

By: Allen, et al.

H.B. No. 1543

Substitute the following for H.B. No. 1543:

By: White

C.S.H.B. No. 1543

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the eligibility for reappointment of the independent  
3 ombudsman of the Texas Juvenile Justice Department and the  
4 authority of the independent ombudsman in regard to juveniles in  
5 custody in certain facilities other than the department's  
6 facilities.

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

8 SECTION 1. Section 261.001, Human Resources Code, is  
9 amended by amending Subdivision (1) and adding Subdivisions (1-a)  
10 and (1-b) to read as follows:

11 (1) "Child" means an individual who is:  
12 (A) 10 years of age or older and younger than 19  
13 years of age; and  
14 (B) placed in or committed to a facility for  
15 conduct violating a penal law that occurred or an offense committed  
16 before the individual's 17th birthday.

17 (1-a) "Facility" means:  
18 (A) a juvenile justice facility, as defined by  
19 Section 261.405, Family Code;  
20 (B) a correctional facility operated by the  
21 department; or  
22 (C) a penal institution operated by or under  
23 contract with the Texas Department of Criminal Justice.

24 (1-b) "Independent ombudsman" means the individual

1 who has been appointed under this chapter to the office of  
2 independent ombudsman.

3 SECTION 2. Section 261.002, Human Resources Code, is  
4 amended to read as follows:

5 Sec. 261.002. ESTABLISHMENT; PURPOSE. The office of  
6 independent ombudsman is a state agency established for the purpose  
7 of investigating, evaluating, and securing the rights of the  
8 children placed in or committed to a facility [~~the department~~],  
9 including a child released under supervision before final  
10 discharge.

11 SECTION 3. Section 261.051(b), Human Resources Code, is  
12 amended to read as follows:

13 (b) A person appointed as independent ombudsman is eligible  
14 for reappointment [~~but may not serve more than three terms in that~~  
15 ~~capacity~~].

16 SECTION 4. Section 261.055(b), Human Resources Code, is  
17 amended to read as follows:

18 (b) The independent ombudsman shall immediately report to  
19 the board, the governor, the lieutenant governor, the speaker of  
20 the house of representatives, the state auditor, and the office of  
21 the inspector general of the department or of the Texas Department  
22 of Criminal Justice, as applicable, any particularly serious or  
23 flagrant:

24 (1) case of abuse or injury of a child placed in or  
25 committed to a facility [~~the department~~];

26 (2) problem concerning the administration of a  
27 department program or operation;

1 (3) problem concerning the delivery of services in a  
2 facility operated by or under contract with the department; or

3 (4) interference by an operator of a facility [~~the~~  
4 ~~department~~] with an investigation conducted by the office.

5 SECTION 5. Section 261.056(a), Human Resources Code, is  
6 amended to read as follows:

7 (a) The operator of a facility [~~department~~] shall allow any  
8 child placed in or committed to the facility [~~the department~~] to  
9 communicate with the independent ombudsman or an assistant to the  
10 ombudsman. The communication:

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

13 (2) is confidential and privileged.

14 SECTION 6. Section 261.057, Human Resources Code, is  
15 amended to read as follows:

16 Sec. 261.057. PROMOTION OF AWARENESS OF OFFICE. The  
17 independent ombudsman shall promote awareness among the public and  
18 the children placed in or committed to a facility [~~the department~~]  
19 of:

20 (1) how the office may be contacted;

21 (2) the purpose of the office; and

22 (3) the services the office provides.

23 SECTION 7. Section 261.058(b), Human Resources Code, is  
24 amended to read as follows:

25 (b) The office and the board shall adopt rules necessary to  
26 implement Section 261.060, including rules that establish  
27 procedures for an operator of a facility [~~the department~~] to review

1 and comment on reports of the office and for the operator  
2 [~~department~~] to expedite or eliminate review of and comment on a  
3 report due to an emergency or a serious or flagrant circumstance  
4 described by Section 261.055(b).

5 SECTION 8. Section 261.060(a), Human Resources Code, is  
6 amended to read as follows:

7 (a) The office shall accept, both before and after  
8 publication, comments from the board concerning the following types  
9 of reports published by the office under this chapter:

10 (1) the office's quarterly report under Section  
11 261.055(a);

12 (2) reports concerning serious or flagrant  
13 circumstances under Section 261.055(b); and

14 (3) any other formal reports containing findings and  
15 making recommendations concerning systemic issues that affect an  
16 operator of a facility [~~the department~~].

17 SECTION 9. Section 261.101(a), Human Resources Code, is  
18 amended to read as follows:

19 (a) The independent ombudsman shall:

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

23 (2) review complaints filed with the independent  
24 ombudsman concerning the actions of an operator of a facility [~~the~~  
25 ~~department~~] and investigate each complaint in which it appears that  
26 a child may be in need of assistance from the independent ombudsman;

27 (3) conduct investigations of complaints, other than

1 complaints alleging criminal behavior, if the office determines  
2 that:

3 (A) a child placed in or committed to a facility  
4 [~~the department~~] or the child's family may be in need of assistance  
5 from the office; or

6 (B) a systemic issue in [~~the department's~~]  
7 provision of services by an operator of a facility is raised by a  
8 complaint;

9 (4) review or inspect periodically the facilities and  
10 procedures of any institution or residence in which a child has been  
11 placed by the department, the Texas Department of Criminal Justice,  
12 a juvenile probation department, or a county, whether public or  
13 private, to ensure that the rights of children are fully observed;

14 (5) provide assistance to a child or family who the  
15 independent ombudsman determines is in need of assistance,  
16 including advocating with an agency, provider, or other person in  
17 the best interests of the child;

18 (6) review court orders as necessary to fulfill its  
19 duties;

20 (7) recommend changes in any procedure relating to the  
21 treatment of children placed in or committed to a facility  
22 [~~the department~~];

23 (8) make appropriate referrals under any of the duties  
24 and powers listed in this subsection;

25 (9) supervise assistants who are serving as advocates  
26 in their representation of children placed in or committed to a  
27 facility [~~the department~~] in internal administrative and

1 disciplinary hearings;

2 (10) review reports received by the department  
3 relating to complaints regarding juvenile probation programs,  
4 services, or facilities and analyze the data contained in the  
5 reports to identify trends in complaints; and

6 (11) report a possible standards violation by a local  
7 juvenile probation department to the appropriate division of the  
8 department.

9 SECTION 10. Section 261.102, Human Resources Code, is  
10 amended to read as follows:

11 Sec. 261.102. TREATMENT OF [~~DEPARTMENT~~] EMPLOYEES WHO  
12 COOPERATE WITH INDEPENDENT OMBUDSMAN. The operator of a facility  
13 [~~department~~] may not discharge or in any manner discriminate or  
14 retaliate against an employee who in good faith makes a complaint to  
15 the office of independent ombudsman or cooperates with the office  
16 in an investigation.

17 SECTION 11. Section 261.104, Human Resources Code, is  
18 amended to read as follows:

19 Sec. 261.104. MEMORANDUM OF UNDERSTANDING. (a) The office  
20 and an operator of a facility [~~the department~~] shall enter into a  
21 memorandum of understanding concerning:

22 (1) the most efficient manner in which to share  
23 information with one another; and

24 (2) the procedures for handling overlapping  
25 monitoring duties and activities performed by the office and the  
26 department, the inspector general of the Texas Department of  
27 Criminal Justice, or a county.

1 (b) The memorandum of understanding entered into under  
2 Subsection (a), at a minimum, must:

3 (1) address the interaction of the office with that  
4 portion of the department that conducts an internal audit under  
5 Section 203.013;

6 (2) address communication between the office and the  
7 operator of a facility [~~department~~] concerning individual  
8 situations involving children placed in or committed to the  
9 facility [~~department~~] and how those situations will be documented  
10 and handled;

11 (3) contain guidelines on the office's role in  
12 relevant working groups and policy development decisions at the  
13 department;

14 (4) ensure opportunities for sharing information  
15 between the office and the department for the purposes of assuring  
16 quality and improving programming within the department; and

17 (5) preserve the independence of the office by  
18 authorizing the office to withhold information concerning matters  
19 under active investigation by the office from the operator of a  
20 facility [~~department~~] and the [~~department~~] staff of the facility  
21 and to report the information to the board and the governor.

22 SECTION 12. Sections 261.151(a) and (c), Human Resources  
23 Code, are amended to read as follows:

24 (a) The independent ombudsman has access to the  
25 [~~department's~~] records of the operator of a facility relating to  
26 the children placed in or committed to the facility [~~department~~].

27 (c) A local law enforcement agency shall allow the

1 independent ombudsman access to its records relating to any child  
2 in the care or custody of an operator of a facility [~~the~~  
3 ~~department~~].

4 SECTION 13. Section 261.152, Human Resources Code, is  
5 amended to read as follows:

6 Sec. 261.152. ACCESS TO INFORMATION OF PRIVATE  
7 ENTITIES. The independent ombudsman shall have access to the  
8 records of a private entity that relate to a child placed in or  
9 committed to a facility [~~the department~~].

10 SECTION 14. Section 261.101(e), Human Resources Code, is  
11 repealed.

12 SECTION 15. This Act takes effect September 1, 2013.