

1-1 By: Allen (Senate Sponsor - Whitmire) H.B. No. 2895
1-2 (In the Senate - Received from the House May 5, 2003;
1-3 May 7, 2003, read first time and referred to Committee on Criminal
1-4 Justice; May 24, 2003, reported favorably, as amended, by the
1-5 following vote: Yeas 4, Nays 0; May 24, 2003, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Whitmire

1-7 Amend H.B. No. 2895 by striking SECTION 4 and renumbering the
1-8 subsequent sections accordingly.

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to the operations of the Texas Youth Commission.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 61.073, Human Resources Code, is amended
1-14 to read as follows:

1-15 Sec. 61.073. RECORDS OF EXAMINATIONS AND TREATMENT. The
1-16 commission shall keep written records of all examinations and
1-17 conclusions based on them and of all orders concerning the
1-18 disposition or treatment of each child subject to its control.
1-19 Except as provided by Section 61.093(c), these records and all
1-20 other information concerning a child, including personally
1-21 identifiable information, are not public and are available only
1-22 according to the provisions of Section 58.005, Family Code, Section
1-23 61.0731 of this code, and Chapter 61, Code of Criminal Procedure.

1-24 SECTION 2. Subchapter E, Chapter 61, Human Resources Code,
1-25 is amended by adding Sections 61.0731 and 61.0751 to read as
1-26 follows:

1-27 Sec. 61.0731. INFORMATION AVAILABLE TO CHILDREN, PARENTS,
1-28 AND OTHERS. (a) In the interest of achieving the purpose of the
1-29 commission and protecting the public, the commission may disclose
1-30 records and other information concerning a child to the child and
1-31 the child's parent or guardian only if disclosure would not
1-32 materially harm the treatment and rehabilitation of the child and
1-33 would not substantially decrease the likelihood of the commission
1-34 receiving information from the same or similar sources in the
1-35 future. Information concerning a person who is age 18 or older may
1-36 not be disclosed to the person's parent or guardian without the
1-37 person's consent.

1-38 (b) The commission may disclose information regarding a
1-39 child's location and committing court to a person having a
1-40 legitimate need for the information.

1-41 Sec. 61.0751. SUBPOENAS. (a) A hearings examiner
1-42 appointed by the commission may issue a subpoena requiring the
1-43 attendance of a witness or the production of any record, book,
1-44 paper, or document the hearings examiner considers necessary for a
1-45 determination of treatment under Section 61.075.

1-46 (b) The hearings examiner may sign a subpoena and administer
1-47 an oath.

1-48 (c) A peace officer, apprehension specialist, parole
1-49 officer, or other commission official may serve the subpoena in the
1-50 same manner as similar process in a court of record having original
1-51 jurisdiction of criminal actions is served.

1-52 (d) A person who testifies falsely, fails to appear when
1-53 subpoenaed, or fails or refuses to produce material under the
1-54 subpoena is subject to the same orders and penalties to which a
1-55 person taking those actions before a court is subject.

1-56 (e) On application of the commission, a court of record
1-57 having original jurisdiction of criminal actions may compel the
1-58 attendance of a witness, the production of material, or the giving
1-59 of testimony before the hearings examiner, by an attachment for
1-60 contempt or in the same manner as the court may otherwise compel the
1-61 production of evidence.

1-62 SECTION 3. Section 61.0772(b), Human Resources Code, is

2-1 amended to read as follows:

2-2 (b) Before a child who is identified as mentally ill is
2-3 discharged from the commission's custody under Section 61.077(b), a
2-4 commission psychiatrist shall examine the child. The commission
2-5 shall refer a child requiring outpatient psychiatric treatment to
2-6 the appropriate mental health authority. For a child requiring
2-7 inpatient psychiatric treatment, the [The] commission shall file a
2-8 sworn application for court-ordered mental health services, as
2-9 provided in Subchapter C, Chapter 574, Health and Safety Code, if:

2-10 (1) the child is not receiving court-ordered mental
2-11 health services; and

2-12 (2) the psychiatrist who examined the child determines
2-13 that the child is mentally ill and the child meets at least one of
2-14 the criteria listed in Section 574.034, Health and Safety Code.

2-15 SECTION 4. Section 2001.223, Government Code, is amended to
2-16 read as follows:

2-17 Sec. 2001.223. EXCEPTIONS FROM DECLARATORY JUDGMENT, COURT
2-18 ENFORCEMENT, AND CONTESTED CASE PROVISIONS. Section 2001.038 and
2-19 Subchapters C through H do not apply to:

2-20 (1) the granting, payment, denial, or withdrawal of
2-21 financial or medical assistance or benefits under service programs
2-22 of the Texas Department of Human Services;

2-23 (2) action by the Banking Commissioner or the Finance
2-24 Commission of Texas regarding the issuance of a state bank or state
2-25 trust company charter for a bank or trust company to assume the
2-26 assets and liabilities of a financial institution that the
2-27 commissioner considers to be in hazardous condition as defined by
2-28 Section 31.002(a) or 181.002(a), Finance Code, as applicable;

2-29 (3) a hearing or interview conducted by the Board of
2-30 Pardons and Paroles, ~~or~~ the pardons and paroles division of the
2-31 Texas Department of Criminal Justice, or the Texas Youth Commission
2-32 relating to the grant, rescission, or revocation of parole or other
2-33 form of administrative release; or

2-34 (4) the suspension, revocation, or termination of the
2-35 certification of a breath analysis operator or technical supervisor
2-36 under the rules of the Department of Public Safety.

2-37 SECTION 5. This Act takes effect September 1, 2003, and
2-38 applies only to a proceeding or any part of a proceeding that occurs
2-39 on or after that date. A proceeding that occurs before the
2-40 effective date of this Act is governed by the law applicable to the
2-41 proceeding immediately before the effective date of this Act, and
2-42 that law is continued in effect for that purpose.

2-43 * * * * *