

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 13, 2005

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB325 by Zaffirini (Relating to the management of behavior of residents of certain facilities.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would add Chapter 322, Use of Restraint and Seclusion in Certain Health Care Facilities, to the Health and Safety Code. It would make changes to the policies on use of restraint and seclusion in child-care institutions, intermediate care facility for persons with mental retardation (ICFs/MR), psychiatric hospitals, state hospitals, nursing homes, assisted living facilities, and substance abuse facilities.

The bill would require the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules that define acceptable restraint holds, govern the use of seclusion and guide the development of practices to decrease the frequency of use of restraint and seclusion.

The bill would require the following: a) by Nov. 1, 2005, for HHSC to establish a workgroup, b) by June 1, 2006, for HHSC to adopt rules to implement the bill, c) by July 1, 2006, for HHSC to report to legislative committees about recommended best practices, d) by Nov. 1, 2006, for HHSC to adopt rules to implement recommended best practices, and e) by January 1, 2007, for HHSC to file a report with legislative committees.

The proposed Health and Safety Code Section 322.051(b)(3) requires a non active observer to be present who is trained to identify asphyxiation risks during a restraint to ensure that the resident's breathing is not impaired. The bill would allow small residential facilities and small residential service providers to be exempt from this provision.

HHSC, the Department of Aging and Disability Services, and the Department of State Health Services (DSHS) state that the bill would not have a significant fiscal impact and that workload resulting from the bill could be absorbed within their budgets. Additionally, DSHS states that the proposed change is similar to current rules (Texas Administrative Code, Title 25, Part 1, Ch. 415, Subchapter F) that apply to mental health facilities.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission, 537 Department of State Health Services, 539 Department of Aging and Disability Services, 665 Juvenile Probation Commission, 694 Youth Commission

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