

BILL ANALYSIS

C.S.H.B. 470
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

With the massive reorganization of the state level agency structure for providing health and human services in Texas comes the question of how those changes will impact the way services are provided in local communities. One of the most significant changes was the division of the Texas Department of Mental Health and Mental Retardation (MHMR) and the merger of those services into the Departments of State Health Services (DSHS) and the Department of Aging and Disability Services (DADS). The division of MHMR created a dual contracting system at the local level for mental health and services to the mentally retarded. This is wasteful and breaks down the continuum of care for all persons who use these kinds of services. As the reorganization efforts of HB2292 progress it becomes apparent that the local level governance structure needs to be changed to more efficiently and effectively adjust to the new state structure, particularly with regard to the behavioral health system and the system for providing long term care services to persons with disabilities. Reforming the local level system of delivery of services for the persons who are aged, disabled and mentally retarded will do the following:

- allow communities and the State to prepare for the growing number of aging Texans;
- build a more effective continuum of care for persons with disabilities;
- help identify gaps in the services;
- create greater access to services by eliminating barriers. (No wrong door for services!); and
- create support systems for families wishing to care for their relatives at home.

Improving the local level service delivery system for behavioral health will do the following:

- more effectively integrate behavioral health and primary care services;
- help decrease the stigma associated with mental health services;
- more effectively treat persons with multiple diagnoses;
- help identify gaps in the services;
- allow for more effective partnerships with DSHS programs, local public health departments, and local hospital districts;
- allow communities to innovate with service delivery and use new models of service delivery like the use of the 16 bed inpatient facility for which additional federal match could be drawn; and,
- allow communities to form lasting strong partnerships with other state and local systems designed to support children with emotional disturbance, including Community Resource Coordination Groups and Texas Integrated Funding Initiatives.

C.S.H.B. 470 is an important step toward reform of Texas' health and human services system. This reform is needed at the local level to ensure the most effective delivery of services to persons who are aged and disabled and to persons interacting with the behavioral health system. This bill will encourage local control with appropriate State oversight to improve the systems for delivering aging and disability services and behavioral health services.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Executive Commissioner of the Health and Human Services Commission (HHSC) in SECTION 1 and SECTION 4 of this bill.

ANALYSIS

The bill adds new Subchapter M to Chapter 531, Government Code, relating to regional service coordination by local service authorities. The subchapter prevails over other laws related to the regulation or delivery of services by health and human services agencies to the extent of any conflict between such laws. The bill includes a definitions section.

The bill directs the HHSC Executive Commissioner to establish a system for aging and disability services and behavioral health services to be coordinated by local service authorities. The bill directs the Executive Commissioner to adopt rules governing the provision of services in the local regions, and sets forth certain criteria to be addressed in the rules. The bill requires the Executive Commissioner to ensure that a local service authority conducts financial eligibility assessments in accordance with HHSC's eligibility system.

The bill provides that DADS and DSHS shall consult with HHSC to coordinate the provision of Medicaid services through the local service authorities.

The bill directs the HHSC Executive Commissioner to develop rules and guidelines for screening and coordinating services to persons who require both behavioral health services and aging and disability services.

The bill sets forth criteria for the geographical boundaries of local service regions, and for the establishment of state-operated local service authorities.

The bill establishes procedures for the implementation of innovative projects for improving behavioral health services or aging and disability services.

The bill describes in detail the role and responsibilities of DADS in ensuring the provision of aging and disability services and for coordinating the provision of those services locally.

The bill describes in detail the role and responsibilities of DSHS in ensuring the provision of behavioral health services and for coordinating the provision of those services locally.

The bill describes the roles, duties, and certain limitations of local service authorities with respect to:

- contracting with DADS or DSHS
- improving the awareness and capacities of communities regarding the delivery of services;
- developing and maintaining a network of service providers and other needed resources;
- the direct provision of services;
- coordinating the use of state facilities;
- quality assurance and quality improvement in service delivery; and
- the establishment of an ombudsman program.

The bill describes permissible functions of community centers with respect to the delivery of mental retardation services.

The bill sets forth criteria and timelines relating to preferred provider status for certain existing local service providers.

The bill describes appropriate uses of local funding.

The bill directs the HHSC Executive Commissioner by rule to establish a procedure for the chief local elected officials of a local service region to create a governing structure for the region's local behavioral health authority or local aging and disability authority, and sets forth criteria to be followed by chief elected officials in developing plans for the local service delivery structure.

The bill directs HHSC to make available to the chief elected officials the recommendations of the mental health working group of the Texas State Strategic Health Partnership regarding behavioral health services reform, and directs HHSC, DADS, and DSHS to provide needed advice and assistance to such officials in establishing the governing structure of a local service authority.

The bill requires the chief elected officials, in conjunction with HHSC and the appropriate department, to develop a plan transition to transition from the existing authority structure to a regional authority structure, and sets forth certain criteria for the transition plan.

The bill requires service delivery and transition plans to be submitted to DADS and DSHS for approval, and directs HHSC, DADS, and DSHS to jointly establish timeframes for the implementation of the local planning process.

The bill directs HHSC to attempt to maximize the availability of federal matching money in developing the local service delivery system.

The bill describes the required and recommended composition of boards of directors of local service authorities.

The bill directs DADS or DSHS, as appropriate, to coordinate with local service authorities regarding the use of state mental health and mental retardation facilities, services, and buildings by eligible individuals.

The bill directs local behavioral health authorities to design system of care resources for children with serious emotional disturbances, to develop formal partnerships and coordinate with local entities in ensuring that such children receive appropriate care and services, to use a team approach to develop individual and family service plans, and to establish a system for integrating funding for a child's services.

The bill repeals certain provisions of the Health and Safety Code

The bill provides that the Act does not authorize expansion of Medicaid managed care programs unless certain criteria are met.

The bill provides a timeline for the adoption of rules by the HHSC Executive Commissioner.

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

Similarities between the original and the substitute will not be noted. It is the committee's opinion that the original and the substitute differ in the following significant respects:

The original refers to "aging and disabled services." The substitute refers to "aging and disability services." The original includes nursing home services within the definition of "aging and disabled services," while the substitute does not include nursing home services within the definition of "aging and disability" services."

The substitute adds definitions for "chief elected officials" and "community center."

The original refers to services to be "delivered" or "provided" by local service authorities. The substitute refers to services to be "coordinated" by local service authorities.

The original directs the HHSC Executive Commissioner to develop and adopt policies and rules governing "the assessment and eligibility for and" the provision of services in local service regions. The substitute deletes the language in quotations.

The original provides that the HHSC Executive Commissioner shall ensure that a local service authority conducts "determinations" of a potential client's financial eligibility. The substitute provides for conducting "assessments" of financial eligibility. The original directs HHSC to coordinate Medicaid services. The substitute directs DADS and DSHS, as appropriate, to consult with HHSC to coordinate the provision of Medicaid services. The substitute also adds a provision relating to the screening and coordination of services to persons who require both behavioral health services and aging and disability services.

The provisions of the bill relating to local service regions are significantly different. The original set forth detailed criteria to be used by the HHSC Executive Director in establishing local service regions. The substitute requires local service regions to have the same geographical boundaries as the uniform regional boundaries established for health and human services agencies under applicable provisions of the Government Code. The substitute also adds provisions relating to the circumstances under which HHSC may establish state-operated local service authorities, and certain requirements for such authorities, and relating to the implementation of innovative projects for improving services in a local service region.

In the committee's opinion, there are certain significant differences between the original and the substitute with respect to the role of DADS. The original provides that DADS shall manage contracts with local authorities for the provision of services. The substitute provides that DADS shall manage contracts with local authorities for "ensuring" the provision of services. The substitute also adds the following:

- DADS is directed to operate in accordance with state permanency planning laws
- DADS must ensure that area agencies on aging comply with applicable requirements of the Americans with Disabilities Act
- DADS is directed to maintain the area agencies on aging and their current designated planning and service areas in accordance with HHSC rules
- DADS, in coordination with HHSC, is directed to continue to manage Medicaid contracts with Medicaid providers.

In the committee's opinion, there are certain significant differences between the original and the substitute with respect to the role of DSHS. The original provides that DSHS shall manage contracts with local authorities for the provision of services. The substitute provides that DSHS shall manage contracts with local authorities for "ensuring" the provision of services. Provisions setting forth the goals of local service delivery systems are somewhat different in the original and the substitute. Major difference include provisions in the substitute relating to substance abuse treatment, to developing a system oriented toward resiliency and disease-management, and to a fee-for-service payment model for certain regions. The original includes certain provisions relating to early mental health screening, assessment, and referral that are not in the substitute.

In the committee's opinion, there are certain significant differences between the original and the substitute with respect to the roles and duties of local service authorities. For example, the original provides that a local authority shall develop and/or maintain service delivery plans for eligible clients, a network of providers, and other needed resources. The substitute provides that a local authority shall "ensure and authorize" the development and/or maintenance of such plans, provider network, and resources. The original provides that a local service authority may not provide services directly, while the substitute authorizes the provision of mental retardation services by community centers through authorities. The substitute also adds a provision creating preferred provider status for certain existing contractors in good standing, and establishes a transitional term for such status.

The provisions in the original and the substitute relating to the use of local funding are somewhat different. The provisions relating to the composition of boards of directors of local service

authorities are also somewhat different, with the differences including that the original bill mandates that members of certain groups be included on the boards, while the substitute encourages the appointment of members of certain groups to the boards. In addition, the substitute requires the boards to have at least nine members.

The provisions in the original and substitute are also different with respect to coordination and/or management of the use of facilities. The original places this responsibility upon local service authorities. The substitute makes this a shared responsibility between state agencies and local service authorities.

The provisions of the bills relating to planning and transition from the existing authority structure are more detailed in the substitute, and require chief elected officials to submit transition plans to DADS and DSHS for approval, and direct HHSC, DADS, and DSHS to establish timeframes for implementation of the local planning process.

The substitute adds a provision relating to limitations on the authority to expand Medicaid managed care programs.

The original includes detailed requirements relating to service provision by local aging and disabled authorities and local behavioral health authorities, and coordination of services provided by state hospitals and state schools. Analogous provisions are not included in the substitute.

The original includes certain provisions relating to assistance to be provided by DSHS in designing service delivery systems for mental health care that are not included in the substitute.

The repealer provisions of the original and the substitute are different.