



15 MAY -8 PM 6:34
HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____

BY: Dotten

1 Amend H.B. No. 3277 (house committee printing) by striking
2 all below the enacting clause and substituting the following:

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

6 (1) "Facility" means:

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

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

11 (1-a) "Independent ombudsman" means the individual
12 who has been appointed under this chapter to the office of
13 independent ombudsman.

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

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

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

24 (c) The independent ombudsman shall immediately report to
25 the board, the governor, the lieutenant governor, the speaker of
26 the house of representatives, the state auditor, the executive
27 director of the department, and the chief juvenile probation
28 officer and juvenile board operating or contracting for the
29 operation of the facility that is the subject of the report any

1 particularly serious or flagrant:

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

4 (2) problem concerning the administration of the
5 facility;

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

8 (4) interference by a person associated with the
9 facility with an investigation conducted by the office.

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

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

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

18 (2) is confidential and privileged.

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

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

24 (1) how the office may be contacted;

25 (2) the purpose of the office; and

26 (3) the services the office provides.

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

29 (a) The office shall accept, both before and after
30 publication, comments from the board, a juvenile board, a chief
31 juvenile probation officer, or other operator of a facility, as

1 applicable, concerning the following types of reports published by
2 the office under this chapter:

3 (1) the office's quarterly report under Section
4 261.055(a);

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

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

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

12 (a) The independent ombudsman shall:

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

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

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

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

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

28 (4) review or inspect periodically the facilities and
29 procedures of any institution or residence in which a child has been
30 placed by the department, a juvenile probation department, or a
31 juvenile court, whether public or private, to ensure that the

1 rights of children are fully observed;

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

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

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

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

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

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

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

24 (b) The independent ombudsman may:

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

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

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

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

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

12 Sec. 261.104. MEMORANDUM OF UNDERSTANDING. (a) The
13 office, [~~and~~] the department, a juvenile board, a juvenile
14 probation department, or other operator of a facility, as
15 applicable, shall enter into a memorandum of understanding
16 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, juvenile board, juvenile probation department,
22 operator of the facility, or other entity; and

23 (3) procedures for a juvenile board, a chief juvenile
24 probation officer, or other operator of a facility, as appropriate,
25 to comment on reports of the office related to children in a
26 facility, including procedures to expedite or eliminate comment on
27 a report due to an emergency or a serious or flagrant circumstance
28 described by Section 261.055(c).

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

31 (1) address the interaction of the office with that

1 portion of the department that conducts an internal audit under
2 Section 203.013 and with the internal audit procedures of a
3 juvenile probation department or facility;

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

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

13 (4) ensure opportunities for sharing information
14 between the office and the department or facility for the purposes
15 of assuring quality and improving programming within the department
16 or facility; 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 department and
20 department staff or from the facility and the staff of the facility
21 and to report the information to the board and the governor.

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

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

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

1 SECTION 11. Section 261.152, Human Resources Code, is
2 amended to read as follows:

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

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

