

SUBJECT: Continuing the Criminal Justice Policy Council

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — Hightower, Alexander, Farrar, Gray, Hupp, Marchant, Serna

0 nays

2 absent— Allen, Edwards

WITNESSES: For — Jim Allison, County Judges & Commissioners Association

Against — None

On — Steve Hopson, Sunset Commission; Tony Fabelo, Criminal Justice Policy Council

BACKGROUND : The Legislature created the Criminal Justice Policy Council in 1983 to identify problems with criminal justice programs and advise it in developing strategies to solve those problems. The council provides objective research information to the governor and the Legislature on criminal justice issues. It evaluates criminal justice programs aimed at reducing recidivism, develops projections on adult and juvenile correctional populations, conducts sentencing studies, evaluates juvenile corrections programs, and audits the records of the criminal justice information system. In addition, the council is authorized to accept grants and gifts, which it distributes to other agencies and local governments to improve criminal justice information systems.

The Criminal Justice Policy Council is governed by a 17-member board chaired by the governor. Other members include the lieutenant governor; speaker of the House; four members of the Senate appointed by the lieutenant governor, including the chair of the Criminal Justice Committee; four members of the House appointed by the speaker, including the chair of the Criminal Jurisprudence Committee; and six members appointed by the governor. The governor's appointees must include one representative from each of the following groups: district judges, district attorneys or criminal district attorneys, county judges, county sheriffs, and county commissioners.

The governor appoints the executive director of the policy council, subject to Senate confirmation.

The council is funded by a mix of general revenue funds as well as state and federal grants. During fiscal 1996-1997, the council received \$669,941 in general revenue funds, \$482,524 in criminal justice grants, and \$50,000 in federal funds. In fiscal 1995, these funds totaled approximately \$1.1 million.

The Criminal Justice Policy Council is subject to the Sunset Act and underwent Sunset Advisory Commission review during the past interim. The council will be abolished September 1, 1997, unless continued by the Legislature.

DIGEST:

HB 1155 would continue the Criminal Justice Policy Council until September 1, 2009, but abolish the Criminal Justice Policy Council Board. It would require the council's executive director to formulate research priorities by consulting with the governor, lieutenant governor, speaker of the House, and the chairs of the respective House and Senate committees having jurisdiction over criminal justice issues. The bill would also authorize the governor to appoint advisory committees, as needed, to guide the council.

Other changes proposed by the bill include standard Sunset Advisory Commission recommendations on the gubernatorial appointment of the executive director, standards of conduct, employee career ladder, performance evaluation, equal employment opportunity, conflict of interests, financial reporting, access to programs and facilities and consumer information and complaints. In addition, the bill would set out three specific conditions that would constitute grounds for removing the executive director from office.

The bill would take effect September 1, 1997.

**SUPPORTERS
SAY:**

HB 1155 is needed to continue the Criminal Justice Policy Council and the vital services it provides in objectively evaluating the state's criminal justice programs. Texas has one the largest criminal justice systems in the world and a budget to match. Keeping this system on track and within budget requires ongoing independent analysis and review. The policy council has

shown that it can perform this function well; no other state agency can maintain the degree of impartiality that an independent research agency can provide.

However, some changes are needed. HB 1155 would make necessary improvements recommended by the Sunset Advisory Commission. For example, the Criminal Justice Policy Council operates quite well without a board. All of the traditional oversight functions that state policy boards are designed to serve have been handled through other means or simply are not necessary. Evidence of this is the fact that the board is not currently active and indeed has not met since 1985. Only 11 of the 17 board member positions are currently filled, and five of these are ex-officio positions. All of the functions assigned to this agency have been carried out in the absence of an active board. Eliminating the board would not create undue confusion as to what constitutes the "council." Changing the name to eliminate reference to a council, however, would be confusing, since the agency is well known.

In the absence of a functioning board, the council's executive director has sought guidance from the governor, the lieutenant governor and the speaker of the House and from the Legislature through the enactment of legislation directing its research and duties. HB 1155 would formalize this existing oversight arrangement by requiring the executive director to formulate research priorities by consulting with the governor, lieutenant governor, the speaker, and the chairs of the House and Senate committees having jurisdiction over criminal justice issues. This requirement would also help ensure that the council remains responsive to the needs of policy makers and would promote greater accountability.

Furthermore, under this bill the governor could appoint advisory committees, as needed, to guide the council. An advisory committee would help maintain objectivity by providing the council with a broad perspective as it performs its duties. Advisory committees could assume the authority vested in the board but currently not exercised and would help ensure that the council could acquire expert advice when needed.

Although the bill does not contain language specifying that the executive director "serves at the pleasure of the governor," this is an at-will

appointment that can be terminated for any cause. There is precedent establishing gubernatorial authority to terminate agency heads for reasons not specifically enumerated in authorizing legislation. Furthermore, the bill specifically proposes three broad grounds for termination beyond provisions standard in Sunset Advisory Commission recommendations.

OPPONENTS
SAY:

It would be confusing to retain a title that no longer reflects the make-up of the organization that it names. If the board of the Criminal Justice Policy Council is eliminated, the council should be renamed.

HB 1155 should not attempt to define all circumstances under which the executive director can be terminated. Instead, it should incorporate the unambiguous phrase that "the executive director serves at the pleasure of the governor."

NOTES:

The companion bill, SB 350 by Brown, has been referred to the Senate Criminal Justice Committee.