

BILL ANALYSIS

S.B. 1307
By: Staples
Juvenile Justice & Family Issues
Committee Report (Amended)

BACKGROUND AND PURPOSE

Currently, the Government Code invests state agencies with subpoena powers that can be exercised in contested matters pending before the agency. There are, however, a number of agencies that have stand-alone statutes that empower them to use subpoena powers, under circumstances other than contested matters.

S.B.1307 includes the Texas Juvenile Probation Commission as an agency that has the authority to issue subpoenas and gather information deemed necessary to carry out their functions and duties.

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. Amends Subchapter C, Chapter 141, Human Resources Code, by adding Section 141.0461, as follows:

Sec. 141.0461. AUTHORITY TO ISSUE SUBPOENAS, ADMINISTER OATHS, RECEIVE EVIDENCE, AND GATHER INFORMATION. (a) Authorizes the Texas Juvenile Probation Commission (commission) to issue a subpoena requiring the attendance of a witness or the production of any record, book, paper, document, data, or other evidence maintained by electronic or other means that the commission considers necessary for the investigation of abuse, neglect or exploitation allegations, complaints, financial and programmatic audits, or any matter under the authority of the commission. Authorizes the commission to issue a subpoena under this subsection only if the subpoena is signed by the chairman of the commission or, if the chairman is unavailable, the vice-chairman of the commission and at least two other members of the commission, including a member who is a judge.

(b) Authorizes any peace officer, commission investigator, other commission official, or person authorized under Article 24.01 (Issuance of Subpoenas), Code of Criminal Procedure, to serve the subpoena in the same manner as similar process in a court of record having original jurisdiction of criminal actions is served.

(c) Requires subpoenas, under this section, to be served and witness fees and mileage paid as in civil cases in the district court in the county to which the witness is called, unless the proceeding for which the service or payment is made is pursuant to Chapter 2001 (Administrative Procedure), Government Code, in which case the service or payment is required to be made as provided by that chapter. Requires the commission to pay the fees and mileage of a witness subpoenaed at the instance of the commission out of funds appropriated for that purpose.

(d) Authorizes, on application of the commission, a court of record having original jurisdiction of criminal actions to compel the attendance of a witness, the production of material, or the giving of testimony before the commission, by an attachment for contempt or in the same manner as the court is authorized to compel the production of evidence.

(e) Authorizes the chairman or another member of the commission to administer an oath to a witness in attendance before the commission or before an authorized representative of the commission.

(f) Authorizes the commission, if a witness in attendance before the commission or before an authorized representative of the commission refuses without reasonable cause to be examined or answer a legal or pertinent question, or to produce a book, record, paper, document, data, or other evidence maintained by electronic or other means when ordered by the commission to do so, to apply to the district court for a rule or order returnable in not fewer than two or more than five days, directing the witness to show cause before the judge why the witness should not be punished for contempt. Authorizes the commission to apply to the district court of any county in which the witness is in attendance, on proof by affidavit of the fact, unless the order of contempt is sought under Chapter 2001, Government Code, in which case the commission is required to apply to a district court of Travis County in conformity with that chapter. Requires the judge hearing the matter, on return of the order, to examine the witness under oath, and the witness to be given an opportunity to be heard. Authorizes the judge, if the judge determines that the witness has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce a book, record, paper, document, data, or other evidence maintained by electronic or other means that the witness was ordered to bring or produce, to punish the offender as for contempt of court.

(g) Requires the commission to be granted access at any reasonable time to any books, records, papers, documents, data, or other evidence maintained by electronic or other means that is related to any matter the commission or executive director considers necessary to administer the commission's functions, powers, and duties.

SECTION 2. This Act takes effect September 1, 2005.

EFFECTIVE DATE

September 1, 2005.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1 adds language in Section 141.0461(a) of the Human Resources Code, by providing that the commission may issue a subpoena, only if the subpoena is signed by the chairman of the commission or, if the chairman is unavailable, the vice-chairman of the commission and at least two other members of the commission, including a member who is a judge.