

By: Thompson of Harris

H.B. No. 990

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the establishment of a sentencing policy,
3 accountability, and review council to develop means to assess the
4 effect of sentencing practices and policies on state correctional
5 resources and improve the efficiency of the state criminal justice
6 system, to develop a plan regarding the prosecution of certain
7 child offenders, and to review certain penal laws.

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

9 SECTION 1. Title 1, Code of Criminal Procedure, is amended
10 by adding Chapter 1A to read as follows:

11 CHAPTER 1A. TEXAS SENTENCING POLICY, ACCOUNTABILITY, AND REVIEW
12 COUNCIL

13 Art. 1A.01. DEFINITION. In this chapter, "council" means
14 the Texas Sentencing Policy, Accountability, and Review Council.

15 Art. 1A.02. CREATION. The Texas Sentencing Policy,
16 Accountability, and Review Council is created.

17 Art. 1A.03. APPOINTMENTS; COMPOSITION. (a) The council
18 consists of the following 20 members who, subject to available
19 state funding, shall be appointed not later than January 31 of each
20 10th anniversary of the date on which appointments were most
21 recently made under this article:

22 (1) four members of the senate appointed by the
23 lieutenant governor;

24 (2) four members of the house of representatives

1 appointed by the speaker; and

2 (3) 12 members appointed by the governor.

3 (b) Of the members appointed by the governor:

4 (1) one must be a member of the court of criminal
5 appeals;

6 (2) one must be a current or former trial judge hearing
7 criminal cases;

8 (3) one must be a prosecuting attorney;

9 (4) one must be a criminal defense lawyer;

10 (5) one must be a crime victims' rights advocate;

11 (6) one must be a defendants' rights advocate;

12 (7) one must be a statewide corrections system
13 administrator;

14 (8) one must be a county jail administrator;

15 (9) one must be a law professor or former law
16 professor; and

17 (10) one must be a law enforcement representative.

18 (c) Each member of the council serves a term that expires on
19 the date of adjournment sine die of the next regular legislative
20 session that initially convenes following the date the member was
21 appointed.

22 (d) The governor shall designate a member of the council to
23 serve as presiding officer.

24 Art. 1A.04. COMPENSATION AND REIMBURSEMENT. A member of
25 the council serves without compensation for service on the council
26 but is entitled to reimbursement for the member's travel expenses
27 as provided by Chapter 660, Government Code, and the General

1 Appropriations Act.

2 Art. 1A.05. PURPOSE. The purpose of the council is to
3 develop means to promote a more balanced and cost-effective state
4 criminal justice system.

5 Art. 1A.06. DUTIES. (a) To accomplish its purpose, the
6 council shall:

7 (1) conduct an in-depth analysis of sentencing
8 practices used throughout the state criminal justice system with
9 special emphasis on convictions pursuant to Section 481.121, Health
10 and Safety Code;

11 (2) identify disparities between the severity of
12 offenses and their prescribed penalties and determine appropriate
13 adjustments;

14 (3) ascertain other means by which to enhance
15 consistency and reduce disparity in sentencing;

16 (4) compare community supervision, parole, and
17 sentencing terms in this state to terms in other states;

18 (5) determine means by which to balance state and
19 county criminal justice responsibilities with resources;

20 (6) devise an approach that would allow the state to
21 balance sentencing policies with correctional resources;

22 (7) study and review all penal laws of this state other
23 than criminal offenses:

24 (A) under the Penal Code;

25 (B) under Chapter 481, Health and Safety Code; or

26 (C) related to the operation of a motor vehicle;

27 (8) evaluate all laws described by Subdivision (7);

1 and

2 (9) make recommendations to the legislature regarding
3 the repeal of laws that are identified under Subdivision (7) as
4 being unnecessary, unclear, duplicative, overly broad, or
5 otherwise insufficient to serve the intended purpose of the law.

6 (b) The Legislative Budget Board shall assist the council in
7 performing its duties.

8 Art. 1A.065. PROSECUTION OF 17-YEAR-OLD CHILDREN. (a) The
9 council shall:

10 (1) evaluate a proposal to define a person who is 17
11 years of age and commits an offense as a child under the Family Code
12 to include the person under the jurisdiction of a juvenile court;

13 (2) develop an implementation plan that includes
14 legislative, administrative, and funding changes necessary to
15 adopt the proposal; and

16 (3) determine whether the legislature should
17 implement the proposal described by Subdivision (1) by considering:

18 (A) the potential short-term and long-term
19 benefits to offenders, victims, and taxpayers;

20 (B) the requirements of federal law, including
21 the Prison Rape Elimination Act of 2003 (42 U.S.C. Section 15601 et
22 seq.), for the confinement of persons 17 years of age;

23 (C) the implications of the decisions of the
24 United States Supreme Court in Miller v. Alabama, 567 U.S. _____
25 (2012), and similar cases involving the sentencing of persons
26 younger than 18 years of age;

27 (D) appropriate sanctions, services, and

1 treatment programs for persons 17 years of age who have committed
2 criminal offenses and the effectiveness of the sanctions, services,
3 and programs;

4 (E) best practices and national trends in the
5 prosecution and sentencing of persons younger than 18 years of age;

6 (F) data about the nature and frequency of
7 offenses committed by persons 17 years of age in this state;

8 (G) the projected costs and savings for the state
9 criminal court and juvenile court systems, state and local law
10 enforcement, local adult and juvenile probation departments, state
11 and local correctional facilities, and facilities operated by the
12 Texas Juvenile Justice Department;

13 (H) which criminal and juvenile justice laws to
14 amend, including laws relating to traffic offenses, offenses under
15 the Education Code or Alcoholic Beverage Code, and laws relating to
16 criminal records; and

17 (I) any other issues that the council considers
18 relevant to the proposal.

19 (b) The council shall:

20 (1) develop the implementation plan relating to the
21 proposal described by Subsection (a)(1);

22 (2) calculate the projected state and local adult and
23 juvenile correctional facility populations if the plan is
24 implemented;

25 (3) conduct a cost-benefit analysis for each part of
26 the juvenile and adult criminal justice systems and for offenders,
27 victims, and taxpayers if the plan is implemented; and

1 (4) make findings and recommendations and describe
2 policy considerations relating to whether the proposal should be
3 adopted.

4 (c) This article expires June 1, 2015.

5 Art. 1A.07. REPORT. (a) The council shall submit a
6 detailed report of its findings and recommendations, including any
7 proposed legislation, to the legislature not later than January 1
8 immediately preceding the next regular legislative session that
9 initially convenes following the appointment of members under
10 Article 1A.03.

11 (b) The council may contract with an appropriate
12 governmental or nongovernmental entity for the purpose of
13 completing the report.

14 SECTION 2. (a) Notwithstanding any provision to the
15 contrary under Article 1A.03, Code of Criminal Procedure, as added
16 by this Act:

17 (1) the initial appointments to the Texas Sentencing
18 Policy, Accountability, and Review Council shall be made not later
19 than the 30th day after the effective date of this Act;

20 (2) the terms of the initial council members expire on
21 adjournment sine die of the 84th Regular Legislative Session; and

22 (3) the next subsequent appointments shall be made not
23 later than January 31, 2023.

24 (b) The Texas Sentencing Policy, Accountability, and Review
25 Council shall submit the first report required under Article 1A.07,
26 Code of Criminal Procedure, as added by this Act, not later than
27 January 1, 2015.

1 SECTION 3. This Act takes effect immediately if it receives
2 a vote of two-thirds of all the members elected to each house, as
3 provided by Section 39, Article III, Texas Constitution. If this
4 Act does not receive the vote necessary for immediate effect, this
5 Act takes effect September 1, 2013.