

BILL ANALYSIS

H.B. 3277
By: Dutton
Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The goals of the federal Prison Rape Elimination Act include preventing sexual assault and victimization in juvenile and adult detention facilities. Since the passage of that law, experts around the country have developed standards to substantially reduce the occurrences of prison rape in adult and juvenile facilities, including standards for audits of detention facilities conducted by a person who is independent of the agency or other government body that operates the applicable facility. However, interested parties express concern that Texas has not taken sufficient action to ensure that these audits are being conducted properly.

The office of the independent ombudsman was established as part of recent juvenile justice reforms that arose from revelations of widespread abuse at juvenile facilities. The office was tasked with protecting the safety and rights of incarcerated youth at state juvenile facilities. The parties contend that while the office may review data on abuse, neglect, and exploitation occurring at county facilities, the office does not have the authority to visit county juvenile facilities or to speak with the youth in county custody, leaving a vulnerable gap in the state's protection of youth in secure facilities. H.B. 3277 seeks to bridge the current gap in protections for youth in secure government custody.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3277 amends the Human Resources Code to define, for purposes of statutory provisions relating to the powers and duties of the independent ombudsman with the Texas Juvenile Justice Department (TJJD) in regard to juveniles in certain facilities, "child" as an individual who is 10 years of age or older and younger than 19 years of age and is placed in or committed to a facility for conduct violating a penal law that occurred or an offense committed before the individual's 17th birthday. The bill defines "facility" as a juvenile justice facility operated wholly or partly by a juvenile board, by another governmental unit, or by a private vendor under a contract with the juvenile board, county, or other governmental unit that serves juveniles under juvenile court jurisdiction. The bill includes as a facility for such purposes a public or private juvenile pre-adjudication secure detention facility, including a holdover facility, a public or private juvenile post-adjudication secure correctional facility, and a public or private non-secure juvenile post-adjudication residential treatment facility that is not licensed by the Department of Family and Protective Services or the Department of State Health Services.

H.B. 3277 expands the purpose of the office of independent ombudsman and the scope of the independent ombudsman's powers and duties related to investigating, evaluating, and securing the rights of children committed to TJJJ to apply to such actions with regards to children placed in or committed to any facility as defined by the bill and monitoring the operators of those facilities. The bill authorizes the independent ombudsman to conduct, organize, and provide technical assistance for audits of facilities to ensure that the audits are conducted in compliance with federal regulations relating to the federal Prison Rape Elimination Act. The bill requires the memorandum of understanding entered into by the office of independent ombudsman and a county, among other minimum requirements, to address the interaction of the office with the internal audit procedures of the county and certain other communications with the county.

EFFECTIVE DATE

September 1, 2015.