

## **BILL ANALYSIS**

Senate Research Center  
76R15336 DLF-D

C.S.H.B. 2641  
By: Gray (Brown)  
Human Services  
5/11/1999  
Committee Report (Substituted)

### **DIGEST**

In 1991, the 72nd Legislature created the Health and Human Services Commission (HHSC) to coordinate the delivery of health and human services in this state. Today, 14 state agencies, with an appropriation of approximately \$26 billion for the 1998-1999 biennium, are responsible for delivering these services. HHSC is subject to the Texas Sunset Act and will be abolished on September 1, 1999, unless continued by the legislature. C.S.H.B. 2641 would continue HHSC until September 1, 2007, and would increase HHSC's operational control over health and human services.

### **PURPOSE**

As proposed, C.S.H.B. 2641 sets forth the continuation and functions of the Health and Human Services Commission.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Commissioner of Health and Human Services in SECTION 2.01 (Section 531.0055(j), Government Code); board or commission policymaking body in SECTION 2.01 (Section 531.0055(l), Government Code); and to the Health and Human Services Commission in SECTIONS 3.06, and 3.13 (Section 531.034(d), Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### **ARTICLE 1. GENERAL POWERS AND DUTIES OF HEALTH AND HUMAN SERVICES COMMISSION**

SECTION 1.01. Amends Section 531.004, Government Code, to continue the Health and Human Services Commission (HHSC) until September 1, 2007, rather than 1999.

SECTION 1.02. Amends Section 531.009, Government Code, to require the commissioner of health and human services (commissioner) to employ a medical director to provide medical expertise to the commissioner and HHSC and to employ other personnel necessary to administer HHSC duties. Requires the commissioner or the commissioner's designated representative to prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. Sets forth requirements for the policy statement. Requires the policy statement described by Subsection (e) to be updated annually, be reviewed by the state Commission on Human Rights for compliance with Subsection (f)(1), and be filed with the governor's office. Deletes text regarding procedures and reasonable methods in the commission. Makes conforming changes.

SECTION 1.03. Amends Section 531.011, Government Code, by adding Subsection (g), to set forth standard language developed by the Sunset Advisory Commission regarding complaint information.

SECTION 1.04. Amends Chapter 531A, Government Code, by adding Section 531.014, as follows:

Sec. 531.014. CONSOLIDATION OF REPORTS. Authorizes HHSC to consolidate any annual or biennial reports required to be made under this chapter or another law if certain conditions exist.

#### **ARTICLE 2. RELATIONSHIP WITH HEALTH AND HUMAN SERVICES AGENCIES**

SECTION 2.01. Amends Chapter 531A, Government Code, by adding Sections 531.0055, 531.0056, and 531.0057, as follows:

Sec. 531.0055. COMMISSIONER: RESPONSIBILITY RELATING TO CERTAIN FUNCTIONS OF HEALTH AND HUMAN SERVICES AGENCIES. (a) Defines “agency director” and “policymaking body.”

(b) Sets forth requirements for HHSC.

(c) Requires HHSC to implement the powers and duties given to HHSC under Sections 531.0246, 531.0247, 2155.144, as added by Chapter 1045, Acts of the 75th Legislature, Regular Session, 1997, and 2167.004, after implementation of HHSC duties under Subsection (b).

(d) Requires HHSC to implement the powers and duties given to HHSC under Section 531.0248, after implementation of HHSC duties under Subsections (b) and (c). Provides that nothing in the priorities established by this section is intended to limit the authority of HHSC to work simultaneously to achieve the multiple tasks assigned to HHSC in this section, when such an approach is beneficial in the judgment of HHSC. Requires HHSC to plan and implement an efficient and effective system of administrative support services for health and human services agencies. Defines “administrative support services.”

(e) Requires the commissioner, as necessary to perform the functions described by Subsections (b), (c), and (d) in implementation of the policies established by each agency’s policymaking body, to manage and direct the operation of each health and human services agency, and supervise and direct the activities of each agency director.

(f) Sets forth the operational authority of the commissioner.

(g) Provides that the operational authority of the commissioner for purposes of Subsection (e) at each health and human services agency includes the authority to adopt or approve, subject to applicable limitations, any rate of payment or similar provision required by law to be adopted or approved by the agency, notwithstanding any other law.

(h) Requires the commissioner to implement a program to evaluate and supervise the daily operations of the agency, for each health and human services agency. Requires the program to include measurable performance objectives for each agency director and adequate reporting requirements to permit the commissioner to perform the duties assigned to the commissioner under this section, for each health and human services agency.

(i) Authorizes the commissioner to delegate a specific power or duty given under Subsection (f) or (g) to an agency director, to facilitate the operations of a health and human services agency in accordance with this section.

(j) Authorizes the commissioner to adopt rules to implement the commissioner’s authority under this section.

(k) Requires the commissioner and each agency director to enter into a memorandum of understanding that clearly defines the responsibilities of the agency director and the commissioner, establishes the program of evaluation and supervision of daily operations required by Subsection (h), and describes each delegation of power or duty made under Subsection (i).

(l) Provides that a policymaking body has the authority provided by law to adopt policies and rules governing the delivery of services to persons who are served by the agency and the rights and duties of persons who are served or regulated by the agency, notwithstanding any other provision of this section. Requires the commissioner and each policymaking body to enter into a memorandum of understanding that clearly defines the policymaking authority of the policymaking body, and the operational authority of the commissioner.

Sec. 531.0056. EMPLOYMENT OF AGENCY DIRECTOR. Provides that this section applies only to an agency director employed by the commissioner. Authorizes an agency director employed by the commissioner to be employed only with the concurrence of the agency’s

policymaking body and the approval of the governor. Requires the commissioner to obtain the services of an agency director through a personal services contract and to establish terms and conditions of employment in the contract, notwithstanding any other provision of law. Provides that contracts entered into under this subsection expire on January 1, of each even-numbered year. Provides that an agency director employed by the commissioner serves at the pleasure of the commissioner but may be discharged only with the concurrence of the agency's policymaking body and only in accordance with the contract. Requires the commissioner to employ or reemploy an agency director in accordance with Subsection (b), on expiration of the contract. Requires the commissioner to employ the agency director on a timely basis in a manner that ensures that the services of the agency director are expediently obtained.

Sec. 531.0057. **AUTHORITY OVER RULEMAKING AT HEALTH AND HUMAN SERVICES AGENCY.** Requires a health and human services agency to notify the commissioner before proposing a rule, notwithstanding any other law. Provides that a rule adopted in violation of this section is void. Authorizes the commissioner to waive the requirement of this section as necessary to permit emergency rulemaking in accordance with Section 2001.034.

SECTION 2.02. Amends Sections 21.004, Human Resources Code, to provide that the commissioner of human services (human services commissioner) exercises all rights, powers, and duties imposed or conferred by law on the Texas Department of Human Services (DHS) unless the right, power, or duty is specifically delegated by the commissioner, rather than the Texas Board of Human Services (TBHS), to DHS's agents or employees. Provides that the human services commissioner is employed by the commissioner in accordance with Section 531.0056, Government Code. Requires a person to meet certain requirements to be eligible for employment as commissioner. Deletes text regarding the human services commissioner serving at the pleasure of the commissioner and the board.

SECTION 2.03. Amends Chapter 22, Human Resources Code, by adding Section 22.0001, as follows:

Sec. 22.0001. **POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES.** Provides that the commissioner has the powers and duties relating to TBHS and the human services commissioner as provided by Section 531.0055, Government Code. Provides that to the extent a power or duty given to TBHS or the human services commissioner by this title or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.04. Amends Section 40.027, Human Resources Code, to make conforming changes. Deletes text regarding the board.

SECTION 2.05. Amends Chapter 40C, Human Resources Code, by adding Section 40.0505, as follows:

Sec. 40.0505. **POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES.** Provides that the commissioner has the powers and duties relating to TBHS and the executive director as provided by Section 531.0055, Government Code. Provides that to the extent a power or duty given to TBHS or the executive director by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.06. Amends Chapter 73, Human Resources Code, by adding Section 73.0045,

Sec. 73.0045. **POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES.** Provides that the commissioner has the powers and duties relating to TBHS and the executive director as provided by Section 531.0055, Government Code. Provides that to the extent a power or duty given to TBHS or the executive director by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls. .

SECTION 2.07. Amends Sections 73.0052(b) and (c), Human Resources Code, to make conforming changes.

SECTION 2.08. Amends Chapter 81, Human Resources Code, by adding Section 81.0055, to make conforming changes.

SECTION 2.09. Amends Sections 81.008(a) and (b), Human Resources Code, to make conforming changes. Deletes text regarding the commission.

SECTION 2.10. Amends Sections 91.012(a), (b), and (d), Human Resources Code, to make conforming changes. Deletes text regarding commission.

SECTION 2.11. Amends Chapter 91C, Human Resources Code, by adding Section 91.0205, to make conforming changes.

SECTION 2.12. Amends Section 101.004(a), Human Resources Code, to make conforming changes. Deletes text regarding the board.

SECTION 2.13. Amends Chapter 101B, Human Resources Code, to make conforming changes.

SECTION 2.14. Amends Section 111.017, Human Resources Code, to make conforming changes. Deletes text regarding the board.

SECTION 2.15. Amends Chapter 111C, Human Resources Code, by adding Section 111.0505, to make conforming changes.

SECTION 2.16. Amends Chapter 141C, Human Resources Code, by adding Section 141.0405, to make conforming changes.

SECTION 2.17. Amends Sections 11.012(a), (b), (c), and (d), Health and Safety Code, to make conforming changes. Deletes text regarding the board.

SECTION 2.18. Amends Chapter 12A, Health and Safety Code, by adding Section 12.0001, to make conforming changes.

SECTION 2.19. Amends Section 461.011(a), Health and Safety Code, to make conforming changes.

SECTION 2.20. Amends Chapter 461, Health and Safety Code, by adding Section 461.0115, to make conforming changes.

SECTION 2.21. Amends Sections 532.011(a), (b), (d), and (f), Health and Safety Code, to delete text regarding the board. Deletes text subjecting the commissioner to board rules and basic and general policies. Makes conforming changes.

SECTION 2.22. Amends Chapter 533A, Health and Safety Code, by adding Section 533.0001, to make conforming changes.

SECTION 2.23. Defines “agency director.” Makes application of this Act prospective, regarding the term of agency director. Provides that an agency director serving on the effective date of this Act continues to serve in that position until the earlier of the date that certain conditions are met. Provides that the commissioner is authorized to employ the agency director of an agency added to those agencies defined as health and human service agencies, with the concurrence of the appropriate policymaking body. Makes conforming changes.

### ARTICLE 3. SPECIFIC FUNCTIONS OF HEALTH AND HUMAN SERVICES COMMISSION

SECTION 3.01. Amends Section 531.021(b), Government Code, to set forth the requirements of HHSC. Deletes text regarding the commission and the commission adopting rules and standards.

SECTION 3.02. Amends Chapter 531B, Government Code, by adding Sections 531.0246, 531.0247, 531.0248, and 531.0249, as follows:

Sec. 531.0246. REGIONAL MANAGEMENT OF HEALTH AND HUMAN SERVICES AGENCIES. Sets forth requirements for a health and human services agency under HHSC.

Sec. 531.0247. ANNUAL BUSINESS PLAN. Requires HHSC to develop and implement an annual business services plan for each health and human services region that establishes performance objectives for all health and human services agencies providing services in the region and measures agency effectiveness and efficiency in achieving those objectives, subject to Section

531.0055(c).

Sec. 531.0248. COMMUNITY-BASED SUPPORT SYSTEMS. Requires HHSC to assist communities in this state in developing comprehensive, community-based support systems for health and human services, subject to Section 531.0055(d). Requires HHSC to provide resources and assistance to the community to enable the community to identify and overcome institutional barriers to developing more comprehensive community support systems, and develop a system of blended funds to allow the community to customize services to fit individual community needs, at the request of a community. Requires a health and human services agency to provide resources and assistance to a community as necessary to perform HHSC's duties under Subsection (a), at the request of HHSC. Requires a health and human services agency that receives or develops a proposal for a community initiative to submit the initiative to HHSC for review and approval. Requires HHSC to review the initiative to ensure that the initiative is consistent with other similar programs offered in communities and does not duplicate other services provided in the community. Requires HHSC to consider models used in other service delivery systems, including the mental health and mental retardation service delivery system, in implementing this section.

Sec. 531.0249. ADVISORY COMMITTEE FOR LOCAL GOVERNMENTAL ENTITIES. Requires HHSC to appoint an advisory committee composed of representatives of governmental entities identified under Section 531.022(e). Sets forth the requirements of the advisory committee. Prohibits a member of the advisory committee from receiving compensation, but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the committee, as provided by the General Appropriations Act. Provides that the advisory committee is not subject to Chapter 2110.

SECTION 3.03. Amends Sections 531.0271 and 531.0273, Government Code, as follows:

Sec. 531.0271. HEALTH AND HUMAN SERVICES AGENCIES OPERATING BUDGETS. Authorizes HHSC, within the limits established by and subject to the General Appropriations Act, to transfer amounts appropriated to health and human services agencies among the agencies to enhance the receipt of federal money under the federal funds management system established under Section 531.028, achieve efficiencies in the administrative support functions of the agencies, and perform the functions assigned to the commissioner under Section 531.0055. Deletes text regarding the annual operating budget of each health and human services agency.

Sec. 531.0273. New heading: INFORMATION RESOURCES PLANNING AND MANAGEMENT; ADVISORY COMMITTEE. Provides that HHSC is responsible for strategic planning for information resources at each health and human services agency and shall direct the management of information resources at each health and human services agency. Sets forth the requirements of HHSC. Requires HHSC to file the coordinated information resources strategic plan with the governor, the lieutenant governor, and the speaker of the house of representatives, no later than December 15 of each even-numbered year. Requires HHSC to appoint an advisory committee composed of information resources managers for state agencies and for private employers, and the directors, executive directors, and commissioners of health and human services agencies. Sets forth provisions regarding the advisory committee advising HHSC. Prohibits a member of the advisory committee from receiving compensation, but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the committee, as provided by the General Appropriations Act. Provides that the advisory committee is not subject to Chapter 2110. Makes conforming change.

SECTION 3.04. Amends Section 531.028, Government Code, as follows:

Sec. 531.028. New heading: MONITORING AND EFFECTIVE MANAGEMENT OF FUNDS. Requires HHSC, within the limits established by and subject to the General Appropriations Act, to be responsible for planning for, and managing the use of, all federal funds in a manner that maximizes the federal funding available to the state while promoting the delivery of services. Requires the commissioner to establish a federal money management system to coordinate and monitor the use of federal money that is received by health and human services agencies to ensure that the money is spent in the most efficient manner and certain requirements are completed. Requires HHSC to prepare an annual report with respect to the results of the implementation of this section. Requires the report to identify strategies to maximize the receipt

and use of federal funds and to improve federal funds management. Requires HHSC to file the report with the governor, the lieutenant governor, and the speaker of the house of representatives no later than December 15 of each year. Deletes text regarding formulas for the distribution of funds for a health and human services agency. Makes conforming change.

SECTION 3.05. Amends Section 531.0312, Government Code, to require the Texas Information and Referral Network (network) to include information relating to transportation services provided to clients of state and local agencies. Requires HHSC to cooperate with the Records Management Interagency Coordinating Council (RMICC) and the General Services Commission to establish a single method of categorizing information about health and human services to be used by RMICC and the network. Requires the network, in cooperation with the council and the General Services Commission, to ensure that information relating to health and human services is included in each residential telephone directory published by a for-profit publisher and distributed to the public at minimal or no cost, and the single method of categorizing information about health and human services is used in a residential telephone directory described by Subdivision (1). Requires a health and human services agency to provide the network and RMICC with information about the health and human services provided by the agency for inclusion in the statewide information and referral network, residential telephone directories described by Subsection (b), and any other materials produced under the direction of the network or RMICC. Requires the health and human services agency to provide the information in the format required by the network or RMICC and to update the information at least quarterly or as required by the network or the council. Makes conforming changes.

SECTION 3.06. Amends Section 531.034, Government Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires HHSC to review agency rules to ensure that the rules do not discourage marriage, or encourage divorce. Makes conforming changes.

(d) Authorizes HHSC to adopt rules to establish criteria for determining, as required by Subsection (b), whether an agency rule discourages marriage or encourages divorce.

SECTION 3.07. Amends Section 441.053(j), Government Code, to redesignate Subsection (j) of Section 441.203, Government Code, as added by Chapter 873, Acts of the 75th Legislature, Regular Session, 1997, to require RMICC to cooperate with the network under Section 531.0312 to ensure that RMICC and the network use a single method of defining and organizing information about health and human services.

SECTION 3.08. Amends Section 9.12, Chapter 655, Acts of the 74th Legislature, Regular Session, 1995, as amended by Section 1, Chapter 1116, Acts of the 75th Legislature, Regular Session, 1997, redesignated as Subchapter F, Chapter 531, Government Code, as follows:

#### SUBCHAPTER F. TEXAS INTEGRATED ENROLLMENT SERVICES

Sec. 531.191. INTEGRATED ELIGIBILITY DETERMINATION. Deletes text regarding Texas Integrated Enrollment Services Legislative Oversight Committee and a plan to consolidate administrative and service delivery functions. Makes conforming changes

Sec. 531.192. COORDINATION WITH LEGISLATIVE OVERSIGHT COMMITTEE. Requires HHSC to develop and implement the plan required by Section 531.191 in consultation and coordination with the Texas Integrated Enrollment Services Legislative Oversight Committee established by Section 531.202. Requires HHSC to provide the detailed cost-benefit analysis described by Section 531.191(d) to the legislative oversight committee, before awarding a contract under that subsection. Authorizes HHSC to coordinate with the legislative oversight committee to hold any hearing required under Section 531.191(d). Provides that this section expires September 1, 2002.

SECTION 3.09. Amends Chapter 531D, Government Code, as added by Chapter 1116, Acts of the 75th Legislature, Regular Session, 1997, redesignated as Subchapter G, Chapter 531, Government Code, and amends the subchapter heading, as follows:

#### SUBCHAPTER G. LEGISLATIVE OVERSIGHT FOR TEXAS INTEGRATED

## ENROLLMENT SERVICES

SECTION 3.10. Amends Section 531.203(a), Government Code, to require the committee to hold public hearings concerning the development and implementation of the plan required by Subchapter F, rather than Section 9.12(a), Chapter 655, Acts of the 74th Legislature, Regular Session, 1995.

SECTION 3.11. Amends Section 2155.144, Government Code, as added by Chapter 1045, Acts of the 75th Legislature, Regular Session, 1997, as follows:

(i) Requires HHSC to develop a single statewide risk analysis procedure. Requires each health and human services agency to comply with the procedure. Sets forth the requirements for the procedure.

(j) Requires HHSC to publish a contract management handbook that establishes consistent contracting policies and practices to be followed by health and human services agencies, subject to Section 531.0055(c). Provides that the handbook may include standard contract provisions and formats for health and human services agencies to incorporate as applicable in their contracts.

(k) Requires HHSC, in cooperation with the comptroller, to establish a central contract management database that identifies each contract made with a health and human services agency, subject to Section 531.0055(c). Authorizes HHSC to use the database to monitor health and human services agency contracts, and health and human service agencies to use the database in contracting. Requires the state agency to send to HHSC in the manner prescribed by HHSC the information the agency possesses that HHSC requires for inclusion in the database.

(l) Authorizes HHSC to review the procurement and rate-setting procedures of each health and human services agency to ensure that amounts paid to contractors are consistent and represent the best value for the state, in implementing this duty. Authorizes HHSC to disapprove a procurement and rate-setting procedure of a health and human services agency. Prohibits a health and human services agency from using a procurement or rate-setting procedure that has been disapproved by HHSC. Makes a conforming change.

(m) Requires HHSC to develop and implement a statewide plan to ensure that each entity that contracts with a health and human services agency and any subcontractor of the entity complies with the accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), subject to Section 531.0055(c).

(n) Makes a conforming change.

(o) Requires HHSC to prepare an annual report that assesses the compliance of each health and human services agency with the requirements imposed under this section and that identifies any material risk to the state or to the clients of the health and human services agency that results from the health and human service agency's procurement and contracting practices. Authorizes HHSC to request the assistance of the state auditor in preparing the report. Requires the state auditor to conduct reviews as necessary to assess compliance under this subsection as determined by the Legislative Audit Committee. Requires HHSC to file the report with the governor, the lieutenant governor, and the speaker of the house of representatives no later than December 15 of each year.

(p) Makes a conforming change.

SECTION 3.12. Amends Section 2167.004, Government Code, to prohibit HHSC from entering into an emergency lease to serve the needs of a health and human service agency unless the emergency lease is entered into under criteria adopted by HHSC in consultation with HHSC. Sets forth the requirements of the criteria. Redefines "health and human services agency." Deletes text regarding the meaning of health and human services agency. Makes a conforming change.

SECTION 3.13. Authorizes HHSC to adopt the rules required by Section 531.034(d), Government Code, as added by this article, no later than January 1, 2000.

SECTION 3.14. Requires HHSC to submit a report, no later than December 15, 2000, relating to the delivery of mental health and substance abuse services in this state to the governor, the lieutenant governor,

and the speaker of the house of representatives. Sets forth the required contents of the report. Requires a health and human services agency or any other state agency that provides mental health or substance abuse services to provide HHSC any information, other than confidential information, requested by HHSC, relating to mental health and substance abuse services provided by the health and human services agency. Provides that this section expires December 21, 2000.

SECTION 3.15. Requires HHSC to submit a report by December 15, 2000, relating to regulatory programs conducted by the Texas Department of Health to the governor, the lieutenant governor, and the speaker of the house of representatives. Sets forth the factors HHSC must consider in preparing the report. Provides that this section expires on December 31, 2000.

SECTION 3.16. Requires HHSC to assess the benefits of consolidating support services provided to health and human services agencies in agency headquarters and in regional offices and develop a proposed plan and schedule for colocating offices and consolidating support services in accordance with Section 531.0246. Requires HHSC to report the results of the assessment by September 1, 2000, to the governor, the lieutenant governor, and the speaker of the house of representatives.

SECTION 3.17. Requires HHSC, the General Services Commission, and RMICC to ensure that information about health and human services presented in the format required by Section 531.0312, Government Code, is available for publication in residential telephone directories to be distributed to the public after December 1, 2000. Requires HHSC, the General Services Commission, and RMICC to report by December 31, 2000, to the governor, the lieutenant governor, and the speaker of the house of representatives.

SECTION 3.18. Requires the state auditor to conduct initial reviews as necessary to assess compliance under that subsection and complete those reviews no later than September 1, 2001, notwithstanding Section 2155.144(o), Government Code.

SECTION 3.19. Requires HHSC to study the feasibility of a subacute care pilot project. Requires DHS and TDH to cooperate with and assist HHSC in this study. Requires HHSC to consider certain factors, in conducting the study. Require HHSC to submit a report on the feasibility of a subacute care pilot project to the governor, the lieutenant governor, the speaker of the house of representatives, and the chair of each legislative committee with jurisdiction over long-term care, no later than September 1, 2000. Provides that this section expires September 1, 2001.

#### ARTICLE 4. INVESTIGATIONS OF FRAUD, ABUSE AND EXPLOITATION

SECTION 4.01. Defines "commission" and "working group."

SECTION 4.02. Requires the working group to develop proposed definitions of "abuse," "neglect," and "exploitation"; proposed minimum standards for investigatory techniques for investigations of abuse, neglect, or exploitation of a client; and proposed uniform data collection procedures. Deletes text regarding investigation of reports in MHMR facilities and in community centers.

SECTION 4.04. Requires HHSC to present a report on the results of the working group to the governor, the lieutenant governor, and the speaker of the house or representatives no later than November 1, 2000. Requires the report to include any recommendations, based on the results of the working group, for changes in law HHSC considers necessary. Deletes text regarding the uniform definitions of "abuse," "neglect," "exploitation."

SECTION 4.05. Prohibits the working group from including a representative of the Texas Juvenile Probation Commission (TJPC) and from including recommendations relating to facilities operated by or under contract with TJPC.

#### ARTICLE 5. GUARDIANSHIP ADVISORY BOARD

SECTION 5.01. Amends Sections 531.122(b) and (d), Government Code, to provide that the Guardianship Advisory Board (advisory board) is composed of one representative from each of the health and human services regions, as defined by HHSC, three public representatives, and one representative of the Texas Department of Protective and Regulatory Services (DPRS). Provides that the representatives

of the health and human services regions are appointed by a majority vote of the judges of the statutory probate courts in each region. Provides that the public representatives are appointed by the commissioner and the representative of DPRS is appointed by the Board of Protective and Regulatory Services (BPRS). Provides that a member of the advisory board serves at the pleasure of a majority of the judges of the statutory probate courts that appointed the member, of the commissioner, or of BPRS, as appropriate.

SECTION 5.02. Amends Chapter 531D, Government Code, as added by Chapter 1033, Acts of the 75th Legislature, Regular Session, 1997, by adding Section 531.1235, as follows:

Sec. 531.1235. **ADVISORY BOARD; ADDITIONAL DUTIES; STATEWIDE GUARDIANSHIP SYSTEM.** Sets forth additional duties for the advisory board. Requires the advisory board to prepare an annual report with respect to the recommendations of the advisory board under Subsection (a). Requires the advisory board to file the report with HHSC, DPRS, the governor, the lieutenant governor, and the speaker of the house of representatives no later than December 15 of each year.

SECTION 5.03. Amends Section 531.124, Government Code, by adding Subsection (c), to require the advisory board to annually review and comment on the minimum standards adopted under Subsection (a)(1) and the plan implemented under Subsection (a)(2) and to include its conclusions in the report submitted under Section 531.1235.

SECTION 5.04. Requires BPRS to appoint the additional member of the advisory board by October 1, 1999.

#### ARTICLE 6. HEALTH AND HUMAN SERVICES OFFICE OF COMMUNITY TRANSPORTATION SERVICES

SECTION 6.01. Amends Chapter 131, Human Resources Code, as follows:

#### CHAPTER 131. New heading: HEALTH AND HUMAN SERVICES OFFICE OF COMMUNITY TRANSPORTATION SERVICES

Sec. 131.001. **OFFICE.** Provides that the Health and Human Service Office of Community Transportation Services (office) is in HHSC. Deletes text regarding transportation and planning.

Sec. 131.002. **DEFINITIONS.** Defines “commissioner,” “health and human services agency,” and “office.”

Sec. 131.003. **POWERS AND DUTIES.** Sets forth requirements for the office, with assistance from the commissioner. Requires the office to coordinate with HHSC and health and human services agencies in implementing the goals listed in Section 531.022(c), Government Code. Deletes text regarding Article 4413(502), V.T.C.S. Makes conforming changes.

Sec. 131.004. **OFFICE STAFF.** Makes a conforming change.

Sec. 131.005. **REPORTING AND ACCOUNTING SYSTEM.** Sets forth the requirements for each health and human services agency that provides, purchases, or funds transportation services.

Sec. 131.006. **IMPLEMENTATION OF STATEWIDE COORDINATION PLAN.** Requires the office to provide certain services, in order to implement the statewide coordination plan created by the office under Section 131.003(a)(2).

Sec. 131.007. **ADVISORY COMMITTEE ON COORDINATED TRANSPORTATION.** Authorizes the office to create an advisory committee consisting of representatives of state agencies, transportation agencies, and nonprofit consumer groups.

Sec. 131.008. **MEMORANDUM OF UNDERSTANDING.** Requires HHSC and the Texas Department of Transportation (TxDOT) to enter into a memorandum of understanding relating to functions performed by each agency that relate to the duties of the office. Requires the agencies to include provisions in the memorandum of understanding necessary to ensure that the agencies do not have duplicate authority, responsibilities, or activities in the area of transportation services

for clients of health and human services agencies. Sets forth the requirements for the memorandum.

SECTION 6.02. Requires the office and the commissioner, no later than January 1, 2001, to create the statewide coordination plan required by Section 131.003(a)(2), Human Resources Code.

#### ARTICLE 7. EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

SECTION 7.01. Amends Chapter 481B, Government Code, by adding Section 481.025, as follows:

Sec. 481.025. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY PROGRAM. Provides that the Texas Department of Economic Development (TDED) is the agency of this state responsible for administering the Empowerment Zone and Enterprise Community grant program in the state. Requires TDED to cooperate with appropriate federal and local agencies as necessary to administer the grant program.

SECTION 7.02. Provides that effective September 1, 1999, the administration of the Empowerment Zone and Enterprise Community grant program in this state is transferred from HHSC to TDED. Requires the commissioner and the governing board of TDED to enter into a memorandum of understanding as necessary to implement the transfer required by this section.

#### ARTICLE 8. HEALTH CARE INFORMATION COUNCIL

SECTION 8.01. Amends Section 531.001(4), Government Code, to redefine "health and human service agencies." Makes conforming changes.

SECTION 8.02. Amends Section 108.002(4), Health and Safety Code, to redefine "data."

SECTION 8.03. Amends Chapter 108, Health and Safety Code, by adding Section 108.0065, as follows:

Sec. 108.0065. POWERS AND DUTIES OF COUNCIL RELATING TO MEDICAID MANAGED CARE. (a) Defines "commission" and "Medicaid managed care organization."

(b) Authorizes HHSC to direct the Texas Health Care Information Council (THCIC) to collect data under this chapter with respect to Medicaid managed care organizations. Requires the council to coordinate the collection of the data with the collection of data for health benefit plan providers, but with the approval of HHSC may collect data in addition to the data otherwise required of health benefit plan providers.

(c) Requires each Medicaid managed care organization to provide the data required by the council in the form required by the council or, if the data is also being submitted to HHSC or Medicaid operating agency, in the form required by HHSC or Medicaid operating agency.

(d) Provides that dissemination of data collected under this section is subject to Sections 108.010, 108.011, 108.012, 108.013, 108.014, and 108.0141.

(e) Sets forth requirements for HHSC to analyze and use the data collected.

(f) Requires HHSC to report to the governor, the lieutenant governor, and the speaker of the house of representatives with respect to certain recommendations, no later than October 1 of each even-numbered year.

(g) Authorizes the report made under Subsection (f) to be consolidated with any report made under Section 108.006(a)(9).

(h) Authorizes HHSC to contract with an entity to comply with the requirements under Subsections (e) and (f), using existing funds

#### ARTICLE 9. FINANCIAL ASSISTANCE AND SERVICE PROGRAMS

SECTION 9.01. Amends Chapter 31A, Human Resources Code, by adding Section 31.027, as follows:

Sec. 31.027. COORDINATION OF SERVICES TO CERTAIN CLIENTS. (a) Provides that HHSC is the state agency designated to coordinate between TDH and another state agency providing child care services, Temporary Assistance for Needy Families (TANF) work programs, and Food Stamp Employment and Training services to an individual or family who has been referred for programs and services by TDH, in order to ensure efficient delivery of appropriate programs and services.

(b) Sets forth compliance requirements for state agencies set by HHSC.

(c) Requires HHSC and a state agency that is providing programs and services subject to coordination under Subsection (a) to jointly develop and adopt a memorandum of understanding outlining measures to be taken to increase the number of individuals receiving TANF cash assistance who are using the Job Training Partnership Act program or its successor program.

(d) Sets forth recommendations for the report.

(e) Provides that the state agency is not required to comply with this section with regard to that program or service, if the change in law made by this section with regard to any program or service conflicts with federal law or would have the effect of invalidating an exemption granted under federal law.

(f) Provides that this section does not authorize HHSC to change the allocation or disbursement of funds allocated to the state under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.) in a manner that would result in the loss of exemption status.

SECTION 9.02. Requires HHSC and each state agency that is subject to Section 31.0127(c), Human Resources Code, as added by this article, to develop and adopt the memorandum of understanding required by that subsection, no later than October 1, 1999.

#### ARTICLE 10. LEGISLATIVE OVERSIGHT

SECTION 10.01. Amends Chapter 531, Government Code, by adding Subchapter E, as follows:

##### SUBCHAPTER E. HEALTH AND HUMAN SERVICES LEGISLATIVE OVERSIGHT

Sec. 531.171. COMMITTEE DUTIES. Sets forth the health and human services legislative oversight committee (committee) duties. Requires the committee to provide copies of all required reports to the committees and to provide the committees with other information upon request. Requires a health and human services agency to provide information to the committee relating to the health and human services system and report on agency progress in implementing statutory directives identified by the committee and the directives of HHSC, at the request of a committee or the commissioner.

#### ARTICLE 11. APPLICATION OF ACT

SECTION 11.01. Prohibits HHSC from requiring an agency to comply with the change with regard to that program or service, if a change in law made by this Act with regard to any program or service conflicts with federal law.

SECTION 11.02. Sets forth requirements for HHSC.

#### ARTICLE 12. REPEALER; EFFECTIVE DATE; EMERGENCY

SECTION 12.01. Repealer: Section 441.053(k), Government Code (defines "member agency").

Repealer: Section 531.0272, Government Code (federal funds).

Repealer: Section 532.011(c), Health and Safety Code (The commissioner holds office at the will of the board).

SECTION 12.02. Effective date: September 1, 1999.

SECTION 12.03. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

#### SECTION 1.02.

Redesignates proposed SECTION 1.03 as SECTION 1.02. Deletes text regarding the commissioner being removed by the governor.

#### SECTION 1.03.

Redesignates proposed SECTION 1.04 as SECTION 1.03.

#### SECTION 1.04.

Redesignates proposed SECTION 1.05 as SECTION 1.04. Deletes text regarding public hearings in certain counties. Deletes proposed SECTION 1.06.

#### SECTION 2.01.

Amends Section 531.0055(b), Government Code, to require HHSC to monitor and ensure the effective use of all federal funds received by a health and human services agency in accordance with Section 531.028 and the General Appropriations Act. Deletes text regarding Section 531.0056.

Amends Section 531.0055(d), Government Code, to provide that nothing in the priorities established by this section is intended to limit the authority of HHSC to work simultaneously to achieve the multiple tasks assigned to HHSC in this section, when such an approach is beneficial in the judgment of HHSC. Requires HHSC to plan and implement an efficient and effective system of administrative support services for health and human services agencies. Defines “administrative support services.”

Amends Section 531.0055(l), Government Code, to delete text prohibiting a policymaking body and the commissioner from performing any power or duty or adopting any rule or policy that expands or creates a right, power, or duty beyond those granted or created by a state or federal statute.

Amends Section 531.0056, Government Code, regarding employment of agency director. Redesignates proposed Section 531.0056 as Section 531.0057.

#### SECTION 2.02.

Amends Section 21.004(b), Human Resources Code, to provide that the human services commissioner is employed, by the commissioner in accordance with Section 531.0056, Government Code. Deletes text regarding the human services commissioner to serve at the pleasure of the commissioner and be appointed by the board with the approval of the governor.

Adds SECTION 21.004(c), Human Resources Code, to require a person to meet certain requirements to be eligible for employment as commissioner.

#### SECTION 2.04.

Amends Section 40.027, Human Resources Code, to reinstate previously deleted text requiring the commissioner to employ the executive director. Makes conforming changes.

SECTION 2.07.

Amends Section 73.0052(b), Human Resources Code, to make conforming changes.

SECTION 2.09.

Amends Section 81.008(a), Human Resources Code, to make conforming changes.

SECTION 2.10.

Amends Section 91.012(a), Human Resources Code, to make conforming changes.

SECTION 2.12.

Amends Section 101.004(a), Human Resources Code, to make conforming changes.

SECTION 2.14.

Amends Section 111.017(a) and (b), Human Resources Code, to make conforming changes.

SECTION 2.15.

Amends Section 111.0505, Human Resources Code, to provide that the commissioner has the powers and duties relating to HHSC and commissioner as provided by Section 531.0055, Government Code. Provides that to the extent a power or duty given to HHSC or commissioner by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.17.

Amends Section 11.012, Health and Safety Code, to make conforming changes.

SECTION 2.19.

Amends Section 461.011(a), Health and Safety Code, to make conforming changes.

SECTION 2.21.

Amends Section 532.011, Health and Safety Code, to make conforming changes. Deletes text regarding Subsection (c).

SECTION 2.23.

Amends SECTION 2.23, to provide that an agency director serving on the effective date of this Act continues to serve in that position until the earlier of the date that certain conditions are met. Provides that the commissioner is authorized to employ the agency director of an agency added to those agencies defined as health and human service agencies, with the concurrence of the appropriate policymaking body. Makes conforming changes.

SECTION 3.01.

Amends Section 531.021(b), Government Code, to require HHSC to establish requirements for and define the scope of the ongoing evaluation of the Medicaid managed care system.

SECTION 3.02.

Amends Section 531.0246, Government Code, to delete Subsection (4).

SECTION 3.04

Amends Section 531.028, Government Code, to require HHSC to be responsible for planning for, and managing the use of, all federal funds in a manner that maximizes the federal funding available to the state while promoting the delivery of services.

SECTION 3.07.

Redesignates proposed SECTION 3.08 as SECTION 3.07. Deletes text authorizing HHSC to adopt the rules required by Section 531.034(d), Government Code, no later than January 1, 2000.

SECTION 3.08.

Redesignates proposed SECTION 3.09 as SECTION 3.08.

SECTION 3.09.

Redesignates proposed SECTION 3.10 as SECTION 3.09.

SECTION 3.11.

Redesignates proposed SECTION 3.10 as SECTION 3.11.

SECTION 3.12

Redesignates proposed SECTION 3.13 as SECTION 3.12.

SECTION 3.13.

Authorizes HHSC to adopt the rules required by Section 531.034(d), Government Code as added by this article, no later than January 1, 2000.

SECTION 3.14.

Amends SECTION 3.14(a), to delete text regarding the presiding officer of the Health and Human Services Legislative Oversight Committee.

SECTION 3.15.

Amends SECTION 3.15(a), to make conforming changes.

SECTION 3.16.

Amends SECTION 3.16, to require HHSC to develop a proposed plan and schedule for collocating offices and consolidating support services in accordance with Section 531.0246, Government Code, as added by this article. Makes a conforming change.

SECTION 3.17.

Amends SECTION 3.17, to make conforming changes.

SECTION 3.19.

Adds SECTION 3.19, to require HHSC to study the feasibility of a subacute care pilot project. Requires DHS and TDH to cooperate with and assist HHSC in this study. Requires HHSC to consider certain factors, in conducting the study. Require HHSC to submit a report on the feasibility of a subacute care pilot project to the governor, the lieutenant governor, the speaker of the house of representatives, and the chair of each legislative committee with jurisdiction over long-term care, no later than September 1, 2000. Provides that this section expires September 1, 2001.

#### SECTION 4.01.

Adds SECTION 4.01, to define “commission” and “working group.” Deletes text regarding investigations of abuse and neglect; uniform use of terms.

#### SECTION 4.02.

Amends SECTION 4.02, to require HHSC to identify each health and human services agency that may be required to conduct an investigation of abuse, neglect, or exploitation of a client of the agency at a facility operated by or under contract with the agency and any agency cover under Section 261.401, Family Code, or Section 48.082, Human Resources Code, and to convene a working group of representatives of those agencies and advocates for the affected clients, except as provided by Section 4.05 of this article. Deletes text regarding agency investigation.

#### SECTION 4.03.

Requires the working group to develop proposed definitions of “abuse,” “neglect,” and “exploitation”; proposed minimum standards for investigatory techniques for investigations of abuse, neglect, or exploitation of a client; and proposed uniform data collection procedures. Deletes text regarding investigation of reports in MHMR facilities and in community centers.

#### SECTION 4.04.

Amends SECTION 4.04, to require HHSC to present a report on the results of the working group to the governor, the lieutenant governor, and the speaker of the house or representatives no later than November 1, 2000. Requires the report to include any recommendations, based on the results of the working group, for changes in law HHSC considers necessary. Deletes text regarding the uniform definitions of “abuse,” “neglect,” “exploitation.”

#### SECTION 4.05.

Adds SECTION 4.05, to prohibit the working group from including a representative of the Texas Juvenile Probation Commission (TJPC) and from including recommendations relating to facilities operated by or under contract with TJPC.

#### SECTION 5.04.

Amends SECTION 5.04, to make a conforming change.

#### SECTION 6.01.

Amends Section 131.008(b), Human Resources Code, to require the memorandum to include a requirement that TxDOT participate and assist in the collection of information about transportation service funding from local social service providers and make any database with that information available to HHSC.

#### SECTION 8.03.

Amends Section 108.0065, Health and Safety Code, to authorize HHSC to direct the council to collect data under this chapter with respect to Medicaid managed care organizations. Requires the council to coordinate the collection of the data with the collection of data for health benefit plan providers, but with the approval of HHSC may collect data in addition to the data otherwise required of health benefit plan providers. Requires each Medicaid managed care organization to provide the data required by the council in the form required by the council or, if the data is also being submitted to HHSC or Medicaid operating agency, in the form required by HHSC or Medicaid operating agency. Sets forth requirement for HHSC to analyze the data collected. Requires HHSC to report to the governor, the lieutenant governor, and the speaker of the house of representatives with respect to certain recommendations, no later than October 1 of each even-numbered year. Authorizes HHSC to contract with an entity to comply with the requirement under Subsections (e) and (f), using existing funds. Deletes text regarding council and SECTION 8.04.

SECTION 9.01.

Amends Chapter 31A, Human Resources Code, by adding Section 31.027, regarding coordination of services to certain clients.

SECTION 9.02.

Adds SECTION 9.02, to require HHSC and each state agency that is subject to Section 31.0127(c), Human Resources Code, as added by this article, to develop and adopt memorandum of understanding required by that subsection, no later than October 1, 1999.

SECTION 10.01.

Adds Chapter 531E, Government Code, regarding the health and human services legislative oversight.

SECTION 10.02.

Redesignates the proposed effective date of September 1, 1999 to SECTION 12.02.

SECTION 10.03.

Redesignates the proposed emergency clause to SECTION 12.03.

SECTION 11.01.

Adds SECTION 11.01, to prohibit HHSC from requiring an agency to comply with the change with regard to that program or service, if a change in law made by this Act with regard to any program or service conflicts with federal law.

SECTION 11.02.

Adds SECTION 11.02, to set forth requirements for HHSC.

SECTION 12.01.

Adds a repealer regarding Section 532.011(c), Health and Safety Code (The commissioner holds office at the will of the board).

SECTION 12.02.

Adds the effective date of September 1, 1999.

SECTION 12.03.

Adds the emergency clause.