

BILL ANALYSIS

Senate Research Center
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H.B. 2895
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Criminal Justice
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Engrossed

DIGEST AND PURPOSE

The Texas Youth Commission (TYC) has grown in size and complexity over the past eight years since the major juvenile justice reforms of the 74th Legislature in 1995. The changes continue to require legislative attention in several areas. First, it has always been implied in the law, but not explicitly stated, that all records of youth in TYC are confidential, including any personally identifiable information, and that youth and parents' access to information about the youth is authorized as long as it is not detrimental to treatment or has a chilling effect on receiving information from similar sources in the future.

TYC has for many years met constitutional due process requirements for parole revocation hearings, but unlike the Board of Pardons and Paroles and the Texas Department of Criminal Justice, has not been excepted from the other requirements for contested cases under the Texas Administrative Procedure Act. Some feel TYC needs the same subpoena authority the two adult correctional agencies have to compel the attendance of witnesses at the hearings.

An optional referral to a local mental health authority for outpatient services is needed for non-sentenced youth who must be discharged following completion of their minimum length of stay because of their inability to progress in the regular treatment program. H.B. 2895 relates to the operations of the TYC.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 61.073, Human Resources Code, as follows:

Sec. 61.073. RECORDS OF EXAMINATIONS AND TREATMENT. Provides that records and all other information concerning a child, including personally identifiable information, are not public and are available only according to the provisions of Section 58.005, Family Code, Section 61.0731 of this code, and Chapter 61, Code of Criminal Procedure, except as provided by Section 61.093(c).

SECTION 2. Amends Subchapter E, Chapter 61, Human Resources Code, by adding Sections 61.0731 and 61.0751, as follows:

Sec. 61.0731. INFORMATION AVAILABLE TO CHILDREN, PARENTS, AND OTHERS. (a) Authorizes the Texas Youth Commission (TYC), in the interest of achieving the purpose of TYC and protecting the public, to disclose records and other information concerning a child to the child and the child's parent or guardian only if disclosure would not materially harm the treatment and rehabilitation of the child and would not substantially decrease the likelihood of TYC receiving information from the same or similar sources in the future. Prohibits information concerning a person who is age 18 or older from being disclosed to the person's parent or guardian without the person's consent.

(b) Authorizes TYC to disclose information regarding a child's location and committing court to a person having a legitimate need for the information.

Sec. 61.0751. SUBPOENAS. (a) Authorizes a hearings examiner appointed by TYC to issue a subpoena requiring the attendance of a witness or the production of any record, book, paper, or document the hearings examiner considers necessary for a determination of treatment under Section 61.075.

(b) Authorizes the hearings examiner to sign a subpoena and administer an oath.

(c) Authorizes a peace officer, apprehension specialist, parole officer, or other TYC official to serve the subpoena in the same manner as similar process in a court of record having original jurisdiction of criminal actions is served.

(d) Provides that a person who testifies falsely, fails to appear when subpoenaed, or fails or refuses to produce material under the subpoena is subject to the same orders and penalties to which a person taking those actions before a court is subject.

(e) Authorizes a court of record having original jurisdiction of criminal actions to compel the attendance of a witness, the production of material, or the giving of testimony before the hearings examiner, by an attachment for contempt or in the same manner as the court may otherwise compel the production of evidence, on application of TYC.

SECTION 3. Amends Section 61.0772(b), Human Resources Code, to require TYC to refer a child requiring outpatient psychiatric treatment to the appropriate mental health authority. Requires TYC to file a sworn application for court-ordered mental health services, as provided in Subchapter C, Chapter 574, Health and Safety Code, under certain circumstances, for a child requiring inpatient psychiatric treatment.

SECTION 4. Amends Section 2001.223, Government Code, to include TYC in the list of entities in relation to the grant, rescission, or revocation of parole or other form of administrative release.

SECTION 5. Effective date: September 1, 2003.
Makes application of this Act prospective.