

CHAPTER 1099

S.B. No. 33

AN ACT

relating to the continuation, board membership, powers and duties, operation, administration, and financing of the Texas Youth Commission; support of children committed and effect of commitment; the rehabilitation of children adjudicated to have engaged in delinquent conduct; and the reduction of juvenile delinquency; authorizing appropriations.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 61.001, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.001. DEFINITIONS. In this chapter:

- (1) "Commission" means the Texas Youth Commission.
- (2) "Board" means the governing board of the commission.
- (3) "Chairman" means the chairman of the board [commission].
- (4) [(3)] "Executive director" means the executive director of the commission.
- (5) [(4)] "Court" means a juvenile court.
- (6) "Child" [(5) "Delinquent child"] means a person [child] 10 years old or older and under 21 years old who is committed to the commission under Title 3, Family Code.

SECTION 2. Section 61.002, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.002. PURPOSE. The purpose of this chapter is to provide for administration of the state's correctional facilities for [delinquent] children, to provide a program of constructive training aimed at rehabilitation and reestablishment in society of children adjudged delinquent by the courts of this state and committed to the Texas Youth Commission, and to provide active parole supervision for [delinquent] children until officially discharged from custody of the Texas Youth Commission.

SECTION 3. Subsections (a), (b), and (c), Section 61.012, Human Resources Code, as amended, are amended to read as follows:

(a) The governing board of the Texas Youth Commission consists of six members appointed by the governor with the consent of the senate. *Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.*

(b) Members of the board [commission] must be citizens who are recognized within their communities for their interest in youth.

(c) The board [commission] members hold office for staggered terms of six years, with the terms of two members expiring every two years.

SECTION 4. (a) Subchapter B, Chapter 61, Human Resources Code, as amended, is amended by adding Section 61.0121 to read as follows:

Sec. 61.0121. QUALIFICATIONS. (a) *A person is not eligible for appointment to the board if the person or the person's spouse:*

- (1) *is employed by or participates in the management of a business entity or other organization receiving funds from the commission;*
- (2) *owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the commission; or*
- (3) *uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.*

(b) *A person who is or is the spouse of an officer, employee, or paid consultant of a trade association in the field of criminal or juvenile justice may not be a member of the board. For the purpose of this subsection a trade association is a nonprofit, cooperative, voluntarily joined association of business or professional competitors*

designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

(c) A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of the person's activities for compensation in or on behalf of a profession related to the operation of the commission, may not serve as a member of the board.

(b) Section 61.0121, Human Resources Code, as added by this section, does not apply to board members in office on September 1, 1987, during their current terms of office.

SECTION 5. Subsections (a) and (b), Section 61.013, Human Resources Code, as amended, are amended to read as follows:

(a) The board [~~commission~~] shall elect one member presiding officer, who shall preside over meetings of the commission.

(b) The board [~~commission~~] shall meet at least four times each year.

SECTION 6. Section 61.015, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.015. PER DIEM; EXPENSES. Board [Commission] members are entitled to receive a per diem *in the amount provided in the General Appropriations Act [of \$35]* for not more than 90 days in any fiscal year, plus reimbursement for actual expenses incurred while on board [~~commission~~] business.

SECTION 7. Subchapter B, Chapter 61, Human Resources Code, as amended, is amended by adding Section 61.0151 to read as follows:

Sec. 61.0151. REMOVAL FROM OFFICE. (a) *It is a ground for removal from the board if a member:*

(1) *does not have at the time of appointment the qualifications required by Subsection (a) of Section 61.0121 of this chapter for appointment to the board;*

(2) *does not maintain during the member's service on the board the qualifications required by Subsection (a) of Section 61.0121 of this chapter for appointment to the board;*

(3) *violates a prohibition established by Subsection (b) or (c) of Section 61.0121 of this chapter;*

(4) *is unable to discharge the member's duties for a substantial part of the term for which the member was appointed because of illness or disability; or*

(5) *is absent from more than one-half of the regularly scheduled board meetings that the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the board.*

(b) *The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.*

(c) *If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chairman of the board of the ground. The chairman of the board shall then notify the governor that a potential ground for removal exists.*

SECTION 8. Section 61.016, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.016. OFFICE. The commission shall have its office wherever it chooses, in a building designated and approved by the State *Purchasing and General Services Commission* [~~Board of Control~~].

SECTION 9. Subsection (a), Section 61.017, Human Resources Code, as amended, is amended to read as follows:

(a) The commission shall employ an executive director, *selected by the board*, to serve at the will of the board.

SECTION 10. Section 61.019, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.019. DELEGATION OF POWERS AND DUTIES. Any power, duty, or function of the commission *or of the board* may be exercised and performed by the executive director or any member or employee designated or assigned by the *board* ~~commission~~ or by the executive director.

SECTION 11. Subchapter B, Chapter 61, Human Resources Code, as amended, is amended by adding Section 61.0191 to read as follows:

Sec. 61.0191. AUDIT. The State Auditor shall audit the financial transactions of the commission at least once during each biennium.

SECTION 12. Section 61.020, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.020. REVIEW. The commission is subject to the Texas Sunset Act (Chapter 25, Government Code). Unless continued in existence as provided by that Act, the commission is abolished and this chapter expires September 1, 1999 [1987].

SECTION 13. Section 61.032, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.032. ADMINISTRATION OF INSTITUTIONS. The commission shall administer the training, diagnostic treatment, and supervisory facilities and services of the state for ~~delinquent~~ children committed to the *commission* ~~state~~ and shall manage and direct all institutions and training school facilities under the authority of the commission.

SECTION 14. Section 61.033, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.033. REPORT TO GOVERNOR, LEGISLATURE. *The commission shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year. The form of the annual report and the reporting time are as provided in the General Appropriations Act [Before the convening date of each regular session of the legislature, the commission shall make a report to the governor and the legislature of its activities and accomplishments and of its findings as to its major needs in fulfilling its responsibility for children committed to it by courts of the state. The report shall include specific recommendations for legislation, planned and drafted as part of a unified program to serve the best interest of the state and the youth committed to the commission and recommendations for the repeal of any conflicting, obsolete, or otherwise undesirable legislation affecting youth].*

SECTION 15. Subsection (b), Section 61.034, Human Resources Code, as amended, is amended to read as follows:

(b) The commission shall adopt rules for the government of the schools, ~~and~~ facilities, *and programs* under its authority and shall see that the ~~affairs of the~~ schools, ~~and~~ facilities, *and programs* are conducted according to law and to the commission's rules. The purpose of the rules and of all education, work, training, discipline, recreation, and other activities in the schools, ~~and~~ facilities, *and programs* is to restore and increase the self-respect and self-reliance of the youth under the authority of the commission and to qualify them for good citizenship and honorable employment.

SECTION 16. Section 61.035, Human Resources Code, as amended, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) *An officer, employee, or paid consultant of a trade association in the field of criminal or juvenile justice may not be an employee of the commission. A person who is the spouse of an officer, employee, or paid consultant of a trade association in the field of criminal or juvenile justice may not be an employee of the commission, including an employee exempt from the state's position classification plan, who is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule. For the purpose of this subsection a trade association is a nonprofit, cooperative, voluntarily joined association of business or professional competitors designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.*

(d) A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of the person's activities for compensation in or on behalf of a profession related to the operation of the commission may not act as the general counsel to the commission. [A superintendent may remove for cause any employee under his or her authority, with the approval of the executive director.]

SECTION 17. Subchapter C, Chapter 61, Human Resources Code, as amended, is amended by adding Sections 61.0351, 61.0352, 61.0353, and 61.0354 to read as follows:

Sec. 61.0351. PROFESSIONAL INFORMATION FOR MEMBERS AND EMPLOYEES. The commission shall inform its members and employees as often as is necessary of:

- (1) the qualifications for office or employment prescribed by this chapter; and*
- (2) their responsibilities under applicable laws relating to standards of conduct for state officers or employees.*

Sec. 61.0352. DIVISION OF RESPONSIBILITY. The board shall adopt policies that clearly define the respective responsibilities of the board and the staff of the commission.

Sec. 61.0353. CAREER LADDER PROGRAM. The commission shall develop an intraagency career ladder program, one part of which shall require the intraagency posting, concurrently with any public posting, of all nonentry level positions.

Sec. 61.0354. JOB PERFORMANCE EVALUATIONS. The commission shall develop a system under which the job performance of commission employees is evaluated annually. All merit pay for commission employees must be based on the system established under this section.

SECTION 18. (a) Subchapter C, Chapter 61, Human Resources Code, as amended, is amended by adding Section 61.0355 to read as follows:

Sec. 61.0355. EMPLOYMENT POLICY STATEMENT. (a) The commission shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity by which all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin.

(b) The policy statement shall include:

- (1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;*
- (2) a comprehensive analysis of the commission's work force that meets federal or state guidelines;*
- (3) procedures by which a determination can be made of significant underutilization in the commission's work force of all persons of whom federal or state guidelines encourage a more equitable balance; and*
- (4) reasonable methods to appropriately address areas of significant underutilization in the commission's work force of all persons of whom federal or state guidelines encourage a more equitable balance.*

(c) The policy statements shall be filed with the governor's office, cover an annual period, and be updated at least annually. The governor's office shall develop a biennial report to the legislature based on the information submitted. The report may be made separately or as a part of other biennial reports made to the legislature.

(b) The first policy statement filed under Subsection (c), Section 61.0355, Human Resources Code, as added by this section, shall be filed on or before November 1, 1987.

SECTION 19. Section 61.036, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.036. COOPERATION WITH OTHER AGENCIES. (a) The commission shall cooperate with all existing agencies and encourage the establishment of new programs [agencies], both local and statewide, the [whose] object of which is services to delinquent and predelinquent youth of this state.

(b) ~~The [On the request of the governing body of any county or city, the] commission may [shall] assist in developing, strengthening, and coordinating educational, welfare, health, recreational, and law-enforcement programs which have as their object the prevention of juvenile delinquency and crime.~~

SECTION 20. Subsection (b), Section 61.037, Human Resources Code, as amended, is amended to read as follows:

(b) When funds are available for the purpose, the commission may enter into agreements with appropriate public or private agencies for the separate care and treatment of persons subject to the control of the commission. The commission may not make use of any private institution or agency without its consent. *The commission shall make reasonable efforts to ensure that the expenditure of appropriations for the purchase of contract residential care for children, not including the purchase of care in foster family homes, be allocated to providers on a fixed monthly basis if it is cost-effective and the number, type, needs, and conditions of the children to be served is reasonably constant [and may not pay a private institution for services that a public institution is willing and able to perform].*

SECTION 21. Subchapter C, Chapter 61, Human Resources Code, as amended, is amended by adding Section 61.038 to read as follows:

Sec. 61.038. HALFWAY HOUSE PROGRAM. (a) The commission may not develop a halfway house to be operated by the commission if an appropriate private halfway house program is contractually available and the costs under the contract are less than the costs would be if the commission provided the services.

(b) Before the commission contracts for the development of a halfway house program, the commission shall send prospective service providers a request for a proposal that identifies the program services desired, the population to be served, and potential locations for the program. The commission shall select the service provider that submits the proposal that best meets the commission's needs according to standards established by the commission. If the commission does not receive a proposal that meets its needs, the commission may request funds from the legislature for the development of a halfway house to be operated by the commission.

(c) This section does not apply to halfway houses operated by the commission on September 1, 1987.

SECTION 22. Section 61.039, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.039. COMMISSION PROGRAMS. (a) The commission shall develop and use standards based on performance to evaluate and compare programs operated by the commission.

(b) When practicable and feasible, the commission shall provide specific performance standards for a program serving 10 or more children through an agreement entered into under Section 61.037 of this chapter. In the performance standards, the commission shall include outcome measures for evaluating the quality of services provided under the agreement.

(c) For the purposes of comparison, the commission shall use performance standards that are as consistent as practicable with those used to evaluate and compare programs operated by the commission, that measure the benefits and cost-effectiveness of the respective programs, and that measure the average length of stay and rate of recidivism of the children in the program. [The commission may provide a service or program as part of its statewide plan if the service or program is not provided by a local community.]

SECTION 23. Section 61.040, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.040. ADDITIONAL FACILITIES; PAROLE SUPERVISION. When funds are available, the commission may:

- (1) establish and operate places for detention and diagnosis of ~~delinquent~~ children committed to it;

(2) establish and operate additional treatment and training facilities, including forestry or parks-maintenance camps and ranches, necessary to classify *and treat children committed to the commission* [~~segregate, and handle juvenile delinquents~~] according to their needs;

(3) establish active parole supervision to aid children given conditional release to find homes and employment and to become reestablished in the community; and

(4) assist in establishing training facilities and programs owned and operated by private individuals or organizations which agree to provide services to [~~delinquent~~] children committed to the commission, *including programs for children needing long-term residential care.*

SECTION 24. Subchapter C, Chapter 61, Human Resources Code, as amended, is amended by adding Section 61.0401 to read as follows:

Sec. 61.0401. COMPUTATION OF DAILY COSTS OF FACILITY. In computing the daily costs of a residential facility operated by the commission, the commission shall use a standard method that is consistent with methods used by other state agencies and that is designed to reflect the actual cost to the state of operating the facility.

SECTION 25. Subsection (a), Section 61.041, Human Resources Code, as amended, is amended to read as follows:

(a) The commission shall conduct continuing inquiry into the effectiveness of the treatment methods it employs in the reformation of [~~delinquent~~] children. To this end, the commission shall maintain a record of arrests and commitments of its wards subsequent to their discharge from the jurisdiction of the commission and shall tabulate, analyze, and publish biennially these data for use in evaluating the relative merits of treatment methods.

SECTION 26. Subchapter C, Chapter 61, Human Resources Code, as amended, is amended by adding Sections 61.0421, 61.0422, and 61.0423 to read as follows:

Sec. 61.0421. PUBLIC INTEREST INFORMATION. The commission shall prepare information of public interest describing the functions of the commission and describing the procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate state agencies.

Sec. 61.0422. COMPLAINTS REGARDING SERVICES. (a) The commission shall keep an information file about each complaint filed with the commission that relates to services provided by the commission.

(b) If a written complaint relating to the commission is filed with the commission, the commission, at least as frequently as quarterly and until final disposition of the complaint, shall notify the complainant of the status of the complaint unless the notice would jeopardize an undercover investigation.

Sec. 61.0423. PUBLIC HEARINGS. The board shall adopt policies that will provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

SECTION 27. Subchapter C, Chapter 61, Human Resources Code, as amended, is amended by amending Section 61.043 and adding Sections 61.0431 and 61.0432 to read as follows:

Sec. 61.043. GIFTS; GRANTS. The commission may accept gifts, grants, or donations of money or property from private sources to effectuate the purpose of this chapter. Donated funds shall be placed in the state treasury in a special fund called the Texas Youth Commission fund and expended as other state money is expended, on warrants drawn by the comptroller on the order of the commission. At the end of each state fiscal year, any unexpended balance in the fund shall be carried over in the same fund.

Sec. 61.0431. SPECIAL ACCOUNTS. (a) Proceeds from the operation of canteens and vending machines at facilities under the jurisdiction of the commission shall be deposited to the credit of a special account in the General Revenue Fund called the canteen revolving fund. The proceeds shall be used to pay the actual expenses of

maintaining and operating the canteens and vending machines. Proceeds in excess of the amount required for those expenses, donations for student activities and proceeds from children's fundraising projects shall be deposited to the credit of a special account in the General Revenue Fund called the student benefit fund and may be used only to provide education, recreation, and entertainment to children committed to the commission.

(b) Proceeds from shop projects at the facilities under the commission's jurisdiction shall be deposited to the credit of a special account in the General Revenue Fund called the vocational shop fund and may be used only to purchase and maintain parts, tools, and other supplies necessary for the shop projects and to compensate the students who participate in the projects.

(c) Registration fees from seminars and conferences conducted by the commission shall be deposited to the credit of a special account in the General Revenue Fund called the conference account and may be used only to pay the costs of conducting seminars and conferences.

(d) Money in the special accounts is appropriated for the purposes indicated in this section and shall be expended on warrants drawn by the comptroller on the order of the commission.

Sec. 61.0432. STUDENT TRUST FUND. Money belonging to a child committed to the commission in excess of the amount the commission allows in a child's possession shall be deposited in a trust fund established by the facility operated by the commission to which the child is assigned. The commission shall adopt rules governing the administration of the trust fund.

SECTION 28. Section 61.045, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.045. *OPERATIONS OF PROGRAMS AND FACILITIES* [~~DUTIES OF SUPERINTENDENTS~~]. (a) The *commission* [~~superintendent of each school or facility~~] shall have general charge of and be responsible for the welfare, [~~and~~] custody, and rehabilitation of the children in a [~~the~~] school, [~~or~~] facility, or program operated or funded by [~~and for carrying out the rehabilitation program prescribed by~~] the commission. The [~~Under the direction of the~~] commission[, ~~the superintendent~~] shall seek to establish relationships and to organize a way of life that will meet the spiritual, moral, physical, emotional, intellectual, and social needs of the children under its [~~his or her~~] care as those needs would be met in an adequate home.

(b) The *commission* [~~superintendent~~] shall see that the buildings and premises are kept in good sanitary order.

~~(c) The superintendent is responsible for keeping the books of the school or facility fully exhibiting all money received and disbursed, the source from which it is received, and the purposes for which it is expended. All supplies for the school or facility shall be purchased in the same manner as for other similar institutions. The books shall give a full record of all products produced, whether sold or consumed, and shall at all times be open for the inspection of the council, the state auditor, and the governor.]~~

SECTION 29. Section 61.046, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.046. RELIGIOUS TRAINING. The commission shall provide for the religious and spiritual training of children in its custody *according to the children's individual choices*.

SECTION 30. Subchapter C, Chapter 61, Human Resources Code, as amended, is amended by adding Section 61.048 to read as follows:

Sec. 61.048. BUILDINGS AND IMPROVEMENTS. (a) *The commission may design, construct, equip, furnish, and maintain buildings and improvements at facilities under its jurisdiction. The commission may employ architects or engineers, or both, to prepare plans and specifications and to supervise the construction and improvements. The commission shall promulgate rules relating to the award of contracts for the construction of buildings and improvements. The rules shall provide for the*

award of contracts for the construction of buildings and improvements to the qualified bidder making the lowest and best bid. A construction contract may not be awarded for a sum in excess of the amount of funds available for the project. The commission may reject any and all bids submitted.

(b) If a project is financed in whole or in part by federal funds, any standards required by the enabling federal statute or required by the rules of the administering federal agency control over this section.

(c) The commission may employ professional, technical, and clerical personnel to carry out the design and construction functions required by this section.

SECTION 31. Section 61.071, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.071. INITIAL EXAMINATION. The commission shall examine and make a study of each [delinquent] child committed to it as soon as possible after the arrival of the child. The study shall be made according to rules established by the commission and shall include an investigation of all pertinent circumstances of the life and behavior of the child. *One objective of the study shall be to identify recidivists or other children who may need long-term residential care.*

SECTION 32. Section 61.073, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.073. RECORDS OF EXAMINATIONS AND TREATMENT. The commission shall keep written records of all examinations and conclusions based on them and of all orders concerning the disposition or treatment of each [delinquent] child subject to its control. These records are not public and are available only according to the provisions of Section 51.14(b), Family Code.

SECTION 33. Section 61.075, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.075. DETERMINATION OF TREATMENT. When a [delinquent] child has been committed to the commission, the commission may:

- (1) permit the child liberty under supervision and on conditions it believes conducive to acceptable behavior;
- (2) order the child's confinement under conditions it believes best designed for the child's welfare and the interests of the public;
- (3) order reconfinement or renewed release as often as conditions indicate to be desirable;
- (4) revoke or modify any order of the commission affecting a child, except an order of final discharge, as often as conditions indicate; or
- (5) discharge the child from control when it is satisfied that discharge will best serve the child's welfare and the protection of the public.

SECTION 34. Subsection (a), Section 61.076, Human Resources Code, as amended, is amended to read as follows:

(a) As a means of correcting the socially harmful tendencies of a [delinquent] child committed to it, the commission may:

- (1) require the child to participate in moral, academic, vocational, physical, and correctional training and activities;
- (2) require the modes of life and conduct that seem best adapted to fit the child for return to full liberty without danger to the public;
- (3) provide any medical or psychiatric treatment that is necessary; and
- (4) place physically fit children in parks-maintenance camps, forestry camps, or ranches owned by the state or the United States and require the performance of suitable conservation and maintenance work.

SECTION 35. Subchapter E, Chapter 61, Human Resources Code, as amended, is amended by adding Section 61.0761 to read as follows:

Sec. 61.0761. FAMILY PROGRAMS. The commission shall develop programs that encourage family involvement in the rehabilitation of the child.

SECTION 36. Section 61.077, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.077. ~~MENTALLY ILL OR,~~ RETARDED~~[-OR EPILEPTIC]~~ CHILD. If the commission determines that a ~~[delinquent]~~ child committed to it is mentally ill or retarded ~~[or is an epileptic]~~, the commission, without delay, shall return the child to the court of original jurisdiction for appropriate disposition or shall request that the court in the county where the child ~~[training school]~~ is located take any action required by the condition of the child.

SECTION 37. (a) Subchapter E, Chapter 61, Human Resources Code, as amended, is amended by adding Section 61.0771 to read as follows:

Sec. 61.0771. TREATMENT OF MENTALLY ILL OR RETARDED CHILD. The commission and the Texas Department of Mental Health and Mental Retardation shall develop and mutually agree to a memorandum of understanding to clearly define the roles of the commission and the department in providing services to mentally ill or retarded children committed to the commission. The memorandum must provide clear procedures for serving the children and a means of sharing expertise and training opportunities. The commission and the department shall adopt rules to implement the memorandum and shall update the memorandum and rules annually.

(b) The initial memorandum of understanding required by Section 61.0771, Human Resources Code, as added by this section, shall be developed and the rules to implement the memorandum shall be adopted on or before December 31, 1987. The initial memorandum of understanding must address:

- (1) specific disorders or diagnoses that are appropriate for referral of a child committed to the Texas Youth Commission to a court under Section 61.077, Human Resources Code, as amended, because of mental illness;
- (2) improvement of communication between the Texas Youth Commission and the Texas Department of Mental Health and Mental Retardation when a child committed to the commission is being evaluated and treated by the department;
- (3) a means of providing information to the commission regarding the department's recommendations for the ongoing treatment of a child it is returning to the commission;
- (4) a means for both agencies to share information on existing training modules or planned staff development programs concerning emotionally disturbed children;
- (5) a means for the department staff to share information with the commission regarding the development of special services for mildly retarded children committed to the commission;
- (6) identification of mental retardation services available in the community that could provide assistance to certain children committed to the commission; and
- (7) a means for the commission staff to participate in any relevant training or staff development regarding mental retardation that is provided through the department.

SECTION 38. Section 61.078, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.078. NOTICE OF PENDING DISCHARGE. As soon as practicable after the commission makes a decision to discharge a child or authorize *the child's* ~~[his]~~ absence from its custody, the commission shall give notice of its decision to the juvenile court and the office of the prosecuting attorney of the county in which the *adjudication that the child engaged in delinquent conduct was made* ~~[child was adjudicated a delinquent child]~~.

SECTION 39. Subsection (a), Section 61.081, Human Resources Code, as amended, is amended to read as follows:

(a) The commission may release under supervision any ~~[delinquent]~~ child in its custody and place the child in his or her home or in any situation or family approved by the

commission. *Prior to placing a child in his or her home, the commission shall evaluate the home setting to determine the level of supervision and quality of care that is available in the home.*

SECTION 40. Subsection (e), Section 61.081, Human Resources Code, as amended, is amended to read as follows:

(e) Not later than 10 days before the day the commission releases a [delinquent] child under this section, the commission shall give notice of the release to the juvenile court and the office of the prosecuting attorney of the county in which the *adjudication that the child engaged in delinquent conduct was made* [child was adjudicated a delinquent child].

SECTION 41. Section 61.081, Human Resources Code, as amended, is amended by adding Subsection (f) to read as follows:

(f) *If the commission finds that a child has violated an order under which the child is released under supervision, on notice by any reasonable method to all persons affected, the commission may order the child:*

- (1) *to return to an institution;*
- (2) *if the violation resulted in property damage or personal injury:*
 - (A) *to make full or partial restitution to the victim of the offense; or*
 - (B) *if the child is financially unable to make full or partial restitution, to perform services for a charitable or educational institution; or*
- (3) *to comply with any other conditions the commission considers appropriate.*

SECTION 42. (a) Subchapter F, Chapter 61, Human Resources Code, as amended, is amended by adding Section 61.0811 to read as follows:

Sec. 61.0811. PAROLE MANAGEMENT. The commission shall develop a management system for parole services that objectively measures and provides for:

- (1) *the systematic examination of children's needs and the development of treatment plans to address those needs;*
- (2) *the evaluation of children's homes as constructive parole placements;*
- (3) *the classification of children based on the level of children's needs and the degree of risk presented to the public;*
- (4) *the objective measurement of parole officer workloads; and*
- (5) *the gathering and analysis of information related to the effectiveness of parole services and to future parole requirements.*

(b) The Texas Youth Commission shall implement, as required by Section 61.0811, Human Resources Code, as added by this section, the parole services management system in one parole district not later than December 31, 1987, as a pilot program. The commission shall implement the system statewide not later than December 31, 1989. This section expires December 31, 1990.

SECTION 43. Section 61.082, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.082. TRANSPORTATION, CLOTHING, MONEY. [(a)] The commission shall ensure that each [delinquent] child it releases under supervision has suitable clothing, transportation to his or her home or to the county in which a suitable home or employment has been found, and money in an amount authorized by the rules of the commission.

~~[(b) The expenditure for clothing and transportation and the payment of money may be made from funds for support and maintenance appropriated to the commission or to the institution from which the child is released, from local funds, or from any legislative appropriation specifically made for these purposes.]~~

SECTION 44. Subsections (a) and (b), Section 61.083, Human Resources Code, as amended, are amended to read as follows:

(a) The commission may make a contract with a county to use the services of the county's juvenile probation department for the supervision of [delinquent] children within the county who are on furlough from a commission facility or who are released under supervision from a commission facility.

(b) ~~[The commission shall pay the county \$3 a day for each child subject to a contract authorized by Subsection (a) of this section. However, the maximum payment for each child in the county for more than 20 days is \$60 a month.]~~ The payments shall be made to the county treasurer on a quarterly schedule.

SECTION 45. Section 61.092, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.092. NO FORFEITURE OF CIVIL RIGHTS. Commitment of a [delinquent] child to the custody of the commission does not disqualify the child in any future examination, appointment, or application for public service under the government of the state or of any political subdivision of the state.

SECTION 46. Section 61.093, Human Resources Code, as amended, is amended to read as follows:

Sec. 61.093. ESCAPE AND APPREHENSION. (a) *If a [A delinquent] child who has been committed to the commission and placed by it in any institution or facility [and who] has escaped or has been released under supervision and broken the conditions of release:*

(1) ~~[, may be arrested without a warrant by]~~ a sheriff, deputy sheriff, constable, or police officer *may, without a warrant, arrest the child; or*

(2) *a parole officer or other commission employee designated by the executive director may, without a warrant or other order, take the child into the custody of the commission.*

(b) *A child who is arrested or taken into custody under Subsection (a) of this section may be detained in any suitable place [parole officer employed or designated by the commission, and may be kept in custody in a suitable place and detained] until the child is returned to the custody of the commission or transported to a commission facility.*

SECTION 47. Section 104.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 104.001. STATE LIABILITY; PERSONS COVERED. In a cause of action based on conduct described in Section 104.002, the state is liable for actual damages, court costs, and attorney's fees adjudged against:

(1) an employee, a member of the governing board, or any other officer of a state agency, institution, or department;

(2) a former employee, former member of the governing board, or any other former officer of a state agency, institution, or department who was an employee or officer when the act or omission on which the damages are based occurred;

(3) a physician licensed in this state who was performing services under a contract with the Disability Determination Division of the Texas Rehabilitation Commission, ~~[or]~~ the Texas Department of Mental Health and Mental Retardation, *or the Texas Youth Commission* when the act or omission on which the damages are based occurred;

(4) a person serving on the governing board of a foundation, corporation, or association at the request and on behalf of The University of Texas System; or

(5) the estate of a person listed in this section.

SECTION 48. Subsection (a), Section 51.03, Family Code, as amended, is amended to read as follows:

(a) Delinquent conduct is conduct, other than a traffic offense, that violates:

(1) a penal law of this state punishable by imprisonment or by confinement in jail; or

(2) a reasonable and lawful order of a juvenile court entered under Section 54.04 or 54.05 of this code, *except [including] an order prohibiting the following conduct:*

(A) a violation of the penal laws of this state of the grade of misdemeanor that is punishable by fine only or a violation of the penal ordinances of any political subdivision of this state;

(B) the unexcused voluntary absence of a child from school; or

(C) the voluntary absence of a child from his home without the consent of his parent or guardian for a substantial length of time or without intent to return [~~referred to in Subsection (b)(4) of this section~~].

SECTION 49. (a) The Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 11-D to read as follows:

Sec. 11-D. COMMUNITIES IN SCHOOLS COORDINATOR. (a) The administrator of the Texas Employment Commission shall appoint a person as state coordinator for the program established in communities by Communities in Schools to coordinate the efforts of social service organizations and agencies and of public school personnel to provide services to students who are at risk of dropping out of school or of engaging in delinquent conduct.

(b) The state coordinator shall:

- (1) set standards for the program;*
- (2) obtain data from each participating school district to determine program changes that are needed;*
- (3) promote and market the program in communities in which the program is not established;*
- (4) help communities that want to participate in the program establish a local funding base; and*
- (5) train a program director for each participating community.*

(c) The intent of the legislature is for the Central Education Agency and the Texas Employment Commission to work together to maximize the effectiveness of the Communities in Schools program. To ensure this occurs, the agency and the commission shall develop and mutually agree to a memorandum of understanding to clearly define the responsibilities of each agency under this section. The memorandum shall address:

- (1) the role of the Texas Employment Commission in encouraging local businesses to participate in local Communities in Schools programs;*
- (2) the role of the Central Education Agency in obtaining information from participating school districts;*
- (3) the use of federal or state funds available to the agency or the commission for programs of this nature; and*
- (4) other areas identified by the agency and the commission that require clarification.*

(d) The agency and the commission shall adopt rules to implement the memorandum and shall update the memorandum and rules annually.

(b) The initial memorandum of understanding required by Section 11-D, the Texas Unemployment Compensation Act, as added by this section, shall be developed and the rules to implement the memorandum shall be adopted on or before December 31, 1987.

SECTION 50. Section 1.01, Texas Alcohol and Drug Abuse Services Act (Article 5561c-2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1.01. PURPOSE. The purpose of this Act is to prevent broken homes and the loss of lives by creating the Texas Commission on Alcohol and Drug Abuse. The commission shall cooperate with all interested and affected federal, state, and local agencies and develop and coordinate prevention, intervention, treatment, and rehabilitation programs. *The commission shall expand drug, inhalant, and alcohol abuse services for children when funds are available because of the long-term benefits of the services to the state and its citizens.* Alcohol and drug abuse are recognized as

preventable and treatable illnesses and public health problems affecting the general welfare and the economy of the state. The need for proper and sufficient facilities, programs, and procedures for prevention, intervention, treatment, and rehabilitation is recognized. It is the policy of this state that an alcohol or drug abuser shall be offered a continuum of services that will enable the person to lead a normal life as a productive member of society.

SECTION 51. Chapter 881, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 5561g, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. *The* [~~Upon the effective date of this Act the~~] Texas Department of Mental Health and Mental Retardation *has* [~~and the Texas Youth Commission shall have~~] the power, authority, and duty to design, construct, equip, furnish, and maintain buildings and improvements [~~heretofore or hereafter~~] authorized by law at facilities under *its jurisdiction* [~~their respective jurisdictions~~]. *The department* [~~These state agencies~~] may employ architects or engineers, or both, to prepare plans and specifications and to supervise such construction and improvements and shall promulgate rules and regulations in conformity with this Act and applicable provisions of other law relating to the award of contracts for the construction of buildings and improvements. Such rules and regulations shall provide for the award of contracts for the construction of buildings and improvements to the qualified bidder making the lowest and best bid. No construction contract shall be awarded for a sum in excess of the amount of funds available for such project and the successful bidder shall be required to give bond payable to the State of Texas equal to the amount of his bid conditioned upon the faithful performance of the contract. The department [~~and commission~~] shall have the right to reject any and all bids submitted.

Sec. 2. *The department* [~~state agencies to which this Act applies~~] may waive, suspend, or modify any provision of this Act which might be in conflict with any federal statute or any rule, regulation, or administrative procedure of any federal agency where such waiver, suspension, or modification shall be essential to the receipt of federal funds for any project. In the case of any project wholly financed from federal funds, any standards required by the enabling federal statute or required by the rules and regulations of the administering federal agency shall be controlling.

Sec. 3. *The* [~~From the effective date of this Act until September 1, 1969, the State Building Commission shall provide under interagency contracts with the department and the commission, professional, technical and clerical employee services to the department and the commission necessary to enable the department and the commission to carry out the functions required of each of them by this Act. Reimbursement to the State Building Commission for costs incurred in rendering these services may be paid by the Department of Mental Health and Mental Retardation out of funds appropriated to it for construction purposes and by the Texas Youth Commission out of funds appropriated to it for construction purposes. On or before the first working day of the fiscal year beginning September 1, 1969, all files, records, documents, equipment, furnishings, and personal property which was transferred to the State Building Commission by the Texas Department of Mental Health and Mental Retardation pursuant to Subsection (G), Section 5, Chapter 455, Acts of the 59th Legislature, Regular Session, 1965 (Article 678f, Vernon's Texas Civil Statutes), shall be returned to the department. All files, records, and documents dealing with facilities of the Texas Youth Commission shall on or before that date be transferred to the Texas Youth Commission. Effective September 1, 1969, the] department [~~and the commission~~] shall, subject to the provisions of the General Appropriations Act and such other general laws as may apply, employ professional, technical, and clerical personnel to carry out the design and construction functions required by this Act. [~~In selecting such personnel the department and the commission shall give first preference to persons employed at that time by the State Building Commission who are assigned and working on projects at facilities of the department and the commission respectively.~~]~~

SECTION 52. (a) Sections 61.018, 61.047, 61.061, and 61.062, and Subsection (c) of Section 61.035, Human Resources Code, as amended, are repealed.

(b) Until the child's 21st birthday, the Texas Youth Commission may offer care, treatment, education, and training, if needed, to a child who was:

(1) accepted for admission at the Corsicana State Home, the West Texas Children's Home at Pyote, or the Waco State Home under Section 61.061, Human Resources Code, as amended, before the effective date of this Act;

(2) the subject of a suit affecting the parent-child relationship under Subtitle A, Title 2, Family Code, at the time of admission; and

(3) placed in the commission's managing or possessory conservatorship.

SECTION 53. This Act takes effect September 1, 1987.

SECTION 54. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 2, 1987, by a viva-voce vote; May 20, 1987, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 1987, Senate adopted Conference Committee Report by a viva-voce vote. Passed the House, with amendments, on May 18, 1987, by a non-record vote; May 27, 1987, House adopted Conference Committee Report by a non-record vote.

Approved June 20, 1987.

Effective Sept. 1, 1987.