

By: Laubenberg

H.B. No. 1225

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the establishment, operation, or change in use or  
3 capacity of certain community residential facilities or  
4 correctional or rehabilitation facilities.

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

6 SECTION 1. Section 508.119, Government Code, is amended by  
7 amending Subsection (i) and adding Subsection (j) to read as  
8 follows:

9 (i) The notice required by Subsection (d) must clearly state  
10 that the proposed action concerns a facility in which persons who  
11 have been released from prison on parole or to mandatory  
12 supervision are to be housed. If the notice is provided in the  
13 manner required by Section 509.010(b)(2), the notice must be mailed  
14 in an envelope clearly marked on the outside with the words "NOTICE  
15 OF PROPOSED RESIDENTIAL FACILITY."

16 (j) The division may not take any action listed in  
17 Subsection (d) without first determining the level of community  
18 support for the proposed action by:

19 (1) inviting each person entitled to notice of the  
20 proposed action under Section 509.010(b)(2) to submit a written  
21 statement to the division concerning the proposed action; and

22 (2) evaluating any written statement submitted under  
23 Subdivision (1) that the division receives on or before the date of  
24 the public hearing concerning the proposed action.

1 SECTION 2. Subchapter F, Chapter 508, Government Code, is  
2 amended by adding Section 508.192 to read as follows:

3 Sec. 508.192. OPERATION OF CERTAIN FACILITIES PROHIBITED.

4 A parole panel shall require as a condition of parole or mandatory  
5 supervision that a releasee not own or operate or otherwise have a  
6 pecuniary interest in the ownership or operation of:

7 (1) a community residential facility described by  
8 Section 508.119;

9 (2) a correctional or rehabilitation facility subject  
10 to Chapter 244, Local Government Code; or

11 (3) any other facility intended to accomplish a  
12 purpose or provide a service described by Section 508.119(a) to a  
13 person convicted of a misdemeanor or felony or found to have engaged  
14 in delinquent conduct who is housed in the facility:

15 (A) while serving a sentence of confinement  
16 following conviction of an offense or an adjudication of delinquent  
17 conduct; or

18 (B) as a condition of community supervision,  
19 probation, parole, or mandatory supervision.

20 SECTION 3. Section 244.001, Local Government Code, is  
21 amended by amending Subdivision (1) and adding Subdivision (3) to  
22 read as follows:

23 (1) "Correctional or rehabilitation facility" means:

24 (A) a probation or parole office; or

25 (B) a residential facility that:

26 (i) [~~A~~] is operated by an agency of the  
27 state, a political subdivision of the state, or a private vendor,

1 regardless of whether the vendor is operating the facility under a  
2 contract with an agency of the state or a political subdivision of  
3 the state; and

4 (ii) [~~(B)~~] houses persons convicted of  
5 misdemeanors or felonies or children found to have engaged in  
6 delinquent conduct, regardless of whether the persons are housed in  
7 the residential facility:

8 (a) [~~(i)~~] while serving a sentence of  
9 confinement following conviction of an offense;

10 (b) [~~(ii)~~] as a condition of  
11 community supervision, probation, parole, or mandatory  
12 supervision; or

13 (c) [~~(iii)~~] under a court order for  
14 out-of-home placement under Title 3, Family Code, other than in a  
15 foster home operated under a contract with the juvenile board of the  
16 county in which the foster home is located or under a contract with  
17 the Texas Youth Commission.

18 (3) "Private vendor" includes any person that:

19 (A) operates or seeks to operate a correctional  
20 or rehabilitation facility; and

21 (B) is not an agency of the state or a political  
22 subdivision of the state.

23 SECTION 4. Section 244.002, Local Government Code, is  
24 amended by amending Subsection (a) and adding Subsections (e) and  
25 (f) to read as follows:

26 (a) An agency of the state, a political subdivision of the  
27 state, or a private vendor [~~operating under a contract with an~~

1 ~~agency or political subdivision of the state]~~ that proposes to  
2 construct or operate a correctional or rehabilitation facility  
3 within 1,000 feet of a residential area, a primary or secondary  
4 school, property designated as a public park or public recreation  
5 area by the state or a political subdivision of the state, or a  
6 church, synagogue, or other place of worship shall:

7 (1) provide written notice to:

8 (A) the commissioners court of any county with an  
9 unincorporated area that includes all or part of the land within  
10 1,000 feet of the proposed correctional or rehabilitation facility;  
11 and

12 (B) the governing body of any municipality that  
13 includes within its boundaries all or part of the land within 1,000  
14 feet of the proposed correctional or rehabilitation facility; and

15 (2) post the notice required by Subsection (d).

16 (e) If an entity required to give written notice under  
17 Subsection (a) mails that written notice, the notice must be mailed  
18 in an envelope clearly marked on the outside with the words "NOTICE  
19 OF PROPOSED CORRECTIONAL OR REHABILITATION FACILITY."

20 (f) An entity required to give notice under Subsection (a)  
21 must:

22 (1) invite each member of a commissioners court or  
23 governing body of a municipality entitled to the notice to submit a  
24 written statement to the entity concerning the proposed  
25 construction or operation of the correctional or rehabilitation  
26 facility; and

27 (2) provide to the commissioners court or governing

1 body of a municipality holding a public hearing under Section  
2 244.004(a), not later than the third day before the date of the  
3 hearing, any written statement submitted to the entity under  
4 Subdivision (1).

5 SECTION 5. Subchapter A, Chapter 244, Local Government  
6 Code, is amended by adding Section 244.0021 to read as follows:

7 Sec. 244.0021. NOTICE OF CHANGE OF USE OR CAPACITY OF  
8 CERTAIN FACILITIES OPERATED BY PRIVATE VENDOR. (a) This section  
9 applies only to a private vendor that:

10 (1) proposes to change the use or significantly  
11 increase the capacity of a correctional or rehabilitation facility  
12 operated by the private vendor; and

13 (2) does not operate the correctional or  
14 rehabilitation facility under a contract with an agency of the  
15 state or a political subdivision of the state.

16 (b) A private vendor that proposes to change the use or  
17 significantly increase the capacity of a correctional or  
18 rehabilitation facility within 1,000 feet of a residential area, a  
19 primary or secondary school, property designated as a public park  
20 or public recreation area by the state or a political subdivision of  
21 the state, or a church, synagogue, or other place of worship shall  
22 give notice of and accept and process written statements regarding  
23 the proposed change in use or capacity in the manner provided by  
24 Section 244.002.

25 SECTION 6. Section 244.003(a), Local Government Code, is  
26 amended to read as follows:

27 (a) Unless local consent is denied under Section 244.004, an

1 agency of the state, a political subdivision of the state, or a  
2 private vendor [~~operating under a contract with an agency or~~  
3 ~~political subdivision of the state~~] may operate or change the use or  
4 capacity of a correctional or rehabilitation facility within 1,000  
5 feet of a residential area, a primary or secondary school, property  
6 designated as a public park or public recreation area by the state  
7 or a political subdivision of the state, or a church, synagogue, or  
8 other place of worship.

9 SECTION 7. Section 244.004(a), Local Government Code, is  
10 amended to read as follows:

11 (a) Local consent to the operation or change in use or  
12 significant increase in the capacity of a correctional or  
13 rehabilitation facility at a location within 1,000 feet of a  
14 residential area, a primary or secondary school, property  
15 designated as a park or public recreation area by the state or a  
16 political subdivision of the state, or a church, synagogue, or  
17 other place of worship is granted unless, not later than the 60th  
18 day after the date on which notice is received by a commissioners  
19 court or governing body of a municipality under Section 244.002(a)  
20 or 244.0021(b), the commissioners court or governing body, as  
21 appropriate, determines by resolution after a public hearing that  
22 the operation of a correctional or rehabilitation facility at the  
23 proposed location or the change in use or significant increase in  
24 the capacity of an existing facility is not in the best interest of  
25 the county or municipality, as appropriate.

26 SECTION 8. Section 244.006, Local Government Code, is  
27 amended to read as follows:

1           Sec. 244.006. EXEMPTIONS. (a) Except as provided by  
2 Subsection (b), this [~~This~~] subchapter does not apply to the  
3 operation of a correctional or rehabilitation facility at a  
4 location subject to this subchapter if:

5           (1) on September 1, 1997, the correctional or  
6 rehabilitation facility was in operation, under construction,  
7 under contract for operation or construction, or planned for  
8 construction at the location on land owned or leased by an agency or  
9 political subdivision of the state and designated for use as a  
10 correctional or rehabilitation facility;

11           (2) the correctional or rehabilitation facility was in  
12 operation or under construction before the establishment of a  
13 residential area the location of which makes the facility subject  
14 to this subchapter;

15           (3) the correctional or rehabilitation facility is a  
16 temporary correctional or rehabilitation facility that will be  
17 operated at the location for less than one year;

18           (4) the correctional or rehabilitation facility is  
19 required to obtain a special use permit or a conditional use permit  
20 from the municipality in which the facility is located before  
21 beginning operation;

22           (5) the correctional or rehabilitation facility is an  
23 expansion of a facility operated by the institutional division of  
24 the Texas Department of Criminal Justice or by the Texas Youth  
25 Commission;

26           (6) the correctional or rehabilitation facility is a  
27 county jail or a pre-adjudication or post-adjudication juvenile

1 detention facility operated by a county or county juvenile board;

2 (7) the facility is:

3 (A) a juvenile probation office located at, and  
4 operated in conjunction with, a juvenile justice alternative  
5 education center; and

6 (B) used exclusively by students attending the  
7 juvenile justice alternative education center;

8 (8) the facility is a public or private institution of  
9 higher education or vocational training to which admission is open  
10 to the general public;

11 (9) the facility is operated primarily as a treatment  
12 facility for juveniles under contract with the [~~Texas~~] Department  
13 of Aging and Disability Services [~~Mental Health and Mental~~  
14 ~~Retardation~~] or a local mental health or mental retardation  
15 authority;

16 (10) the facility is operated as a juvenile justice  
17 alternative education program;

18 (11) the facility:

19 (A) is not operated primarily as a correctional  
20 or rehabilitation facility; and

21 (B) only houses persons or children described by  
22 Section 244.001(1)(B) for a purpose related to treatment or  
23 education; or

24 (12) the facility is a probation or parole office  
25 located in a commercial use area.

26 (b) Subsections (a)(3) and (a)(4) do not apply to a  
27 correctional or rehabilitation facility that is operated by, or the



1 use or capacity of which is changed by, a private vendor that is not  
2 operating the facility under a contract with an agency of the state  
3 or a political subdivision of the state.

4 SECTION 9. This Act takes effect September 1, 2009.