

By: O'Day, Bonnen, Taylor, Eiland, Deshotel,
et al.

H.B. No. 3766

Substitute the following for H.B. No. 3766:

By: Rose

C.S.H.B. No. 3766

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the establishment of a self-determination pilot program
3 by the Department of Aging and Disability Services.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter B, Chapter 32, Human Resources Code,
6 is amended by adding Section 32.0661 to read as follows:

7 Sec. 32.0661. SELF-DETERMINATION PILOT PROGRAM. (a) In
8 this section:

9 (1) "Department" means the Department of Aging and
10 Disability Services.

11 (2) "Home and community-based services program" means
12 the medical assistance waiver program for persons with mental
13 retardation and related conditions implemented in accordance with
14 Section 1915(c) of the federal Social Security Act (42 U.S.C.
15 Section 1396n(c)) and administered by the Department of Aging and
16 Disability Services.

17 (b) The department shall establish a pilot program that
18 allows an eligible individual to use existing appropriated funds in
19 a flexible, self-determined manner to fulfill the individual's
20 needs for home and community services, as identified in a
21 person-directed plan and individualized budget.

22 (c) The executive commissioner of the Health and Human
23 Services Commission shall adopt rules regarding the pilot program
24 with the advice and assistance of individuals with disabilities and

1 their family members, the local mental retardation authorities in
2 the counties in which the pilot program will be implemented,
3 representatives from advocacy organizations for individuals with
4 disabilities, the consumer directed services work group, and home
5 and community-based services program providers. The rules must
6 provide for at least the following pilot program elements:

7 (1) allowing, within the parameters of the program,
8 the individual to have decision-making authority;

9 (2) providing for a consultant that provides support
10 to the individual by:

11 (A) planning and developing a service plan to
12 meet the individual's needs after the development of the
13 individual's initial plan of services;

14 (B) negotiating with the system of services and
15 service providers on behalf of the individual; and

16 (C) advocating for and connecting the individual
17 with community resources; and

18 (3) ensuring that the pilot program includes an entity
19 that provides financial management services to ensure that funds
20 for the individual's budget in the pilot program are used in a
21 legally and fiscally accountable manner.

22 (d) An individual is eligible to participate in the pilot
23 program if the individual:

24 (1) is eligible for the home and community-based
25 services program; and

26 (2) is enrolled in or, through inclusion on the
27 interest list, is in the process of enrolling in the home and

1 community-based services program.

2 (e) The department shall coordinate with the Health and
3 Human Services Commission and the Centers for Medicare and Medicaid
4 Services to determine the best strategy for receiving approval for
5 the use of the funds in the pilot program.

6 (f) In implementing the pilot program, the department
7 shall:

8 (1) ensure that not more than 50 individuals are
9 enrolled in the pilot program at any one time;

10 (2) for an individual not enrolled in the home and
11 community-based services program, require the local mental
12 retardation authority for each county participating in the pilot
13 program to provide initial service coordination for the individual
14 enrolling in the pilot program, including:

15 (A) development of the initial plan of services
16 for the individual, with direction from the individual;

17 (B) evaluation of the individual to determine the
18 individual's need for services and supports; and

19 (C) planning for support services, including
20 identification of qualified consultants and financial management
21 service providers;

22 (3) for an individual enrolled in the home and
23 community-based services program who chooses to participate in the
24 pilot program, require the individual's case management service
25 provider in the home and community-based services program to
26 provide initial service coordination for the individual,
27 including:

1 (A) development of the initial plan of services
2 for the individual, with direction from the individual;

3 (B) evaluation of the individual to determine the
4 individual's need for services and supports; and

5 (C) planning for support services, including
6 identification of qualified consultants and financial management
7 service providers; and

8 (4) ensure that:

9 (A) the local mental retardation authority staff
10 or the individual's case management service provider in the home
11 and community-based services program, as applicable, receives
12 information and training regarding the concept of
13 self-determination and strategies for successful implementation of
14 the pilot program;

15 (B) each financial management services provider
16 is:

17 (i) given orientation for and is supportive
18 of the concept of self-determination;

19 (ii) able to work with a range of different
20 consumers; and

21 (iii) otherwise compliant with department
22 and Health and Human Services Commission requirements for the
23 provision of financial management services;

24 (C) a person serving as a consultant:

25 (i) has knowledge of and is familiar with
26 community and other available resources for individuals with
27 disabilities;

1 (ii) understands the pilot program
2 requirements regarding planning, budgets, and the use of services
3 and supports; and

4 (iii) is independent of the persons
5 providing services and supports to the individual served by the
6 consultant; and

7 (D) a service provider is qualified and complies
8 with the department's requirements for the provision of those
9 services.

10 (g) The department shall ensure that an individual enrolled
11 in the pilot program may transfer to receiving services through the
12 home and community-based services program at any time.

13 (h) Not later than January 1, 2009, the department shall
14 implement the pilot program in Brazoria and Galveston Counties.

15 (i) Not later than June 1, 2010, the department shall submit
16 a report to the governor, the lieutenant governor, the speaker of
17 the house of representatives, and the presiding officer of each
18 standing committee of the senate and the house of representatives
19 with jurisdiction over human services regarding the implementation
20 of the pilot program that contains:

21 (1) a review of the quality of life and outcomes of
22 individuals enrolled in the pilot program;

23 (2) a review of whether the pilot program is
24 cost-effective;

25 (3) recommendations regarding the expansion of the
26 pilot program;

27 (4) any relevant information provided to the

1 department by the consumer directed services work group; and

2 (5) any other relevant information as determined by
3 the department.

4 (j) This section expires September 1, 2011.

5 SECTION 2. If before implementing any provision of this Act
6 a state agency determines that a waiver or authorization from a
7 federal agency is necessary for implementation of that provision,
8 the agency affected by the provision shall request the waiver or
9 authorization and may delay implementing that provision until the
10 waiver or authorization is granted.

11 SECTION 3. This Act takes effect September 1, 2007.