

SUBJECT: Continuing the Department of Assistive and Rehabilitative Services

COMMITTEE: Human Services — committee substitute recommended

VOTE: 6 ayes — Raymond, S. King, Keough, Peña, Price, Spitzer

2 nays — Rose, Naishtat

1 absent — Klick

WITNESSES: For — Amy Kantoff, Texas Association of Centers for Independent Living; (*Registered, but did not testify*: John Kroll, HEART Program; Deanna L. Kuykendall, Texas Brain Injury Providers' Alliance)

Against — Edgenie Bellah, Amanda Huston, Kim Huston, and Nancy Toelle, Alliance of and for Visually Impaired Texans (AVIT); Paul Hunt, American Council of the Blind of Texas; Jacqueline Izaguirre, DBMAT; Sheryl Hunt; Patsy Izaguirre; (*Registered, but did not testify*: Cyral Miller, AVIT; Debra Leff)

On — Dennis Borel, Coalition of Texans with Disabilities; Veronda L. Durden, Department of Assistive and Rehabilitative Services; Steven Aleman, Disability Rights Texas; Karen Latta and Ginny Mckay, Sunset Advisory Commission; Erin Lawler, Texas Council of Community Centers; Sandra Bitter, Texas State Independent Living Council; Larry Temple, Texas Workforce Commission; Linda Litzinger; (*Registered, but did not testify*: Adam Graves, AVIT; Scott Bowman, Cheryl Fuller, and Rebecca Trevino, Department of Assistive and Rehabilitative Services; Chris Traylor, Health and Human Services Commission; Faye Rencher, Sunset Advisory Commission)

BACKGROUND: The Department of Assistive and Rehabilitative Services (DARS) was formed in 2003 when the 78th Legislature consolidated four agencies: the Texas Rehabilitation Commission, Texas Commission for the Blind, Interagency Council on Early Childhood Intervention, and Texas Commission for the Deaf and Hard of Hearing. This is the first time

DARS has undergone Sunset review. If not reauthorized in statute, the agency's authority would expire on September 1, 2015.

Agency function. DARS administers programs that help Texans with disabilities and delays in development to meet educational goals, find jobs, and live independently in their communities. The agency administers its programs through four divisions: rehabilitation services, blind services, early childhood intervention services, and Social Security disability determination services. In addition to the programs in these divisions, the agency administers the Children's Autism Program and provides services to people who are deaf or hard of hearing.

Governing structure. The executive commissioner of the Health and Human Services Commission appoints the commissioner of DARS. The commissioner and the Department of Assistive and Rehabilitative Services Council help to develop rules and policies for the agency. The governor appoints the nine members of the council with the consent of the Texas Senate.

Three federally required advisory bodies also advise the commissioner: the Rehabilitation Council of Texas, Early Childhood Intervention Advisory Committee, and Elected Committee of Managers for the Business Enterprises of Texas. In addition, the Board for Evaluation of Interpreters advises the agency's Office of Deaf and Hard of Hearing Services on the interpreter certification program and is responsible for testing and certifying the skill level of individuals seeking to become certified American Sign Language interpreters in Texas.

Staffing. In fiscal 2013, the department employed a staff of 2,893, the majority of whom work throughout the state in 25 blind services offices and 119 general disability services offices. The remainder of the agency's employees work in the agency's disability determination services offices, at the Criss Cole Rehabilitation Center, and at the agency's headquarters.

Funding. The 83rd Legislature appropriated \$1.3 billion to the agency for fiscal 2014-15, including \$255.1 million in general revenue and general

revenue dedicated funds, \$969.7 million in federal funds, and \$39.4 million in other funds. According to the Sunset Advisory Commission, the 83rd Legislature increased the agency's appropriations by 7 percent, mainly to maintain service levels and fund caseload growth in the Early Childhood Intervention Program. Increased funding also helped to expand and improve services in the Autism, Deaf and Hard of Hearing, and Comprehensive Rehabilitation Services Programs.

DIGEST: CSHB 2463 would continue the Department of Assistive and Rehabilitative Services (DARS) until September 1, 2027, only if HB 2304, SB 200, or similar legislation were not enacted by the 84th Legislature and did not transfer the functions of the agency to the Health and Human Services Commission (HHSC). Otherwise, the agency would expire as scheduled in statute on September 1, 2015.

The agency also would have to implement certain changes. The bill would require that DARS:

- combine two independent living programs into one program;
- ensure that independent living services are provided directly by federally defined centers for independent living, rather than the agency;
- develop rules for monitoring, contracting, and providing independent living services;
- set guidelines for DARS caseworkers providing direct services; and
- create a uniform case review system for the agency's direct services programs.

The bill also would establish in statute two existing DARS programs, the Children's Autism Program and the Comprehensive Rehabilitation Services Program.

Independent living services

The bill would require that by September 1, 2016, DARS combine the Independent Living Program for people who are blind or visually

impaired with the Independent Living Services Program for individuals with significant disabilities. The department would cease to directly provide independent living services under the combined program by August 31, 2016, and instead would contract for services with federally defined centers for independent living (CILs). These centers are consumer-controlled, community-based, cross-disability, non-residential, private nonprofit agencies that are designed and operated within a local community by individuals with disabilities and that provide an array of independent living services.

Oversight of independent living services. The bill would require DARS to monitor the performance of each center for independent living and to monitor how each center monitors its subcontractors. DARS would be required to evaluate the independent living services provided by a center for independent living and to provide necessary training or technical assistance to help the CIL expand its capacity to provide a full range of independent living services.

Guidelines for providing independent living services. The bill also would establish guidelines for providing independent living services to areas of the state without a center for independent living. If an area of the state did not have a CIL or a CIL was not able to provide certain necessary services under the combined independent living services program, the bill would require DARS to identify a CIL that could contract with another nonprofit or other person to provide independent living services. If DARS could not find a CIL to contract with another person or nonprofit to provide the independent living services, the bill would allow DARS to contract directly with another entity to provide services under the combined program.

Rule adoption. The executive commissioner of the HHSC would have to adopt rules facilitating the integration of the independent living programs and directing the agency to comply with federal requirements for the integrated program. The bill also would require the executive commissioner to adopt rules providing:

- an equitable and transparent methodology for allocating funds to centers for independent living under the combined independent living services program;
- requirements for the agency's contracts with CILs and other entities;
- requirements for CILs' contracts with other entities;
- a process for DARS to monitor independent living services contracts;
- guidelines for how DARS would provide technical assistance and training to CILs; and
- expectations for DARS employees to refer people seeking independent living services to CILs.

The bill would require the HHSC executive commissioner's rules to be adopted as soon as practicable after September 1, 2015.

Direct services programs

Guidelines for direct services caseworkers. The bill would require DARS to use program data and best practices to set guidelines providing direction for caseworkers' decisions in all of the agency's direct services programs. These guidelines would be provided to caseworkers in an easily accessible format and would have to:

- categorize cases based on the types of services provided and include the recommended length of time a case should last and the recommended total expenditures for a case in each category;
- include provisions for creating intermediate goals for a client that would allow the caseworker and the caseworker's supervisor to monitor the client's progress; and
- include criteria for caseworkers to evaluate progress on their clients' intermediate goals.

DARS could add additional caseworker guidelines, and caseworkers could exceed the recommended guidelines if necessary. The bill would specify that the guidelines were not intended to limit the provision of appropriate

or necessary services to a client.

Case review system. The bill would require DARS to create a single, uniform case review system for all direct services programs. The new case review system would have to include risk-assessment tools and would require that the new system be used for the following purposes:

- to consistently evaluate each direct services program across all regions, with the goal of evaluating at least 10 percent of all cases in each program and region each year;
- to focus on areas of highest risk and prioritize certain cases to review;
- to evaluate a caseworker's eligibility determinations and their decisions to close cases before a service plan has been developed or before the client has reached their goal; and
- to focus on the quality of a caseworker's decision making and compliance with program requirements.

The bill would require a caseworker's supervisor to use reviews of a caseworker's cases when conducting the caseworker's performance evaluation and for guidance in improving a caseworker's performance.

Monitoring of direct services programs. The bill would require staff members that do not provide direct services to monitor direct services programs from a statewide perspective. These staff members would collect, monitor, and analyze performance data and case review data regarding direct services programs and would report outcomes and trends to program managers and, as necessary, executive staff. Monitoring staff would work with direct services staff to develop objective and detailed outcome measures for the direct services programs.

CSHB 2463 also would allow DARS to conduct internal peer reviews of the department's field offices at regular intervals to assess their compliance with federal regulations and department policies and to compare their compliance with that of other offices.

Autism and comprehensive rehabilitation services

The bill would establish in statute two existing DARS programs, the Children's Autism Program and the Comprehensive Rehabilitation Services Program. The bill would require the HHSC executive commissioner to adopt rules for each program that provide:

- a system of organization for the delivery of services;
- eligibility requirements;
- the types of services the program may provide; and
- requirements for cost sharing by a client or client's family.

CSHB 2463 also would direct a state agency needing a waiver or authorization from a federal agency to implement a provision of the bill to request that waiver or authorization. The affected state agency could delay implementation of affected provisions in the bill until the agency received the waiver or authority.

The bill would take effect September 1, 2015.

SUPPORTERS SAY:

CSHB 2463 would increase access to independent living services for those who need it, reduce unnecessary duplication of services, improve case and program oversight, and recognize in statute that autism services and comprehensive rehabilitation services are vital programs.

Transferring provision of all direct independent living services from DARS to centers for independent living (CILs) would increase access to independent living services across the state. DARS currently has heavy caseloads and waitlists for its independent living services, which supplement services provided by CILs. As a result, the agency struggles to provide services statewide. By contrast CILs have an extensive statewide network and specialized staff and already provide many of the same services as the agency, including home visits. Outsourcing independent living services to CILs and establishing that DARS' role would be to monitor the funding and performance of the services would ensure that services had better oversight and that consumers were better able to access

services at the local level. Savings from the bill would help to expand the current array of services offered by CILs to meet the needs of all Texans with disabilities. The bill also would direct DARS to provide technical assistance, additional resources, and training to CILs' staff to ensure that CILs offer the same robust services as DARS and to smoothly transition provision of direct services from the agency to the centers.

In addition, the bill would reduce duplication of services by combining two independent living programs into one. The Independent Living Program for individuals who are blind or have visual impairments would be integrated with the Independent Living Services Program for individuals with significant disabilities. Many of the services delivered by each program are similar and instead could be provided directly by CILs, as the bill would stipulate. Furthermore, CSHB 2463 would require DARS caseworkers to refer people seeking independent living services to CILs, which would ensure that individuals seeking services could find them.

The bill would increase case oversight of its direct services program to control spending and ensure effective delivery of services. By creating clear guidelines for case management, caseworkers would be better able to make good decisions that lead to successful, cost-effective outcomes. Moreover, CSHB 2463 would improve the agency's ability to monitor direct services programs by instructing staff that do not provide direct services to analyze performance data and case review data for all of the direct services programs. These data could be used to track the agency's progress on addressing its priorities, provide clear feedback to staff, and hold staff accountable for meeting goals.

The bill also appropriately would codify the agency's autism and comprehensive rehabilitation programs, each of which has been effective, cost-efficient, and successful. Establishing the programs in statute and keeping the Children's Autism Program at a health agency such as DARS would be important in recognizing autism as a clinically diagnosed disorder and in retaining sec. 1115 waiver funds if needed. Identifying these key services in statute and allowing DARS to continue

administering them would provide maximum value to Texas.

The short transition period in the bill would minimize disruption of services to individuals with disabilities while providing enough time for CILs to expand their array of services, including those services previously delivered by the division of blind services at DARS. Many states provide independent living services through CILs rather than through a state agency, so providing services through CILs would not be unusual. The bill would not restrict services but instead would expand access to independent living services across the state. The bill is necessary regardless of its cost.

Amending the State Plan for Independent Living does not require legislative action and is therefore not included in this bill.

The transition of vocational rehabilitation services to the Texas Workforce Commission is out of the scope of this bill and would be addressed by other Sunset bills.

OPPONENTS
SAY:

CSHB 2463 would reduce access to independent living services, unnecessarily split up services for individuals who are blind or visually impaired, and make it harder for individuals with disabilities to find information about services provided by the state. Services for the blind and visually impaired should not be combined with other independent living services and should remain at DARS.

Combining the two independent living programs and outsourcing them to CILs would not provide the same level of exceptional services as is currently available at DARS. The bill also would not ensure that existing DARS caseworkers who have the necessary skills would transfer to the CILs under the new model. CILs do not have the same robust services or specialized staff as DARS, particularly for individuals who are blind or visually impaired. The low incidence of blindness in the population makes it very difficult to train staff at CILs all over the state to provide the level of specialized services that are needed to meet the unique needs of each individual. Individuals who are blind have different service needs and require differentiated attention to the specific way they learn. Services for

individuals who are blind or deaf also are very different from services for individuals with an intellectual disability and require a specialized approach.

Traveling to a new center is difficult and frightening for older people who are blind or visually impaired, and the bill would not mandate that CILs provide services directly in an individual's home, as DARS currently does. Separating services amongst DARS, CILs, and other agencies would make it difficult for individuals who are blind, deaf, or have both disabilities to learn about and access services at each agency.

The Texas State Plan for Independent Living also would need to be amended to reflect the transfer of all direct independent living services to CILs and the future transfer of duties from DARS to HHSC and the Texas Workforce Commission (TWC), which would take place if the other Sunset bills regarding DARS were enacted.

The savings in the bill – \$70,177 – would be very low compared to how much the bill would disrupt services for individuals who are blind or visually impaired.

OTHER
OPPONENTS
SAY:

CSHB 2463 should move all blind services to the same agency if the goal of the Sunset Advisory Commission is consolidation. These services could be transferred to the TWC, instead of sending some services to CILs, some services to HHSC, and some services to the TWC, which would happen if all Sunset recommendations were enacted.

Splitting services across two or three agencies would make it harder for people who are blind or visually impaired to travel to and access services. All blind services should stay together at one agency so that blind services staff easily could collaborate, because collaboration is key to successful service provision. Keeping services at one agency also would ensure that families with young children and seniors easily could find information about available services provided by the state.

NOTES:

According to the LBB's fiscal note, CSHB 2463 would have a positive net

impact of \$70,177 in general revenue funds through fiscal 2017 associated with a reduction at DARS of 24 caseworkers.

Unlike the introduced bill, the committee substitute includes a provision that would continue DARS in statute until September 1, 2027, if HB 2304, SB 200, or similar legislation were not enacted by the 84th Legislature and did not transfer the functions of the agency to the HHSC.