

## **BILL ANALYSIS**

Senate Research Center  
76R9282 JJT-D

C.S.S.B. 358  
By: Madla  
Health Services  
3/17/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, the Texas Sunset Commission reports that the Texas Department of Mental Health and Mental Retardation (department) oversees and provides services to some of the state's most vulnerable citizens-- persons with mental illness and mental retardation. The department's mission is "to improve the quality and efficiency of public and private services and supports for Texans with mental illness and mental retardation so that they can increase their opportunities and abilities to lead lives of dignity and independence." During 1997, an estimated 2.8 million Texans were diagnosed with some form of mental illness and 530,000 with mental retardation; approximately 19,000 persons received services through campus-based facilities and 168,000 persons through community-based services. The department provides services through 22 campus-based facilities and 10 state-operated community services, and funds and oversees locally-operated community services through performance contracts with 38 community centers across the state. As a result of its review of the department, the Sunset Advisory Commission recommended continuation of the department and several statutory modifications.

### **PURPOSE**

As proposed, C.S.S.B. 358 sets forth provisions concerning the continuation and functions of the Texas Department of Mental Health and Mental Retardation.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Department of Mental Health and Mental Retardation in SECTIONS 6, 7, 8, and 16 (Section 533.0325, Chapter 533B, Health and Safety Code; Section 533.0345(a), Chapter 533B, Health and Safety Code; Section 533.0351(g), Chapter 533B, Health and Safety Code; and Section 461.0128(a), Chapter 461, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 532.002, Health and Safety Code, to provide that the Texas Department of Mental Health and Mental Retardation (department) is abolished and this chapter expires on September 1, 2011, rather than September 1, 1999, unless continued as provided by Chapter 325, Government Code.

SECTION 2. Amends Chapter 532, Health and Safety Code, by adding Section 532.0035, to add standard language developed by the Sunset Advisory Commission regarding board member training.

SECTION 3. Amends Sections 532.016(d) and (e), Health and Safety Code, to add standard language developed by the Sunset Advisory Commission regarding equal employment opportunity policies. Makes a conforming change.

SECTION 4. Amends Chapter 533A, Health and Safety Code, by adding Section 533.013, as follows:

Sec. 533.013. DUPLICATION OF REHABILITATION SERVICES. Requires the department to enter into an agreement with the Texas Rehabilitation Commission (commission) that defines the roles and responsibilities of the department and the commission regarding the agencies' shared populations. Requires the agreement to establish methods to prevent the duplication and fragmentation of employment services provided by the agencies.

SECTION 5. Amends Section 533.032, Health and Safety Code, by adding Section 533.032, as follows:

Sec. 533.032. New heading: LONG-RANGE PLANNING. (a) Requires the department to

have a long-range plan covering at least six years that includes at least the provisions required by Sections 531.022 and 531.023, Government Code, and Chapter 2056, Government Code. Requires the plan to cover the provision of services in and policies for state-operated institutions and ensure that the medical needs of the most medically fragile persons the department serves are met.

(b) Sets forth the parties from which the department must solicit input.

(c) Requires the department to develop a report containing information and recommendations regarding the most efficient long-term use and management of the department's campus-based facilities. Sets forth the information the report is required to include.

(d) Requires the department to consider the medical needs of the most medically fragile clients and the provision of services to clients with severe and profound mental retardation.

(e) Sets forth certain activities the department must undertake regarding the report, legislative appropriations, and the department's long-range biennial plan.

SECTION 6. Amends Chapter 533B, Health and Safety Code, by adding Section 533.0325, as follows:

Sec. 533.0325. CONTINUUM OF SERVICES IN CAMPUS FACILITIES. Requires the Texas Board of Mental Health and Mental Retardation (board) to establish, by rule, criteria regarding the uses of the department's campus-based facilities to ensure that a full continuum of services is available.

SECTION 7. Amends Chapter 533B, Health and Safety Code, by adding Section 533.0345, as follows:

Sec. 533.0345. STATE AGENCY SERVICES STANDARDS. (a) Requires the department to develop, by rule, model program standards for mental health services for use by each state agency that provides or pays for mental health services. Requires the department to provide the model standards to each agency that provides mental health services as identified by the Health and Human Services Commission.

(b) Requires model standards developed under Subsection (a) to be designed to improve the consistency of mental health services provided by or through a state agency.

(c) Requires the department to biennially review the model standards developed under Subsection (a) and determine whether each standard contributes effectively to the consistency of service delivery by state agencies.

SECTION 8. Amends Chapter 533B, Health and Safety Code, by adding Section 533.0351, as follows:

Sec. 533.0351. LOCAL AUTHORITY ADVISORY COMMITTEE. (a) Defines "local authority."

(b) Requires the commissioner of mental health and mental retardation (commissioner) to establish a nine-member local authority advisory committee to assist the commissioner in developing policies for the operation of local authorities.

(c) Provides that the committee is composed of one representative of the public and representatives of local authorities appointed by the commissioner. Requires the commissioner, to ensure a balanced representation of single-county and multi-county local authorities.

(d) Requires members, except for members representing the public, appointed to the advisory committee to have expertise in the day-to-day operations of a local authority.

(e) Sets forth the required duties of the advisory committee.

(f) Requires the department to provide the advisory committee with a written response to any recommendation the advisory committee makes to the department.

(g) Subjects the committee to Chapter 2110, Government Code. Requires the department, by rule, to provide, in accordance with Section 2110.008, Government Code, that the committee is abolished on September 1, 2007, unless the board votes to continue the committee in existence.

SECTION 9. Amends Chapter 533B, Health and Safety Code, by adding Section 533.0356, as follows:

Sec. 533.0356. LOCAL BEHAVIORAL HEALTH AUTHORITIES. Defines “commission.” Authorizes the department and the Texas Commission on Alcohol and Drug Abuse (TCDA) to jointly designate one or more local behavioral health authorities. Sets forth the information the department and the TCDA must determine before designating a local behavioral health authority. Authorizes the department and TCDA to jointly assign the authority concerning the duty of providing a single point of entry for mental health and substance abuse services.

SECTION 10. Amends Section 533.038, Health and Safety Code, by adding Subsection 533.038(d), to require the department to assess the needs of a person with mental retardation seeking 24-hour care, and if the person is determined to require 24-hour care, the person is required to be offered the option of placement in a state school or a community group home. Requires all persons offered 24-hour care to receive a clear explanation of the respective benefits of state schools and community group homes and given the opportunity to elect placement in a state school or community group home. Requires a person seeking placement to be offered the option of placing his or her name on a waiting list for placement at a state school, if a vacancy does not exist within the state school system.

SECTION 11. Amends Chapter 533B, Health and Safety Code, by adding Section 533.039, as follows:

Sec. 533.039. CLIENT SERVICES OMBUDSMAN. Requires the commissioner to employ an ombudsman who is responsible for assisting a person who has been denied service by the department, a program or facility, or a local mental health or mental retardation authority. Requires the ombudsman to explain information on department and local mental health or mental retardation authority services, facilities, programs, and the rules, procedures, and guidelines to the person denied services and to refer the person to the appropriate program, facility, or service of the department or any other entity, if any.

SECTION 12. Amends Section 534.004(a), Health and Safety Code, to require the local agency or organizational combination of local agencies that establishes a community center to prescribe certain procedures. Deletes text requiring a term limit procedure.

SECTION 13. Amends Section 534.005, Health and Safety Code, to delete existing Subsection(c), regarding limiting a person appointed to the board to four terms, under certain conditions.

SECTION 14. Amends Section 534.007, Health and Safety Code, to add standard language developed by the Sunset Advisory Commission regarding prohibited activities by former officers or employees and offenses. Provides that this section does not apply to a former employee who is compensated on the last date of service or employment below the amount prescribed by the General Appropriations Act for salary group 17, Schedule A, or salary group 9, Schedule B, of the position classification schedule.

SECTION 15. Amends Section 534.065(b), Health and Safety Code, to authorize the mental health or mental retardation authority to renew the contract only if the contract meets the criteria provided by Section 533.016, Health and Safety Code. Deletes text concerning the renewal of the contract.

SECTION 16. Amends Chapter 461, Human Resources Code, by adding Section 461.0128, as follows:

Sec. 461.0128. STATE AGENCY SERVICES STANDARDS. (a) Requires the commission, by rule, to develop model program standards for substance abuse services for use by each state agency that provides or pays for substance abuse services. Requires the commission to provide the model standards to each agency that provides substance abuse as identified by the Health and Human Services Commission.

(b) Requires model standards developed under Subsection (a) to be designed to improve the consistency of substance abuse services provided by or through a state agency.

(c) Requires the commission to biennially review the model standards developed under Subsection (a) and determine whether each standard contributes effectively to the consistency of service delivery by state agencies.

SECTION 17. Amends Chapter 461, Health and Safety Code, by adding Section 461.0129, as follows:

Sec. 461.029. LOCAL BEHAVIORAL HEALTH AUTHORITIES. Defines “department.” Authorizes the commission and the department to jointly designate one or more local behavioral health authorities. Requires the commission and the department, before designating a local behavioral health authority, to make certain determinations. Requires the commission and the department jointly to assign the authority the duty of providing a single point of entry for mental health and substance abuse services.

SECTION 18. Makes application of this Act prospective.

SECTION 19. Effective date: September 1, 1999.

SECTION 20. Emergency clause.

## **SUMMARY OF COMMITTEE CHANGES**

SECTION 1.

Amends Section 532.002, Health and Safety Code, to provide that the Texas Department of Mental Health and Mental Retardation (department) is abolished and this chapter expires on September 1, 2011, rather than September 1, 1999, unless continued as provided by Chapter 325, Government Code.

SECTION 4.

Deletes existing SECTION 4. Redesignated from existing SECTION 5.

SECTION 5.

Redesignated from existing SECTION 6. Amends Section 533.032, Human Resources Code, to require the plan to cover the provision of services in and policies for state-operated institutions and ensure that the medical needs of the most medically fragile persons the department serves are met. Sets forth the parties from which the department must solicit input. Requires the department to develop a report containing information and recommendations regarding the most efficient long-term use and management of the department’s campus-based facilities. Sets forth the information the report is required to include. Requires the department to consider the medical needs of the most medically fragile clients and the provision of services to clients with severe and profound mental retardation. Sets forth certain activities the department must undertake regarding the report, legislative appropriations, and the department’s long-range biennial plan.

SECTION 6.

Redesignated from existing SECTION 7. Amends Chapter 533B, Health and Safety Code, by adding Section 533.0325, regarding the continuum of services in campus facilities.

SECTION 7.

Redesignated from existing SECTION 8. Amends Chapter 533B, Health and Safety Code, regarding the state agency services standards.

SECTION 8.

Redesignated from existing SECTION 9. Amends Chapter 533B, Health and Safety Code, by

adding Section 533.0351, regarding a local authority advisory committee.

#### SECTION 9.

Redesignated from existing SECTION 10. Amends Chapter 533B, Health and Safety Code, by adding Section 533.0356, regarding a local authority advisory committee.

#### SECTION 10.

Amends Section 533.038, Health and Safety Code, by adding Subsection (d), to require the department to assess the needs of a person with mental retardation seeking 24-hour care, and if the person is determined to require 24-hour care, the person is required to be offered the option of placement in a state school or a community group home. Requires all persons offered 24-hour care to receive a clear explanation of the respective benefits of state schools and community group homes and given the opportunity to elect placement in a state school or community group home. Requires a person seeking placement to be offered the option of placing his or her name on a waiting list for placement at a state school, if a vacancy does not exist within the state school system.

#### SECTION 11. Redesignated from SECTION 10.

#### SECTION 12.

Amends Section 534.004(a), Health and Safety Code, to require the local agency or organizational combination of local agencies that establishes a community center to prescribe certain procedures. Deletes text regarding a term limit procedure.

#### SECTION 13.

Amends Section 534.005, Health and Safety Code, to delete existing Subsection(c) regarding limiting a person appointed to the board under certain conditions.

#### SECTION 14.

Amends Section 534.007, Health and Safety Code, to provide that this section does not apply to a former employee who is compensated on the last date of service or employment below the amount prescribed by the General Appropriations Act for salary group 17, Schedule A, or salary group 9, Schedule B, of the position classification schedule.

#### SECTION 15.

Amends Section 534.065(b), Health and Safety Code, to authorize the mental health or mental retardation authority to renew the contract only if the contract meets the criteria provided by Section 533.016, rather than Sections 2155.074 and 2155.144, Government Code.

#### SECTION 16.

Amends added Section 461.0128, Chapter 461, Human Resources Code, to require the commission, by rule, to develop model program standards, rather than establish standards of care, for substance abuse services for use by each state agency that provides or pays for substance abuse services, rather than provided by a state agency. Requires the commission to provide the model standards to each agency that provides substance abuse as identified by the Health and Human Services Commission. Requires model standards developed under Subsection (a) to be designed to improve the consistency, rather than ensure that the quality, of substance abuse services provided through a state agency, rather than by a state agency is consistent with that of the commission. Requires the commission to biennially review the model standards developed, rather than established, under subsection (a), rather than this section, and, rather than to, determine whether each standard contributes effectively to the consistency of service delivery by state agencies, rather than is necessary to ensure consistent quality of care.

#### SECTION 17.

Amends Chapter 461, Health and Safety Code, by adding Section 461.0129, regarding local behavioral health authorities.

SECTIONS 18-20.

Redesignated from SECTIONS 15-17.