

BILL ANALYSIS

C.S.H.B. 3077
By: Naishtat
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Over the past few years, considerable media attention has been focused on deaths that have occurred involving the use of emergency interventions in residential facilities and schools. These are deaths associated with restraint asphyxiation and involving the use of physical or mechanical restraints.

While the use of behavioral interventions are sometimes necessary and appropriate to protect an individual or others, it is important for the State to understand the context in which these interventions are used, and to assist providers in using less restrictive alternatives whenever possible. Reliable data regarding the use of restraints and seclusion is necessary in order to achieve this.

Currently, state regulatory and licensing agencies have no consistent reporting requirements of the various types of facilities regarding the use of restraints and seclusion, nor is there consistency across agencies about what happens to the data when it is reported. In addition, there are no common definitions or common language relating to the use of restraints or seclusion by all agencies, resulting in data that provides little meaning since it cannot be compared across agencies and settings.

C.S.H.B. 3077 would require the Texas Health and Human Services Commission (HHSC) to establish a work group to develop and recommend definitions, guidelines and reporting requirements relating to the use of restraints, seclusion and emergency medication. This would provide for the collection of reliable data which would be useful in identifying and reducing the risk of injury or death associated with the use of behavioral interventions.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

The bill includes a definitions section.

The bill directs the HHSC Executive Commissioner, in cooperation with certain agencies, to establish a work group to develop and recommend definitions, guidelines, and reporting requirements relating to the use of restraints, seclusion and emergency medication in the management of behavior of facility residents.

The bill specifies that the work group is to be composed of members from specified agencies, as well as certain recognized experts and members of stakeholder groups. The bill also prohibits certain representation on the work group.

The bill requires the work group to solicit input from various stakeholder groups on definitions, guidelines, and reporting requirements relating to the work group's responsibilities. The bill describes in detail the charge delegated to the work group, and provides a timeline for reporting action taken by certain agencies on implementing the recommendations of the work group.

The bill includes an expiration date.

C.S.H.B. 3077 79(R)

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

There are certain differences in the definitions section and in the section relating to the composition of the work group which, in the committee's opinion, do not significantly alter the intent or purpose of the bill.

The substitute provides that the work group is to recommend guidelines for adoption by health and human services agencies. The original provides that the work group is to recommend guidelines for adoption by regulatory agencies, as specified in the definitions section of the bill.