

By: Dunnam

H.B. No. 2340

A BILL TO BE ENTITLED

AN ACT

relating to conservatorship of the Texas Youth Commission.

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

SECTION 1. Title 3, Human Resources Code, is amended by adding Chapter 61A to read as follows:

CHAPTER 61A. CONSERVATORSHIP OF TEXAS YOUTH COMMISSION

Sec. 61A.001. DEFINITIONS. In this chapter:

(1) "Commission" has the meaning assigned by Section 61.001(1).

(2) "Board" has the meaning assigned by Section 61.001(2).

(3) "Chairman" has the meaning assigned by Section 61.001(3).

(4) "Conservator" means the person appointed under this chapter to act as the conservator of the commission and includes a temporary or permanent conservator.

(5) "Department" has the meaning assigned by Section 411.001(2), Government Code.

(6) "Director" has the meaning assigned by Section 411.001(3), Government Code.

(7) "Internet" has the meaning assigned by Section 411.001(4).

Sec. 61A.002. FINDINGS. The Legislature finds that:

(1) the Texas Rangers conducted an investigation of

1 the commission's West Texas State School that discovered credible
2 evidence to support allegations that commission employees
3 willfully and repeatedly engaged in conduct constituting sexual
4 abuse with children in the commission's custody at the school;

5 (2) the Texas Rangers investigation indicates that the
6 sexual abuse went undiscovered or unreported to public for a
7 significant period of time;

8 (3) the commission's board and executive director did
9 not take reasonable action to prevent the sexual abuse;

10 (3) recent press reports reporting on the
11 investigation by the Texas Rangers contain additional charges of
12 improper sexual activity that likely occurred between commission
13 employees and children in the other commission facilities;

14 (4) there is no public confidence in the ability of the
15 commission's board, officers, and employees to resolve the
16 administrative and operational problems that permitted untold
17 numbers of children in the commission's custody to be sexually
18 abused and to prevent future sexual abuse of children in the
19 commission's custody; and

20 (5) the immediate conservatorship of the commission is
21 necessary to protect the health, safety, and welfare of the
22 children in the commission's custody.

23 Sec. 61A.003. CONSERVATORSHIP. The commission is under
24 conservatorship as provided by this chapter.

25 Sec. 61A.004. CONSERVATOR: APPOINTMENT, COMPENSATION AND
26 EXPENSES. (a) The director is the temporary conservator of the
27 commission on the effective date of this chapter.

1 (b) Not later than the tenth day after the effective date of
2 this chapter, the governor shall appoint a permanent conservator.
3 If the governor does not appoint a permanent conservator by the
4 tenth day after the effective date of this chapter, the lieutenant
5 governor shall appoint a permanent conservator not later than the
6 fifteenth day after the effective date of this chapter. If the
7 lieutenant governor does not appoint a permanent conservator by the
8 fifteenth day after the effective date of this chapter, a member of
9 the legislature may institute an original proceeding in the Supreme
10 Court of Texas to compel the lieutenant governor to appoint a
11 permanent conservator.

12 (c) To be eligible for appointment as a permanent
13 conservator, a person must be qualified, by experience or
14 education, in the development and administration of programs for
15 the rehabilitation and reestablishment in society of children in
16 the custody of agencies similar in mission and scope to the
17 commission.

18 (d) A public officer is eligible to serve as a permanent
19 conservator.

20 (e) A permanent conservator's term expires on the earlier of
21 the date the conservatorship for which the permanent conservator is
22 appointed dissolves or the second anniversary of the date of the
23 permanent conservator's appointment. A permanent conservator
24 whose term expires before the conservatorship is dissolved may be
25 reappointed to continue the conservatorship.

26 (f) A conservator appointed to act as the permanent
27 conservator under this chapter is entitled to receive a salary for

1 performing those duties that is equal to the salary of a district
2 judge.

3 (g) The commission shall pay the salary of the permanent
4 conservator from money appropriated or otherwise available to the
5 commission, except to the extent that money to pay the salary is
6 specifically appropriated or made available through the budget
7 execution process for that purpose.

8 (h) A limit provided by appropriation on the amount of
9 reimbursement that state officers or members of state boards and
10 commissions may generally receive does not apply to reimbursement
11 of the reasonable and necessary expenses incurred by a conservator
12 in the course of performing duties under this chapter.

13 (i) The reasonable and necessary expenses incurred by a
14 conservator in the course of performing duties under this chapter
15 shall be paid from funds appropriated or otherwise available to the
16 commission, except to the extent that money to pay those expenses is
17 specifically appropriated or made available through the budget
18 execution process for that purpose.

19 Sec. 61A.005. RULES. A conservator may adopt and enforce
20 rules necessary to administer the conservatorship for which the
21 conservator is designated under this chapter. A conservator may
22 adopt initial rules on an emergency basis for the period prescribed
23 by Section 2001.034, Government Code, if the conservator determines
24 that rules with immediate effect are necessary to ameliorate the
25 effect of the commission's inability to ensure the health, safety,
26 and welfare of the children in the commission's custody or sound
27 fiscal management.

1 Sec. 61A.006. ADMINISTRATIVE SERVICES AND INVESTIGATIVE
2 SUPPORT. The department shall provide a conservator with
3 administrative services and investigative support. The
4 administrative services and investigative support shall be paid
5 from funds appropriated or otherwise available to the department or
6 commission, except to the extent that money to pay those expenses is
7 specifically appropriated or made available through the budget
8 execution process for that purpose.

9 (b) The department shall use non-uniformed personnel when
10 conducting interviews with children currently or formerly.

11 (c) On or before the fifth day after the effective date of
12 this chapter, the department shall institute a toll-free telephone
13 number and Internet website to receive complaints and information
14 from members of the public on conduct by commission officers and
15 employees that jeopardizes the health, safety, and welfare of
16 children in the commission's custody.

17 Sec. 61A.007. CONSERVATOR'S POWERS AND DUTIES. (a) A
18 conservator shall assume all the powers and duties of the officers
19 responsible for the policy and operational direction of the
20 commission and those officers may not act unless authorized by a
21 conservator.

22 (b) A conservator may:

23 (1) terminate the employment of any employee whose
24 conduct the conservator determines contributed to the condition
25 that caused the conservatorship;

26 (2) employ personnel for the commission;

27 (3) cooperate with any other public officer or agency

1 conducting criminal or civil investigations concerning illegal or
2 improper conduct by commission officers or employees jeopardizing
3 the health, safety, and welfare of children in the commission's
4 custody and related conduct, including the production of witnesses
5 and documents without the need for compulsory process;

6 (4) change the commission's organization or structure
7 as necessary to alleviate the conditions that caused the
8 conservatorship; and

9 (5) contract with persons for management or
10 administrative services necessary to effect the conservatorship.

11 Sec. 61A.008. REPORT. (a) The conservator shall report on
12 a conservatorship under this subchapter to the governor, the
13 lieutenant governor, and the members of the legislature not later
14 than the 60th day after the effective date of this chapter and at
15 the end of each subsequent 60-day period until the conservatorship
16 is dissolved.

17 (b) The report must include a description of the measures
18 taken to ensure that the commission can act to ensure the health,
19 safety, and welfare of the children in the commission's custody or
20 sound fiscal management and an estimate of the progress the
21 conservator has made in attaining that goal.

22 (c) Upon its completion, the report shall be made available
23 immediately to the public on the Internet.

24 Sec. 61A.009. USE OF DEPARTMENT PERSONNEL DURING
25 CONSERVATORSHIP. (a) During the conservatorship, the department
26 shall station a Texas Ranger at each commission facility to ensure
27 the health, safety, and welfare of the children in the commission's

1 custody or the protection of any whistleblower. The orders given by
2 the Texas Ranger to facility employees to ensure the health,
3 safety, and welfare of the children in the commission's custody
4 shall be observed by those employees unless a countermanding order
5 is given by conservator.

6 Sec. 61A.010. DURATION OF CONSERVATORSHIP. A
7 conservatorship under this chapter continues until June 1, 2009.
8 Unless continued by the legislature, this chapter expires June 1,
9 2009.

10 SECTION 2. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect on the 91st day after the last day of the
15 legislative session.