

Amend HB 3277 (house committee printing) by striking all below the enacting clause and substituting the following:

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

(1) "Facility" means:

(A) a nonsecure correctional facility, as defined by Section 51.02, Family Code; or

(B) a secure correctional facility, as defined by Section 51.02, Family Code.

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

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

Sec. 261.002. ESTABLISHMENT; PURPOSE. The office of independent ombudsman is a state agency established for the purpose of investigating, evaluating, and securing the rights of the children committed to the department, including a child released under supervision before final discharge and a child placed in a facility pursuant to a juvenile court order.

SECTION 3. Section 261.055, Human Resources Code, is amended by adding Subsection (c) to read as follows:

(c) The independent ombudsman shall immediately report to the board, the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor, the executive director of the department, and the chief juvenile probation officer and juvenile board operating or contracting for the operation of the facility that is the subject of the report any particularly serious or flagrant:

(1) case of abuse or injury of a child placed in the facility;

(2) problem concerning the administration of the facility;

(3) problem concerning the delivery of services in the facility; or

(4) interference by a person associated with the

facility with an investigation conducted by the office.

SECTION 4. Section 261.056(a), Human Resources Code, is amended to read as follows:

(a) The department or other operator of a facility, as applicable, shall allow any child committed to the department or placed in the facility to communicate with the independent ombudsman or an assistant to the ombudsman. The communication:

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

(2) is confidential and privileged.

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

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

(1) how the office may be contacted;

(2) the purpose of the office; and

(3) the services the office provides.

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

(a) The office shall accept, both before and after publication, comments from the board, a juvenile board, a chief juvenile probation officer, or other operator of a facility, as applicable, concerning the following types of reports published by the office under this chapter:

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

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

(3) any other formal reports containing findings and making recommendations concerning systemic issues that affect the department or a facility.

SECTION 7. Sections 261.101(a) and (b), Human Resources Code, are amended to read as follows:

(a) The independent ombudsman shall:

(1) review the procedures established by the board and evaluate the delivery of services to children to ensure that the

rights of children are fully observed;

(2) review complaints filed with the independent ombudsman concerning the actions of the department or a facility and investigate each complaint in which it appears that a child may be in need of assistance from the independent ombudsman;

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

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

(B) a systemic issue in the department's or a facility's provision of services is raised by a complaint;

(4) review or inspect periodically the facilities and procedures of any institution or residence in which a child has been placed by the department, a juvenile probation department, or a juvenile court, whether public or private, to ensure that the rights of children are fully observed;

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

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

(7) recommend changes in any procedure relating to the treatment of children committed to the department or placed in a facility;

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

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

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

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

(b) The independent ombudsman may:

(1) apprise persons who are interested in a child's welfare of the rights of the child unless the disclosure is prohibited by law; and

(2) conduct, organize, and provide technical assistance for audits of facilities to ensure that the audits are conducted in compliance with the federal Prison Rape Elimination Act National Standards, 28 C.F.R. Part 115, Subpart E.

SECTION 8. Section 261.102, Human Resources Code, is amended to read as follows:

Sec. 261.102. TREATMENT OF ~~[DEPARTMENT]~~ EMPLOYEES WHO COOPERATE WITH INDEPENDENT OMBUDSMAN. The department, a juvenile board, a juvenile probation department, or other operator of a facility, as applicable, may not discharge or in any manner discriminate or retaliate against an employee who in good faith makes a complaint to the office of independent ombudsman or cooperates with the office in an investigation.

SECTION 9. Section 261.104, Human Resources Code, is amended to read as follows:

Sec. 261.104. MEMORANDUM OF UNDERSTANDING. (a) The office, ~~[and]~~ the department, a juvenile board, a juvenile probation department, or other operator of a facility, as applicable, shall enter into a memorandum of understanding concerning:

(1) the most efficient manner in which to share information with one another; ~~[and]~~

(2) the procedures for handling overlapping monitoring duties and activities performed by the office and the department, juvenile board, juvenile probation department, operator of the facility, or other entity; and

(3) procedures for a juvenile board, a chief juvenile probation officer, or other operator of a facility, as appropriate, to comment on reports of the office related to children in a facility, including procedures to expedite or eliminate comment on

a report due to an emergency or a serious or flagrant circumstance described by Section 261.055(c).

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

(1) address the interaction of the office with that portion of the department that conducts an internal audit under Section 203.013 and with the internal audit procedures of a juvenile probation department or facility;

(2) address communication between the office and the department or other operator of a facility concerning individual situations involving children committed to the department or placed in a facility, as applicable, and how those situations will be documented and handled;

(3) contain guidelines on the office's role in relevant working groups and policy development decisions at the department or with a juvenile board, a juvenile probation department, or other operator of a facility, as applicable;

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

(5) preserve the independence of the office by authorizing the office to withhold information concerning matters under active investigation by the office from the department and department staff or from the facility and the staff of the facility and to report the information to the board and the governor.

SECTION 10. Section 261.151, Human Resources Code, is amended by adding Subsection (a-1) and amending Subsection (c) to read as follows:

(a-1) The independent ombudsman has access to the records of the operator of a facility relating to the children placed in the facility.

(c) A local law enforcement agency shall allow the independent ombudsman access to its records relating to any child in the care or custody of the department or other operator of a facility.

SECTION 11. Section 261.152, Human Resources Code, is

amended to read as follows:

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

SECTION 12. This Act takes effect September 1, 2015.