

BILL ANALYSIS

C.S.H.B. 4154
By: Rose
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The aging of the baby boomer generation will require Texas to ensure it has the infrastructure to deliver services to a growing population of elderly individuals and the support and guidance for families to make sure that care is appropriate, necessary, safe, and cost-effective.

C.S.H.B. 4154 establishes a volunteer advocate program called Seniors Advocates Volunteering for the Elderly (SAVE). SAVE is modeled on the successful Court Appointed Special Advocates (CASA) program, which is a nonprofit program that uses volunteers and a limited number of paid staff to advocate for care that would be in the best interests of children who have been abused or neglected. SAVE would be a similar program using trained volunteers to guide caregivers and guardians of the elderly in selecting programs and services that will minimize cost and focus care on only those services the family caregivers determine are necessary. SAVE volunteers would serve elderly individuals who pay for services out of their own pockets as well as those who are served by publicly funded programs.

It is expected that SAVE will extend the time people can remain in an appropriate home setting, maximize the efficiency of services delivered by focusing care on the services needed and desired by the family to sustain family care-giving, protect the elderly by serving as a knowledgeable third-party to review the quality of care and services being delivered and the care options available to the family, and facilitate communication between the family and the providers when out-of-home care is being provided.

C.S.H.B. 4154 requires the executive commissioner of the Health and Human Services Commission to establish a volunteer advocate program for the elderly advisory committee to coordinate the development of a volunteer advocate program for the elderly receiving services from or under the direction of the commission or a health and human services agency.

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 in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 4154 amends the Government Code to require the executive commissioner of the Health and Human Services Commission to coordinate with the volunteer advocate program advisory committee to develop a volunteer advocate program for the elderly receiving services from or under the direction of the commission or a health and human services agency. The bill requires the executive commissioner and the advisory committee, in developing the program, to adhere to principles relating to the intent of the program to evaluate, through the operation of pilot projects, whether providing the services of a trained volunteer advocate selected by an elderly individual or the individual's designated caregiver is effective in achieving certain goals. The bill requires the executive commissioner and the advisory committee to establish a volunteer advocate curriculum that incorporates recognized best practices in the elder health care field,

maximize the use of pro bono assistance from qualified professionals in developing and designing that curriculum, certify trainers, offer training through multiple community-based organizations, and maintain voluntary participation in the program initiated by the elderly individual or caregiver.

C.S.H.B. 4154 authorizes the executive commissioner to enter into agreements with appropriate nonprofit organizations for the provision of services under the program. The bill specifies that a nonprofit organization is eligible to provide services under the program if the organization has significant experience in providing services to elderly individuals, has the capacity to provide training and supervision for individuals interested in serving as volunteer advocates, and meets any other criteria prescribed by the executive commissioner. The bill requires the commission to fund the program through existing appropriations to the commission. The bill authorizes the commission to accept gifts, grants, or donations for the program from any public or private source to carry out the design of the program, develop evaluation criteria, develop a volunteer advocate training curriculum, conduct training for volunteer advocates, and develop a request for offers to conduct any proposed pilot projects under the program. The bill authorizes the executive commissioner to adopt rules as necessary to implement the program.

C.S.H.B. 4154 requires the executive commissioner to appoint the volunteer advocate program for the elderly advisory committee composed of representatives of the Department of Aging and Disability Services, the Department of Assistive and Rehabilitative Services, the Department of State Health Services, the Texas Silver-Haired Legislature, an area agency on aging, the United Ways of Texas, Texas CASA, AARP, and a home health provider, an assisted living provider, a nursing home provider, and a licensed gerontologist. The bill requires the advisory committee to advise the executive commissioner on the development of the volunteer advocate program for the elderly, including reviewing and commenting on program design and selection of any pilot sites, volunteer advocate training curriculum, requests for oversight requirements for any pilot projects, evaluation of those projects, requirements for periodic reports to the elderly individual or the individual's designated caregiver and providers of health care or other services, and other issues as requested by the executive commissioner.

C.S.H.B. 4154 adds a temporary provision set to expire September 1, 2011, requiring the advisory committee to submit a report to the governor, lieutenant governor, speaker of the house of representatives, and standing committees of the senate and house of representatives with primary jurisdiction over matters concerning health and human services on the advisory committee's activities, findings, and recommendations not later than December 1, 2010. The bill requires the commission to provide the advisory committee with the staff support necessary to allow the committee to fulfill its duties. The bill specifies a member of the advisory committee serves without compensation but is entitled to a per diem allowance and reimbursement at rates established for state employees for travel expenses incurred in the performance of the member's official duties. The bill requires per diem allowance expenses to be paid from existing appropriations to the commission not to exceed \$50,000 per year. The bill exempts the advisory committee from provisions of law relating to state advisory committees. The bill defines "designated caregiver," "elderly," "program," and "volunteer advocate."

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4154 differs from the original by adding its provisions to the Government Code, rather than the Human Resources Code. The substitute adds provisions not in the original defining "designated caregiver," "program," and "volunteer advocate." The substitute defines "elderly" to mean an individual who is at least 60 years of age, whereas the original defined "elderly person"

to mean an individual 65 years of age or older. The substitute omits a provision in the original authorizing the Department of Aging and Disability Services to establish a volunteer advocate program under which trained individuals serve as volunteer advocates for elderly persons subject to guardianship proceedings or proceedings in which emergency orders are sought authorizing the provision of protective services, to instead require the executive commissioner to coordinate with the advisory committee to develop a volunteer advocate program for the elderly receiving certain services. The substitute differs from the original by setting forth principles to which the executive commissioner and committee are required to adhere in developing the program.

C.S.H.B. 4154 differs from the original by authorizing the executive commissioner to enter into agreements with appropriate nonprofit organizations for the provision of services under the program and makes related conforming changes, whereas the original authorizes the department to enter into such agreements. The substitute omits a provision included in the original requiring the department to consider the structure and operation of existing programs that provide volunteer advocates for abused or neglected children and incorporate any appropriate aspects of those programs into the volunteer advocate program. The substitute adds a provision not in the original requiring the commission to fund the program through existing appropriations to the commission. The substitute adds a provision not in the original specifying how gifts, grants, or donations to the program may be administered. The substitute adds provisions not in the original establishing the volunteer advocate program advisory committee and providing for its membership and operation.

C.S.H.B. 4154 omits a provision in the original authorizing a court to appoint a volunteer advocate in a guardianship proceeding under the Probate Code for the appointment of guardian for a proposed ward who is 65 years of age or older.