

By: Staples

S.B. No. 1307

A BILL TO BE ENTITLED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

AN ACT

relating to the authority of the Texas Juvenile Probation Commission to issue subpoenas, administer oaths, receive evidence, and gather information.

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

SECTION 1. Subchapter C, Chapter 141, Human Resources Code, is amended by adding Section 141.0461 to read as follows:

Sec. 141.0461. AUTHORITY TO ISSUE SUBPOENAS, ADMINISTER OATHS, RECEIVE EVIDENCE, AND GATHER INFORMATION. (a) The commission may 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. The commission may issue a subpoena under this subsection only if the subpoena is signed by at least two members of the commission.

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

(c) Under this section, subpoenas shall be served and

1 witness fees and mileage paid as in civil cases in the district
2 court in the county to which the witness is called, unless the
3 proceeding for which the service or payment is made is pursuant to
4 Chapter 2001, Government Code, in which case the service or payment
5 shall be made as provided by that chapter. The commission shall pay
6 the fees and mileage of a witness subpoenaed at the instance of the
7 commission out of funds appropriated for that purpose.

8 (d) On application of the commission, a court of record
9 having original jurisdiction of criminal actions may compel the
10 attendance of a witness, the production of material, or the giving
11 of testimony before the commission by an attachment for contempt or
12 in the same manner as the court may otherwise compel the production
13 of evidence.

14 (e) The chairman or another member of the commission may
15 administer an oath to a witness in attendance before the commission
16 or before an authorized representative of the commission.

17 (f) If a witness in attendance before the commission or
18 before an authorized representative of the commission refuses
19 without reasonable cause to be examined or answer a legal or
20 pertinent question, or to produce a book, record, paper, document,
21 data, or other evidence maintained by electronic or other means
22 when ordered by the commission to do so, the commission may apply to
23 the district court for a rule or order returnable in not fewer than
24 two or more than five days, directing the witness to show cause
25 before the judge why the witness should not be punished for
26 contempt. The commission may apply to the district court of any
27 county in which the witness is in attendance, on proof by affidavit

1 of the fact, unless the order of contempt is sought under Chapter
2 2001, Government Code, in which case the commission shall apply to a
3 district court of Travis County in conformity with that chapter. On
4 return of the order, the judge hearing the matter shall examine the
5 witness under oath, and the witness shall be given an opportunity to
6 be heard. If the judge determines that the witness has refused,
7 without reasonable cause or legal excuse, to be examined or answer a
8 legal or pertinent question, or to produce a book, record, paper,
9 document, data, or other evidence maintained by electronic or other
10 means that the witness was ordered to bring or produce, the judge
11 may punish the offender as for contempt of court.

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

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

COMMITTEE AMENDMENT NO. 1

Amend S.B. No. 1307 (engrossed version) in SECTION 1 of the bill, in added Section 141.0461(a), Human Resources Code (page 1, lines 17 and 18), by striking "by at least two members of the commission" and substituting "by:

(1) the chairman of the commission or, if the chairman is unavailable, the vice-chairman of the commission; and

(2) at least two other members of the commission, including a member who is a judge".

79R18233 SLO-D

Dutton