

BILL ANALYSIS

Senate Research Center
86R28340 TSS-D

C.S.H.B. 965
By: González, Mary; Moody (Zaffirini)
Health & Human Services
5/20/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this legislation is to align the language used in the Education Code with person-first respectful language regarding persons with disabilities and to update the names of state health agencies listed in the Education Code.

In 2011, Senator Zaffirini and Representative Vicki Truitt (R-Keller) passed H.B. 1481, requiring the use of person-first language in all legislation filed subsequently. Because some sections of the Education Code have not been amended yet, this code contains outdated names of state agencies and refers to students with intellectual and developmental disabilities as "mentally retarded." H.B. 965 would remove these outdated terms and references from the Education Code. (Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 965 amends current law relating to updating references to certain former health services state agencies and certain terms used to describe persons with intellectual or developmental disabilities in the Education Code.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Health and Human Services Commission in SECTION 3 (Section 29.012, Education Code) of this bill.

Rulemaking authority previously granted to the Texas Education Agency is modified in SECTION 3 (Section 29.012, Education Code) of this bill.

Rulemaking authority previously granted to the Texas Juvenile Justice Department is modified in SECTION 3 (Section 29.012, Education Code) of this bill.

Rulemaking authority previously granted to Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Services, the Texas Department of Health, the Department of Protective and Regulatory Services, the Interagency Council on Early Childhood Intervention, and the Texas Commission on Alcohol and Drug Abuse is rescinded in SECTION 3 (Section 29.012, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 25.041, Education Code, as follows:

Sec. 25.041. New heading: TRANSFER OF CHILDREN OR WARDS OF EMPLOYEES OF STATE SUPPORTED LIVING CENTERS. Changes references from state school to state supported living center (center). Provides that a school-age child or ward of an employee of a center for persons with intellectual disabilities, rather than for the mentally retarded, constituted as a school district who resides in the boundaries of center property but who is not a student at the center is entitled to attend school in a district adjacent to the center free of any charge to the child's or ward's parent or guardian provided the parent or guardian is required by the superintendent of the center to live on the grounds of the center for the convenience of this state. Makes conforming changes.

SECTION 2. Amends Section 29.003(b), Education Code, to provide that a student is eligible to participate in a school district's special education program if the student meets certain criteria or is a certain age and has one or more of a certain specified disabilities that prevent the student from being adequately or safely educated in public school without the provision of special services, including intellectual or developmental disability, rather than mental retardation.

SECTION 3. Amends Section 29.012(d), Education Code, to require the Texas Education Agency (TEA), the Health and Human Services Commission (HHSC), the Department of Family and Protective Services (DFPS), and the Texas Juvenile Justice Department (TJJJ), rather than requiring TEA, the Texas Department of Mental Health and Mental Retardation (MHMR), the Texas Department of Human Services (TDHS), the Texas Department of Health, the Department of Protective and Regulatory Services, the Interagency Council on Early Childhood Intervention, the Texas Commission on Alcohol and Drug Abuse, and TJJJ, by a cooperative effort to develop and by rule adopt a memorandum of understanding.

SECTION 4. Amends Section 29.456(b), Education Code, as follows:

(b) Requires the commissioner of education and the executive commissioner of HHSC (executive commissioner), rather than the executive commissioner of the Department of Aging and Disability Services, if the commissioners are unable to bring the school district and forensic state supported living center to agreement, to jointly submit a written request to the attorney general to appoint a neutral third party knowledgeable in special education and intellectual and developmental disability issues, rather than a neutral third party knowledgeable in special education and mental retardation issues, to resolve each issue on which the district and the center disagree. Provides that the decision of the neutral third party is final and may not be appealed. The district and the center shall implement the decision of the neutral third party. Makes conforming changes.

SECTION 5. Amends Section 29.457(b), Education Code, to make a conforming change.

SECTION 6. Amends Section 30.0015(b), Education Code, to authorize the assistive technology device developed by TEA to be transferred to certain entities, including a state agency, including HHSC, rather than including the Texas Rehabilitation Commission and MHMR, that provides services to the student following the student's graduation from high school.

SECTION 7. Amends Section 52.40(a), Education Code, to authorize the Texas Higher Education Coordinating Board (THECB) to cancel the repayment of a loan received by a student who earns a doctorate of psychology degree and who, prior to the date on which repayment of the loan is to commence, is employed by the Department of State Health Services (DSHS) or HHSC and performs duties formerly performed by employees of TDHS, TJJJ, the Texas Department of Criminal Justice (TDCJ), or a former state agency that provided services to persons with mental illness, persons with intellectual disabilities, or persons with developmental disabilities, rather than authorizing the THECB to cancel the repayment of a loan received by a student who earns a doctorate of psychology degree and who, prior to the date on which repayment of the loan is to commence, is employed by DADS, DSHS, or HHSC and performs duties formerly performed by employees of the TDHS or Texas Department of Mental Health and Mental Retardation, the TJJJ, or the TDCJ.

SECTION 8. Amends Section 73.401, Education Code, as follows:

Sec. 73.401. ESTABLISHMENT. Provides that the Harris County Psychiatric Center has been developed and built by Harris County, Texas, and a former state agency that provided services to persons with mental illness, persons with intellectual disabilities, and persons with developmental disabilities, rather than MHMR.

SECTION 9. Amends Section 73.403, Education Code, as follows:

Sec. 73.403. OPERATION OF COMMITMENT CENTER. Authorizes Harris County, the Harris Center for Mental Health and IDD, or both of those entities, rather than authorizes Harris County and/or the Mental Health and Mental Retardation Authority

(MHMRA) of Harris County, to operate on the premises of the Harris County Psychiatric Center a commitment center, the functions of which are authorized to include patient screening, intake, and admissions (both voluntary and involuntary) to the Harris County Psychiatric Center as are authorized to be provided for in a lease, and operating agreement or a sublease and operating agreement as authorized under Section 73.405 (Operations), rather than authorized to be provided for in a lease and/or sublease and operating agreement as authorized under Section 73.405 of this code. Prohibits the functions of the Harris County Psychiatric Commitment Center located on the premises of the Harris County Psychiatric Center both in terms of operation and in terms of funding from being the responsibility of HHSC, rather than MHMR, or The University of Texas System (UT System). Provides that, as may be provided for in a lease, and operating agreement or a sublease and operating agreement, rather than in a lease and/or sublease and operating agreement, the UT System is authorized to charge for any support services provided by the Harris County Psychiatric Center to the commitment center.

SECTION 10. Amends Section 73.404, Education Code, as follows:

Sec. 73.404. FUNDING. (a) Requires funding for the state-supported facilities and operations of the Harris County Psychiatric Center to be provided through legislative appropriations to HHSC and to the UT System, and requires any appropriations to HHSC for the Harris County Psychiatric Center to be transferred to the UT System in accordance with the General Appropriations Act and the lease and operating agreement provided for in Section 73.405, rather than requiring funding for state-supported facilities and operations to the Harris County Psychiatric Center to be provided through legislative appropriations to MHMR and to the UT System, and requires any appropriations to MHMR for the Harris County Psychiatric Center to be transferred to the UT System in accordance with the General Appropriations Act and the lease and/or sublease and operating agreement, or sublease and operating agreement provided for in Section 73.405 of this code.

(b) Requires any funding, under a lease and operating agreement or sublease and operating agreement wherein the UT System is the lessee, for facilities and operations of the Harris County Psychiatric Center supported by the county or HHSC, which may be provided through county appropriations, including funds made available by the Harris Center for Mental Health and IDD or from gifts and grants, to be transferred in accordance with the lease and operating agreement or sublease and operating agreement provided for in Section 73.405, rather than requiring any funding, under a lease and/or sublease and operating agreement wherein the UT System is the lessee, for the county-supported and/or MHMRA-supported facilities and operations of the Harris County Psychiatric Center which may be provided through county appropriations, including funds made available by the MHMRA, or from gifts and grants, to be transferred in accordance with the lease and/or sublease and operating agreement provided for in Section 73.405 of this code. Authorizes such funds to be for any further construction at the Harris County Psychiatric Center; for equipment, both fixed and movable; for utilities, including data processing and communications; for maintenance, repairs, renovations, and additions; for any damage or destruction; and for Harris County Psychiatric Center operations which latter funding is authorized to be proportional to the total costs of the UT System operating the entire Harris County Psychiatric Center, exclusive of any additional cost incurred by Harris County or HHSC for, rather than incurred by Harris County and/or MHMRA, operating the commitment center, which costs are required to remain the sole responsibility of the entity or entities that incurred those costs, rather than the sole responsibility of Harris County and/or MHMRA.

SECTION 11. Amends Sections 73.405(a) and (d), Education Code, as follows:

(a) Authorizes the facilities supported by the county or the Harris Center for Mental Health and IDD, exclusive of the commitment center, to be leased or subleased by the UT System in the same lease and operating agreement or sublease and operating agreement,

rather than authorizing the county-supported and/or MHMRA-supported facilities exclusive of the commitment center, to be leased and/or subleased by the UT System in the same lease and/or sublease and operating agreement. Makes conforming changes.

(d) Requires any lease and operating agreement or sublease and operating agreement, rather than any lease and/or sublease, to provide that the UT System is required to cause the Harris County Psychiatric Center to be operated in accordance with the standards for accreditation of The Joint Commission, rather than the Joint Commission on Accreditation of Hospitals; that all financial transactions and performance programs may be appropriately audited; that an admission, discharge, and transfer coordination policy be established; that appropriate patient data be made available to HHSC, the Harris Center for Mental Health and IDD, and the county, rather than be made available to MHMR, MHMRA, and the county, including but not limited to diagnosis and lengths of stay; and that a priority of patient treatment policy be established.

SECTION 12. Amends Section 73.406, Education Code, to make conforming changes.

SECTION 13. Amends Section 73.501, Education Code, as follows:

Sec. 73.501. TRANSFER AND LEASE OF FACILITIES. (a) Requires the governance, operation, management, and control of the Texas Research Institute of Mental Sciences and all land, buildings, improvements thereon, and major fixed equipment comprising said institute to be leased from HHSC or a former state agency that provided services to persons with mental illness, persons with intellectual disabilities, and persons with developmental disabilities and transferred to the board of regents of the UT System for \$1 a year and is required to be subject to the provisions of Section 65.02(a)(9) (relating to the composition of the UT System), rather than requiring the governance, operation, management, and control of the Texas Research Institute of Mental Sciences created by Chapter 427, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 3174b-4, V.T.C.S), and all land, buildings, improvements thereon, and major fixed equipment comprising said institute to be leased from MHMR and transferred to the board of regents of the UT System for \$1 a year and to be subject to the provisions of Subdivision (9) of Subsection (a) of Section 65.02 (Organization) of the Education Code.

(b) Authorizes HHSC or a former state agency that provided services to persons with mental illness, persons with intellectual disabilities, and persons with developmental disabilities, rather than authorizes MHMR, to sell or otherwise dispose of the land, buildings, improvements thereon, or major fixed equipment provided that the proceeds from the sale or other disposition be used for the same purposes in Harris County; and further provided, that the board of regents of the UT System, prior to such sale or other disposition, has approved of such sale or disposition and the allocation of proceeds. Makes conforming changes.

SECTION 14. Amends Section 73.502, Education Code, as follows:

Sec. 73.502. TRANSFER OF GIFTS, GRANTS, UNEXPENDED BALANCES, CONTRACTS, AND OBLIGATIONS. Provides that any gifts, grants, unexpended balances of appropriated or unappropriated funds, and all movable equipment that was held by a former state agency that provided services to persons with mental illness, persons with intellectual disabilities, and persons with developmental disabilities or that was transferred to HHSC on dissolution of that former agency and was held, rather than providing that any gifts, grants, unexpended balances of appropriated or unappropriated funds, and all movable equipment held by MHMR, for, on behalf of, or for the use and benefit of the Texas Research Institute of Mental Sciences, are hereby transferred to the UT System; provided, however, that all previously appropriated funds for statewide training of personnel and program evaluation by the institute are required to be retained by HHSC. Requires HHSC, Harris County, and the Harris Center for Mental Health and IDD, rather than requiring MHMR, Harris County, and MHMRA, to provide for the continuity of inpatient and outpatient care of the patients and programs operated at the Texas Research Institute of Mental Sciences and authorizes HHSC, Harris County, and

the Harris Center for Mental Health and IDD to contract for the provision of such services in accordance with the provisions of and appropriations provided in the General Appropriations Act. Makes conforming changes.

SECTION 15. Amends Sections 73.503(a) and (h), Education Code, as follows:

(a) Requires present institute personnel to be allowed to apply for employment with the UT System, Harris County, or the Harris Center for Mental Health and IDD, rather than for employment with the UT System, Harris County or MHMRA, and be given priority consideration for such employment.

(h) Makes a conforming change.

SECTION 16. Effective date: September 1, 2019.