

By: Miles

H.B. No. 3701

A BILL TO BE ENTITLED

AN ACT

relating to the office of independent ombudsman 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 64 to read as follows:

CHAPTER 64. OFFICE OF INDEPENDENT OMBUDSMAN OF THE TEXAS YOUTH COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 64.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Youth Commission.

(2) "Office" means the office of independent ombudsman created under this chapter.

(3) "Independent ombudsman" means the individual who has been appointed under this chapter to the office of independent ombudsman.

Sec. 64.002. ESTABLISHMENT; PURPOSE. The commission shall establish an office of independent ombudsman for the purpose of investigating and securing the rights of the children committed to the commission.

Sec. 64.003. INDEPENDENCE. The independent ombudsman in the performance of its duties and powers under this chapter acts independently of the commission.

[Sections 64.004-64.050 reserved for expansion]

SUBCHAPTER B. APPOINTMENT AND MANAGEMENT OF OFFICE

Sec. 64.051. APPOINTMENT BY GOVERNOR. (a) The governor shall appoint the independent ombudsman for a term of two years.

(b) An independent ombudsman may not serve more than three terms in that capacity.

Sec. 64.052. ASSISTANTS. The independent ombudsman may appoint assistants to perform, under the direction of the independent ombudsman, the same duties and exercise the same powers as the independent ombudsman.

Sec. 64.053. REPORT. On or before January 1 of each year, the independent ombudsman shall submit to the governor, the lieutenant governor, and each member of the legislature a report that describes, for the one-year period preceding the report:

(1) the work of the independent ombudsman;

(2) the results of any review or investigation undertaken by the independent ombudsman; and

(3) any recommendations that the independent ombudsman has in relation to the duties of the independent ombudsman.

Sec. 64.054. COMMUNICATION AND CONFIDENTIALITY. (a) The commission shall allow any child committed to it to communicate with the independent ombudsman. The communication:

(1) may be in person, by mail, or by any other means; and

(2) is confidential and privileged.

(b) The records of the independent ombudsman are confidential, except that the independent ombudsman shall disclose

1 its records if required by a court order on a showing of good cause.

2 (c) The independent ombudsman may make reports relating to
3 an investigation public after the investigation is complete but
4 only if the names of all children, parents, and employees are
5 redacted from the report and remain confidential.

6 Sec. 64.055. PROMOTION OF AWARENESS OF OFFICE. The
7 independent ombudsman shall promote awareness among the public and
8 the children committed to the commission of:

- 9 (1) how the office may be contacted;
10 (2) the purpose of the office; and
11 (3) the services the office provides.

12 Sec. 64.056. AGREEMENTS AND CONTRACTS. The office may
13 enter into a cooperative agreement or contract with any person to
14 perform the duties and powers of the office.

15 [Sections 64.057-64.100 reserved for expansion]

16 SUBCHAPTER C. DUTIES AND POWERS

17 Sec. 64.101. DUTIES AND POWERS. (a) The independent
18 ombudsman shall:

19 (1) review the procedures established by the
20 commission and evaluate the delivery of services to children to
21 ensure that the rights of children are fully observed;

22 (2) review complaints filed with the independent
23 ombudsman concerning the actions of the commission and investigate
24 each complaint in which it appears that a child may be in need of
25 assistance from the independent ombudsman;

26 (3) review or inspect periodically the facilities and
27 procedures of any institution or residence in which a child has been

1 placed by the commission, whether public or private, to ensure that
2 the rights of children are fully observed;

3 (4) investigate the death of any child in the care or
4 custody of the commission;

5 (5) pursuant to an investigation, provide assistance
6 to a child or family who the ombudsman determines is in need of
7 assistance including advocating with an agency, provider, or other
8 person in the best interests of the child;

9 (6) review court orders as necessary to fulfill its
10 duties;

11 (7) recommend changes in any procedure relating to the
12 treatment of children committed to the commission; and

13 (8) make appropriate referrals under any of the duties
14 and powers provided in this subchapter.

15 (b) The independent ombudsman may apprise persons who are
16 interested in a child's welfare of the rights of the child.

17 (c) The independent ombudsman may, to assess if a child's
18 rights have been violated, contact or consult with an
19 administrator, employee, child, parent, expert, or any other
20 individual in its investigation or to secure information.

21 [Sections 64.102-64.150 reserved for expansion]

22 SUBCHAPTER D. ACCESS TO INFORMATION

23 Sec. 64.151. ACCESS TO INFORMATION OF GOVERNMENTAL
24 ENTITIES. (a) The commission shall allow the independent
25 ombudsman access to its records relating to the children committed
26 to it.

27 (b) The Department of Public Safety shall allow the

1 independent ombudsman access to the juvenile justice information
2 system established under Subchapter B, Chapter 58, Family Code.

3 (c) A local law enforcement agency shall allow the
4 independent ombudsman access to its records relating to any child
5 in the care or custody of the commission.

6 Sec. 64.152. ACCESS TO INFORMATION OF PRIVATE ENTITIES.
7 The independent ombudsman may subpoena the records of a private
8 entity that relate to a child committed to the commission.

9 SECTION 2. Section 58.106(a), Family Code, is amended to
10 read as follows:

11 (a) Except as otherwise provided by this section,
12 information contained in the juvenile justice information system is
13 confidential information for the use of the department and may not
14 be disseminated by the department except:

15 (1) with the permission of the juvenile offender, to
16 military personnel of this state or the United States;

17 (2) to a person or entity to which the department may
18 grant access to adult criminal history records as provided by
19 Section 411.083, Government Code;

20 (3) to a juvenile justice agency; ~~and~~

21 (4) to the Criminal Justice Policy Council, the Texas
22 Youth Commission, and the Texas Juvenile Probation Commission for
23 analytical purposes; and

24 (5) to the office of independent ombudsman of the
25 Texas Youth Commission.

26 SECTION 3. The first term of the office of independent
27 ombudsman of the Texas Youth Commission established under Chapter

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1 64, Human Resources Code, as added by this Act, begins October 1,
2 2007, and ends December 31, 2009.

3 SECTION 4. This Act takes effect September 1, 2007.