

By: Haggerty

H.B. No. 2686

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. Subtitle A, 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) "Executive director" has the meaning assigned by Section 61.001(4).

(8) "Internet" has the meaning assigned by Section 411.001(4), Government Code.

1 Sec. 61A.002. FINDINGS. The legislature finds that:

2 (1) the Texas Rangers conducted an investigation of
3 the commission's West Texas State School and discovered credible
4 evidence to support allegations that commission employees wilfully
5 and repeatedly engaged in conduct constituting sexual abuse with
6 children in the commission's custody at the school;

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

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

12 (4) recent press reports concerning the investigation
13 by the Texas Rangers contain additional charges of improper sexual
14 activity that likely occurred between commission employees and
15 children in the other commission facilities;

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

22 (6) the immediate conservatorship of the commission is
23 necessary to protect the health, safety, and welfare of the
24 children in the commission's custody.

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

27 Sec. 61A.004. CONSERVATOR: APPOINTMENT, COMPENSATION, AND

1 EXPENSES. (a) The director is the temporary conservator of the
2 commission as of the effective date of this chapter.

3 (b) Not later than the 10th day after the effective date of
4 this chapter, the governor shall appoint a permanent conservator.
5 If the governor does not appoint a permanent conservator by that
6 date, the lieutenant governor shall appoint a permanent conservator
7 not later than the 15th day after the effective date of this
8 chapter. If the lieutenant governor does not appoint a permanent
9 conservator by that date, a member of the legislature may institute
10 an original proceeding in the supreme court to compel the
11 lieutenant governor to appoint a 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:

26 (1) the commission's inability to ensure the health,
27 safety, and welfare of the children in the commission's custody; or

1 (2) the commission's gross fiscal mismanagement.

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

10 (b) The department shall use non-uniformed personnel when
11 conducting interviews with children currently or formerly in the
12 custody of the commission.

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

19 (d) The department shall offer a \$5,000 reward to a person
20 who provides the department with information that leads to the
21 conviction of another person who, in violation of a criminal law of
22 this state:

23 (1) engages in sexual misconduct with a child in the
24 custody of the commission; or

25 (2) is aware of the sexual misconduct of another with a
26 child in the custody of the commission and attempts to conceal or
27 fails to report the misconduct.

1 (e) The department shall post notice of the reward described
2 by Subsection (d) in each commission facility.

3 Sec. 61A.007. CONSERVATOR'S POWERS AND DUTIES. (a) A
4 conservator shall assume all the powers and duties of the officers
5 responsible for the policy and operational direction of the
6 commission, and those officers may not act unless authorized by the
7 conservator.

8 (b) A conservator may:

9 (1) terminate the employment of any employee whose
10 conduct the conservator determines contributed to the condition
11 that caused the conservatorship;

12 (2) employ personnel for the commission;

13 (3) cooperate with any other public officer or agency
14 conducting criminal or civil investigations concerning illegal or
15 improper conduct by commission officers or employees jeopardizing
16 the health, safety, and welfare of children in the commission's
17 custody and related conduct, including through the production of
18 witnesses and documents without the need for compulsory process;

19 (4) change the commission's organization or structure
20 as necessary to alleviate the conditions that caused the
21 conservatorship; and

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

24 Sec. 61A.008. REPORT. (a) The conservator shall report on
25 the conservatorship under this chapter to the governor, the
26 lieutenant governor, and the members of the legislature not later
27 than the 60th day after the effective date of this chapter and at

1 the end of each subsequent 60-day period until the conservatorship
2 is dissolved.

3 (b) The report must include a description of the measures
4 taken to ensure that the commission is capable of acting to ensure
5 the health, safety, and welfare of the children in the commission's
6 custody and maintaining sound fiscal management and an estimate of
7 the progress the conservator has made in attaining that goal.

8 (c) On its completion, the report shall be made available
9 immediately to the public on the commission's Internet website.

10 Sec. 61A.009. USE OF DEPARTMENT PERSONNEL DURING
11 CONSERVATORSHIP. During the conservatorship, the department shall
12 station a Texas Ranger at each commission facility to ensure the
13 health, safety, and welfare of children in the commission's custody
14 and the protection of any person who reports an activity that
15 jeopardizes the health, safety, or welfare of children in the
16 custody of the commission or reports commission fiscal
17 mismanagement. The orders given by the Texas Ranger to facility
18 employees to ensure the health, safety, and welfare of children in
19 the commission's custody shall be observed by those employees
20 unless a countermanding order is given by the conservator.

21 Sec. 61A.010. DURATION OF CONSERVATORSHIP. A
22 conservatorship under this chapter continues until June 1, 2009.
23 Unless continued by the legislature, this chapter expires June 1,
24 2009.

25 SECTION 2. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

H.B. No. 2686

1 Act does not receive the vote necessary for immediate effect, this
2 Act takes effect on the 91st day after the last day of the
3 legislative session.