

By: McClendon

H.B. No. 1586

Substitute the following for H.B. No. 1586:

By: Dutton

C.S.H.B. No. 1586

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the operation and administration of the Texas Juvenile
3 Justice Department and its facilities, to the operation of
4 post-adjudication secure correctional facilities for juvenile
5 offenders, and to the commitment and placement of juvenile
6 offenders.

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

8 ARTICLE 1. REGIONAL ASSOCIATIONS AND JUVENILE BOARDS

9 SECTION 1.01. Section 201.002, Human Resources Code, is
10 amended to read as follows:

11 Sec. 201.002. PURPOSES AND INTERPRETATION. This title
12 shall be construed to have the following public purposes:

13 (1) creating a unified state juvenile justice agency
14 that works in partnership with local county governments, the
15 courts, regional associations, and communities to promote public
16 safety by providing a full continuum of effective supports and
17 services to youth from initial contact through termination of
18 supervision; and

19 (2) creating a juvenile justice system that produces
20 positive outcomes for youth, families, and communities by:

21 (A) assuring accountability, quality,
22 consistency, and transparency through effective monitoring and the
23 use of systemwide performance measures;

24 (B) promoting the use of program and service

1 designs and interventions proven to be most effective in
2 rehabilitating youth;

3 (C) prioritizing the use of community-based or
4 family-based programs and services for youth over the placement or
5 commitment of youth to a secure facility;

6 (D) operating the state facilities to
7 effectively house and rehabilitate the youthful offenders that
8 cannot be safely served in another setting; and

9 (E) protecting and enhancing the cooperative
10 agreements between state and local county governments.

11 SECTION 1.02. Section [201.003](#), Human Resources Code, is
12 amended to read as follows:

13 Sec. 201.003. GOALS. The goals of the department and all
14 programs, facilities, and services that are operated, regulated, or
15 funded by the department are to:

16 (1) support the development of a consistent
17 county-based continuum of effective interventions, supports, and
18 services for youth and families that reduce the need for
19 out-of-home placement;

20 (2) increase reliance on alternatives to placement and
21 commitment to secure state facilities, consistent with adequately
22 addressing a youthful offender's treatment needs and protection of
23 the public;

24 (3) locate the facilities as geographically close as
25 possible to necessary workforce and other services while supporting
26 the youths' connection to their families;

27 (4) encourage regional cooperation that enhances

1 county collaboration, while ensuring sufficient state aid and
2 support for that endeavor;

3 (5) enhance the continuity of care throughout the
4 juvenile justice system; and

5 (6) use secure facilities of a size that supports
6 effective youth rehabilitation and public safety.

7 SECTION 1.03. Chapter 201, Human Resources Code, is amended
8 by adding Sections 201.005 and 201.006 to read as follows:

9 Sec. 201.005. REGIONAL ASSOCIATIONS. (a) The board by rule
10 shall designate regional associations, create a leadership
11 structure for each regional association, and require each juvenile
12 probation department to affiliate with one regional association. A
13 regional association and the association's affiliations must be
14 designated by geographic region.

15 (b) The board shall design the leadership structure of a
16 regional association in a manner that ensures representation from
17 counties from each of the following categories:

18 (1) small counties, with a population of fewer than
19 7,500 persons younger than 18 years of age;

20 (2) medium counties, with a population of at least
21 7,500 but fewer than 80,000 persons younger than 18 years of age;
22 and

23 (3) large counties, with a population of 80,000 or
24 more persons younger than 18 years of age.

25 (c) The executive director shall designate at least one
26 department employee for each regional association to assist the
27 region in furthering the goals of the juvenile justice system for

1 the region while assuring accountability, quality, consistency,
2 and transparency. To the extent practicable, the employee is
3 located in the region to which the employee is assigned. The
4 department may contract with a juvenile board or other entity to
5 provide office space for the designated employee.

6 Sec. 201.006. REGIONAL PLANS. (a) Each regional
7 association created under Section 201.005 shall develop a written
8 plan to outline the manner in which the juvenile probation
9 departments affiliated with the association collaborate to further
10 the purposes and goals of the juvenile justice system under
11 Sections 201.002 and 201.003, including the goal of reducing the
12 number of children committed to the department in a manner that
13 protects the safety of the children while ensuring public safety.
14 Each regional plan must include the following:

15 (1) the results of a needs assessment conducted by the
16 regional association, with a focus on identifying resources that
17 exist and resources that are needed to implement the plan and to
18 reduce the number of children committed to the department;

19 (2) methods for maximizing the use of community-based,
20 family-based, and in-home treatment programs and services for
21 juveniles instead of the placement of juveniles in secure
22 facilities while ensuring public safety, including the use of a
23 validated risk and needs assessment tool before making decisions
24 regarding the placement of juveniles;

25 (3) methods for identifying juveniles eligible for
26 commitment to the department who can be effectively rehabilitated
27 in another setting;

1 (4) methods for using existing bed space, including
2 contracting within the region and state, for the placement of
3 juveniles in a manner that ensures that the juveniles are placed in
4 facilities located as close to the juveniles' homes as possible,
5 when appropriate;

6 (5) methods for providing research-based, effective
7 treatment, including specialized treatment and treatment involving
8 the families of juveniles, to meet the treatment needs of
9 juveniles;

10 (6) a timeline for implementation of the plan;

11 (7) an analysis of funding needs and recommendations
12 regarding methods of funding probation services in the region;

13 (8) an analysis of training needs to ensure proper
14 training regarding the implementation of the plan for juvenile
15 justice professionals, including judges, probation staff, and
16 attorneys;

17 (9) identification of any recommended statutory
18 changes necessary to enable the regional association to implement
19 the plan or to better serve juveniles;

20 (10) identification of any potential unintended
21 effects associated with the plan; and

22 (11) any other issues deemed necessary or relevant by
23 the executive director.

24 (b) The department shall assist a regional association in
25 the development of a regional plan.

26 (c) The executive director shall review each regional plan
27 and provide recommendations regarding the plan to the regional

1 association not later than the 90th day after the date the executive
2 director receives the plan.

3 (d) Before a regional association may implement a regional
4 plan, the executive director must certify that the plan:

5 (1) sufficiently addresses each of the requirements
6 under Subsection (a);

7 (2) is consistent with the purposes and goals for the
8 juvenile justice system provided by Sections 201.002 and 201.003;
9 and

10 (3) includes appropriate, research-based programs for
11 the juveniles served.

12 (e) The department shall assist each regional association
13 in implementing the association's regional plan, including
14 providing training and technical assistance as necessary or
15 appropriate.

16 (f) The department shall include information regarding each
17 regional plan in the report developed under Section 203.007,
18 including information on the implementation and effectiveness of
19 each plan.

20 (g) The board shall adopt rules necessary to implement this
21 section.

22 SECTION 1.04. Section 202.010, Human Resources Code, is
23 amended to read as follows:

24 Sec. 202.010. SUNSET PROVISION. The Texas Juvenile
25 Justice Board and the Texas Juvenile Justice Department are subject
26 to Chapter 325, Government Code (Texas Sunset Act). Unless
27 continued in existence as provided by that chapter, the board and

1 the department are abolished September 1, 2021 [~~2017~~].

2 SECTION 1.05. Section 223.001, Human Resources Code, is
3 amended by amending Subsections (a) and (c) and adding Subsections
4 (d), (e), and (f) to read as follows:

5 (a) The department shall annually allocate funds for
6 financial assistance to juvenile boards to provide juvenile
7 probation services, as defined by Section 142.001. The allocation
8 of funds shall be made according to current estimates of the number
9 of juveniles in each county and other factors the department
10 determines are appropriate.

11 (c) The department shall [~~may~~] set aside a portion of the
12 funds appropriated to the department for state aid to fund programs
13 designed to address special needs or projects of local juvenile
14 boards. The department shall develop discretionary grant funding
15 protocols based on documented criteria, including data-driven,
16 research-based criteria, or promising practices.

17 (d) In the department's legislative appropriations request
18 for each fiscal biennium, the department shall identify the amount
19 of state aid needed to ensure sustained support for programs to
20 ensure that the programs adequately address the rehabilitative
21 needs of children who are diverted from commitment to the
22 facilities of the department. In regard to children placed in a
23 facility or program in accordance with a regional plan created
24 under Section 201.006, the department shall develop a method to
25 identify children who were likely to have been committed to the
26 facilities of the department, but as a result of the implementation
27 of the regional plans, were not committed to the department.

1 (e) The department may not adversely impact the state aid
2 for a juvenile board or a juvenile probation department that does
3 not enter into a contract to serve youth from other counties, or
4 does not act as a regional facility.

5 (f) A post-adjudication secure correctional facility may
6 not be required to accept placement of a child, unless the child is
7 subject to an order issued by the local juvenile court and placed in
8 an area served by the juvenile probation board or department where
9 the facility is located. A post-adjudication secure correctional
10 facility may not be required to accept a child who is not under the
11 jurisdiction of the local juvenile probation department where the
12 facility is located.

13 SECTION 1.06. Section 223.006(a), Human Resources Code, is
14 amended to read as follows:

15 (a) The department may provide state aid to a county to
16 acquire, construct, and equip post-adjudication residential or
17 day-treatment centers from money appropriated for those
18 purposes. The facilities may be used for children who are placed
19 on probation by a juvenile court under Section 54.04, Family Code,
20 as an alternative to commitment to the facilities of the
21 department. If the state aid is provided under this section to a
22 county to construct a new residential facility, the facility may
23 not have a residential capacity of more than 96 beds.

24 ARTICLE 2. TEXAS JUVENILE JUSTICE DEPARTMENT FACILITIES

25 SECTION 2.01. Section 242.052, Human Resources Code, is
26 amended by adding Subsections (f), (g), and (h) to read as follows:

27 (f) A new residential facility constructed by the

1 department may not have a residential capacity of more than 96 beds.

2 (g) The department may close a residential facility
3 operated by the department if the board approves the closure
4 following a public meeting in which the board determines that the
5 capacity level and resident and staff safety warrant the closure of
6 the facility.

7 (h) Before closing a department facility, the department
8 must determine whether the facility can be repurposed for the needs
9 of the department.

10 SECTION 2.02. Subchapter B, Chapter 242, Human Resources
11 Code, is amended by adding Section 242.072 to read as follows:

12 Sec. 242.072. SALE OR TRANSFER OF CLOSED FACILITIES. (a)
13 This section applies only to a closed facility on real property
14 owned by the department.

15 (b) With the assistance of the General Land Office, the
16 board may sell or transfer to a county or municipality a closed
17 facility that is owned by the department and that does not receive
18 funding from the legislature for the facility's operations. Before
19 transferring or selling a closed facility, the board shall
20 determine if it is feasible for the facility to be repurposed to
21 meet the needs of the department and the youth being served by the
22 department.

23 (c) If a facility is transferred to a county or
24 municipality, the consideration for the transfer is the requirement
25 that the county or municipality use the property transferred only
26 for a purpose that benefits the public interest of the state. If the
27 county or municipality no longer uses the property for a public

1 purpose, ownership of the property automatically reverts to the
2 department.

3 (d) If a facility is transferred to a county or
4 municipality, the board shall transfer the property by an
5 appropriate instrument of transfer, executed on behalf of the
6 agency by the commissioner of the General Land Office. The
7 instrument of transfer must:

8 (1) provide that:

9 (A) the transferee shall use the property only
10 for a purpose that benefits the public interest of the state; and

11 (B) ownership of the property automatically
12 reverts to the department if the transferee uses the property for
13 any purpose other than a purpose that benefits the public interest
14 of the state;

15 (2) describe the property to be transferred by metes
16 and bounds; and

17 (3) exclude from the transfer all mineral interests in
18 and under the property and prohibit any exploration, drilling, or
19 other similar intrusion on the property related to mineral
20 interests.

21 (e) The department shall retain custody of the instrument of
22 transfer after the instrument of transfer is filed in the real
23 property records of the county in which the property is located.

24 (f) If property is transferred to a county or municipality,
25 the expenses incurred by the General Land Office in connection with
26 the transfer shall be paid to the General Land Office by the county
27 or municipality.

1 (g) This section expires September 1, 2021.

2 ARTICLE 3. COMMITMENT OF JUVENILE OFFENDERS

3 SECTION 3.01. Section 54.04(d), Family Code, is amended to
4 read as follows:

5 (d) If the court or jury makes the finding specified in
6 Subsection (c) allowing the court to make a disposition in the case:

7 (1) the court or jury may, in addition to any order
8 required or authorized under Section 54.041 or 54.042, place the
9 child on probation on such reasonable and lawful terms as the court
10 may determine:

11 (A) in the child's own home or in the custody of a
12 relative or other fit person; or

13 (B) subject to the finding under Subsection (c)
14 on the placement of the child outside the child's home, in:

15 (i) a suitable foster home;

16 (ii) a suitable public or private
17 residential treatment facility licensed by a state governmental
18 entity or exempted from licensure by state law, except a facility
19 operated by the Texas Juvenile Justice Department; or

20 (iii) a suitable public or private
21 post-adjudication secure correctional facility that meets the
22 requirements of Section 51.125, except a facility operated by the
23 Texas Juvenile Justice Department;

24 (2) if the court or jury found at the conclusion of the
25 adjudication hearing that the child engaged in delinquent conduct
26 that violates a penal law of this state or the United States of the
27 grade of felony and if the petition was not approved by the grand

1 jury under Section 53.045, the court may commit the child to the
2 Texas Juvenile Justice Department or a post-adjudication secure
3 correctional facility under Section 54.04011(c)(1) without a
4 determinate sentence only if the court includes in its order a
5 finding that commitment is:

6 (A) necessary to meet the juvenile's
7 rehabilitative needs; and

8 (B) appropriate, as demonstrated by the evidence
9 admitted at the hearing, including the results of a validated risk
10 and needs assessment conducted according to rules adopted under
11 Section 221.003, Human Resources Code, before the disposition is
12 ordered;

13 (3) if the court or jury found at the conclusion of the
14 adjudication hearing that the child engaged in delinquent conduct
15 that included a violation of a penal law listed in Section 53.045(a)
16 and if the petition was approved by the grand jury under Section
17 53.045, the court or jury may sentence the child to commitment in
18 the Texas Juvenile Justice Department or a post-adjudication secure
19 correctional facility under Section 54.04011(c)(2) with a possible
20 transfer to the Texas Department of Criminal Justice for a term of:

21 (A) not more than 40 years if the conduct
22 constitutes:

- 23 (i) a capital felony;
24 (ii) a felony of the first degree; or
25 (iii) an aggravated controlled substance
26 felony;

27 (B) not more than 20 years if the conduct

1 constitutes a felony of the second degree; or

2 (C) not more than 10 years if the conduct
3 constitutes a felony of the third degree;

4 (4) the court may assign the child an appropriate
5 sanction level and sanctions as provided by the assignment
6 guidelines in Section 59.003;

7 (5) the court may place the child in a suitable
8 nonsecure correctional facility that is registered and meets the
9 applicable standards for the facility as provided by Section
10 51.126; or

11 (6) if applicable, the court or jury may make a
12 disposition under Subsection (m) or Section 54.04011(c)(2)(A).

13 SECTION 3.02. The changes in law made by this Act to Section
14 54.04(d), Family Code, apply only to conduct violating a penal law
15 that occurs on or after September 1, 2017. Conduct violating a
16 penal law that occurs before September 1, 2017, is governed by the
17 law in effect on the date the conduct occurred, and the former law
18 is continued in effect for that purpose. For purposes of this
19 subsection, conduct occurs before September 1, 2017, if any element
20 of the conduct occurred before that date.

21 ARTICLE 4. OFFICE OF INDEPENDENT OMBUDSMAN

22 SECTION 4.01. Section 261.002, Human Resources Code, is
23 amended to read as follows:

24 Sec. 261.002. ESTABLISHMENT; PURPOSE. The office of
25 independent ombudsman is a state agency established for the purpose
26 of investigating, evaluating, and securing the rights of the
27 children:

1 (1) committed to the department, including a child
2 released under supervision before final discharge; or

3 (2) placed in a post-adjudication secure correctional
4 facility, as described by Section 51.125, Family Code.

5 SECTION 4.02. Section 261.055(b), Human Resources Code, is
6 amended to read as follows:

7 (b) The independent ombudsman shall immediately report to
8 the board, the governor, the lieutenant governor, the speaker of
9 the house of representatives, the state auditor, and the office of
10 the inspector general of the department any particularly serious or
11 flagrant:

12 (1) case of abuse or injury of a child committed to the
13 department;

14 (2) problem concerning the administration of a
15 department program or operation;

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

18 (4) interference by the department or by a
19 post-adjudication secure correctional facility with an
20 investigation conducted by the office; or

21 (5) civil rights violation concerning a child placed
22 in a post-adjudication secure correctional facility, not including
23 a complaint alleging criminal behavior.

24 SECTION 4.03. Section 261.056(a), Human Resources Code, is
25 amended to read as follows:

26 (a) The department or a post-adjudication secure
27 correctional facility shall allow any child committed to the

1 department or placed in the facility to communicate with the
2 independent ombudsman or an assistant to the ombudsman. The
3 communication:

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

6 (2) is confidential and privileged.

7 SECTION 4.04. Section [261.058](#), Human Resources Code, is
8 amended by adding Subsection (c) to read as follows:

9 (c) The office and the board shall adopt rules that
10 establish procedures for a post-adjudication secure correctional
11 facility administrator, chief juvenile probation officer of a
12 juvenile probation department, or juvenile board to comment on
13 reports of the office related to children placed in a
14 post-adjudication secure correctional facility, including
15 procedures for the department to expedite or eliminate review in a
16 manner that is consistent with rules adopted under Subsection (b).

17 SECTION 4.05. 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 the department and investigate
25 each complaint in which it appears that a child may be in need of
26 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 committed to the department or the
4 child's family may be in need of assistance from the office; or

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

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

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

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

17 (7) recommend changes in any procedure relating to the
18 treatment of children committed to the department;

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

21 (9) supervise assistants who are serving as advocates
22 in their representation of children committed to the department in
23 internal administrative and 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 (12) conduct an investigation of a civil rights
5 complaint concerning a child placed in a post-adjudication secure
6 correctional facility, not including a complaint alleging criminal
7 behavior;

8 (13) assist a child placed in a post-adjudication
9 secure correctional facility, if the department determines that the
10 child is in need of assistance from the office; and

11 (14) immediately report the findings of any
12 investigation to the chief juvenile probation officer and the
13 juvenile board of the county in which the facility is located, and
14 to the juvenile probation department arranging the placement of the
15 child.

16 SECTION 4.06. Section 261.102, Human Resources Code, is
17 amended to read as follows:

18 Sec. 261.102. TREATMENT OF ~~[DEPARTMENT]~~ EMPLOYEES WHO
19 COOPERATE WITH INDEPENDENT OMBUDSMAN. The department or a
20 juvenile board or juvenile probation department may not discharge
21 or in any manner discriminate or retaliate against an employee who
22 in good faith makes a complaint to the office of independent
23 ombudsman or cooperates with the office in an investigation.

24 SECTION 4.07. Section 261.151(a), Human Resources Code, is
25 amended to read as follows:

26 (a) The independent ombudsman has access to the
27 department's records relating to ~~the~~ children committed to the

1 department or placed in a post-adjudication secure correctional
2 facility.

3 SECTION 4.08. Section 261.152, Human Resources Code, is
4 amended to read as follows:

5 Sec. 261.152. ACCESS TO INFORMATION OF PRIVATE ENTITIES.
6 The independent ombudsman shall have access to the records of a
7 private entity that relate to a child committed to the department or
8 placed in a post-adjudication secure correctional facility.

9 SECTION 4.09. Section 261.101(e), Human Resources Code, is
10 repealed.

11 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

12 SECTION 5.01. (a) This Act authorizes the legislature to
13 appropriate funding to the Texas Juvenile Justice Department at
14 levels sufficient to enable the department to fulfill its statutory
15 responsibilities and adequately and effectively care for the youth
16 under its jurisdiction. The continuity of funding to the department
17 should be regarded as essential during the period of transition and
18 implementation of the regionalization plans described by this Act.

19 (b) The Texas Juvenile Justice Department shall allocate
20 funds appropriated to the department by the legislature in the
21 General Appropriations Act in amounts necessary to fulfill its
22 statutory responsibilities and to adequately and effectively care
23 for the youth under the department's custody. The department shall
24 allocate funds to regional associations created under Section
25 201.005, Human Resources Code, as added by this Act, as necessary
26 for the implementation of the regional plans adopted under Section
27 201.006, Human Resources Code, as added by this Act.

1 SECTION 5.02. An initial regional plan must be submitted to
2 the executive director of the Texas Juvenile Justice Department not
3 later than May 1, 2016. An initial regional plan developed under
4 Section 201.006, Human Resources Code, as added by this Act, must
5 include provisions for the implementation of the plan beginning not
6 later than December 1, 2016.

7 SECTION 5.03. This Act takes effect immediately if it
8 receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for immediate
11 effect, this Act takes effect September 1, 2015.