

By: Allen

H.B. No. 1543

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the authority of the office of independent ombudsman
3 with the Texas Juvenile Justice Department in regard to juveniles
4 in custody in facilities other than juvenile justice facilities.

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

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

9 (1) "Child" means an individual who is:

10 (A) 10 years of age or older and younger than 19
11 years of age; and

12 (B) placed in or committed to a facility for
13 conduct violating a penal law that occurred or an offense committed
14 before the individual's 17th birthday.

15 (1-a) "Facility" means:

16 (A) a jail or detention facility operated by or
17 under contract with a county;

18 (B) a juvenile justice facility, as defined by
19 Section 261.405, Family Code;

20 (C) a correctional facility operated by the
21 department; or

22 (D) 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 261.055(b), Human Resources Code, is
12 amended to read as follows:

13 (b) The independent ombudsman shall immediately report to
14 the board, the governor, the lieutenant governor, the speaker of
15 the house of representatives, the state auditor, and the office of
16 the inspector general of the department or of the Texas Department
17 of Criminal Justice, as applicable, any particularly serious or
18 flagrant:

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

21 (2) problem concerning the administration of a
22 department program or operation;

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

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

27 SECTION 4. Section 261.056(a), Human Resources Code, is

1 amended to read as follows:

2 (a) The operator of a facility [~~department~~] shall allow any
3 child placed in or committed to the facility [~~the department~~] to
4 communicate with the independent ombudsman or an assistant to the
5 ombudsman. The communication:

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

8 (2) is confidential and privileged.

9 SECTION 5. Section 261.057, Human Resources Code, is
10 amended to read as follows:

11 Sec. 261.057. PROMOTION OF AWARENESS OF OFFICE. The
12 independent ombudsman shall promote awareness among the public and
13 the children placed in or committed to a facility [~~the department~~]
14 of:

- 15 (1) how the office may be contacted;
16 (2) the purpose of the office; and
17 (3) the services the office provides.

18 SECTION 6. Section 261.058(b), Human Resources Code, is
19 amended to read as follows:

20 (b) The office and the board shall adopt rules necessary to
21 implement Section 261.060, including rules that establish
22 procedures for an operator of a facility [~~the department~~] to review
23 and comment on reports of the office and for the operator
24 [~~department~~] to expedite or eliminate review of and comment on a
25 report due to an emergency or a serious or flagrant circumstance
26 described by Section 261.055(b).

27 SECTION 7. Section 261.060(a), Human Resources Code, is

1 amended to read as follows:

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

5 (1) the office's quarterly report under Section
6 261.055(a);

7 (2) reports concerning serious or flagrant
8 circumstances under Section 261.055(b); and

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

12 SECTION 8. Section 261.101(a), Human Resources Code, is
13 amended to read as follows:

14 (a) The independent ombudsman shall:

15 (1) review the procedures established by the board and
16 evaluate the delivery of services to children to ensure that the
17 rights of children are fully observed;

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

22 (3) conduct investigations of complaints, other than
23 complaints alleging criminal behavior, if the office determines
24 that:

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

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

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

9 (5) provide assistance to a child or family who the
10 independent ombudsman determines is in need of assistance,
11 including advocating with an agency, provider, or other person in
12 the best interests of the child;

13 (6) review court orders as necessary to fulfill its
14 duties;

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

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

20 (9) supervise assistants who are serving as advocates
21 in their representation of children placed in or committed to a
22 facility [~~the department~~] in internal administrative and
23 disciplinary hearings;

24 (10) review reports received by the department
25 relating to complaints regarding juvenile probation programs,
26 services, or facilities and analyze the data contained in the
27 reports to identify trends in complaints; and

1 (11) report a possible standards violation by a local
2 juvenile probation department to the appropriate division of the
3 department.

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

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

12 SECTION 10. Section 261.104, Human Resources Code, is
13 amended to read as follows:

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

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

19 (2) the procedures for handling overlapping
20 monitoring duties and activities performed by the office and the
21 department, the inspector general of the Texas Department of
22 Criminal Justice, or a county.

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

25 (1) address the interaction of the office with that
26 portion of the department that conducts an internal audit under
27 Section 203.013;

1 (2) address communication between the office and the
2 operator of a facility [~~department~~] concerning individual
3 situations involving children placed in or committed to the
4 facility [~~department~~] and how those situations will be documented
5 and handled;

6 (3) contain guidelines on the office's role in
7 relevant working groups and policy development decisions at the
8 department;

9 (4) ensure opportunities for sharing information
10 between the office and the department for the purposes of assuring
11 quality and improving programming within the department; and

12 (5) preserve the independence of the office by
13 authorizing the office to withhold information concerning matters
14 under active investigation by the office from the operator of a
15 facility [~~department~~] and the [~~department~~] staff of the facility
16 and to report the information to the board and the governor.

17 SECTION 11. Sections 261.151(a) and (c), Human Resources
18 Code, are amended to read as follows:

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

22 (c) A local law enforcement agency shall allow the
23 independent ombudsman access to its records relating to any child
24 in the care or custody of an operator of a facility [~~the~~
25 ~~department~~].

26 SECTION 12. Section 261.152, Human Resources Code, is
27 amended to read as follows:

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

5 SECTION 13. Section 261.101(e), Human Resources Code, is
6 repealed.

7 SECTION 14. This Act takes effect September 1, 2013.