supervisor
11 under the rules of the Department of Public Safety.

12 SECTION 5. This Act takes effect September 1, 2003, and
13 applies only to a proceeding or any part of a proceeding that occurs
14 on or after that date. A proceeding that occurs before the
15 effective date of this Act is governed by the law applicable to the
16 proceeding immediately before the effective date of this Act, and
17 that law is continued in effect for that purpose.