

## **BILL ANALYSIS**

C.S.H.C.R. 22  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

On August 2002, Haseeb Chishty, a mentally handicapped but physically healthy young man, was brought to the Denton State School (DSS) to improve his behavioral and eating skills. While at the school, Haseeb was severely beaten by Kevin Miller, a caregiver at DSS. Miller confessed to victimizing Haseeb and blames a culture of negligence, abuse, and drug use on the job. Miller indicated that "the employees on that shift did either crack, powder cocaine, marijuana, Oxycontin, hydrocodone, valium" among others. Kevin Miller admits to kicking and punching Haseeb more than twenty times. In a taped confession, Kevin Miller claims that his supervisors knew about the abuse.

In September of 2002, Ms. Chishty alleges that a nursing aide found Haseeb lying in his own blood and urine. When his mother visited that same day, she found her son in terrible pain; however, she alleges that the school would not admit Haseeb was hurt and would not wake up the physician on call. They continued to deny the abuse and indicated that Haseeb had been injured by a van seatbelt when he was transported to the state school the month prior. According to Ms. Chishty, Haseeb was not transferred to a hospital for more than a day, and had a less than 5% chance of survival when he arrived. Haseeb's condition worsened, and he had to undergo four surgeries to reconstruct his internal organs. The alleged abuse and neglect caused by Miller and DSS' apparent attempt to cover up the situation have left Haseeb nearly paralyzed, confined to a wheelchair, and unable to eat by mouth. Miller was indicted by a Denton County grand jury and charged with reckless bodily injury to a disabled person.

In September 2008, Haseeb Chishty came home after five years of negotiations with the Department of Aging and Disability Services. However, Ms. Chishty alleges that DADS has not sufficiently and consistently provided for the care of Haseeb, leaving her unable to provide the care he needs.

In 2008 the Centers for Medicare and Medicaid Services rated DSS' quality of services a 20 out of 100, and cited Denton for 25 deficiencies regarding federal standards. Those "deficiencies" include failure to protect clients' rights to be free from abuse, neglect, and mistreatment; failure to show that all allegations of abuse, neglect, or mistreatment were thoroughly investigated; and failure to have or to use policies and procedures that prohibit mistreatment, neglect, or abuse of clients. The report confirms that Kevin Miller's treatment of Haseeb Chishty is evidence of systemic and prolific problems at DSS. These findings were corroborated by the Department of Justice's investigation of Texas State Schools which found that they "substantially depart from generally accepted professional standards of care", and the fact that more than 800 employees had been suspended or fired for abusing State School Facility residents since 2004.

The Chishty family is currently unable to sue DSS, DADS, and the state, because of the state's sovereign immunity from suit. Chapter 107 of the Civil Remedies and Practice Code grants the legislature the authority to waive the state's sovereign immunity by resolution. This resolution grants the Chishty family permission to sue the state.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

## **ANALYSIS**

CSHCR 22 grants the Chishty family permission to sue the Denton State School (DSS), The Department of Aging and Disability Services (DADS), and the State of Texas subject to Chapter 107 of the Civil Practice and Remedies Code.

CSHCR 22 calls for the commissioner of DADS and the superintendent of DSS to be served process as provided by Section 107.002(a)(3) of the Civil Practice and Remedies Code.

## **EFFECTIVE DATE**

September 1, 2009.

## **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The committee substitute deletes exemplary damages from awards to which the Chishty family is entitled, and adds attorney's fees.

The committee substitute adds a cap on damages by limiting the relief to which the Chishty family is entitled to the cap on damages in Section 101.023(a) of the Civil Practice and Remedies Code, excluding actual medical expenses, attorney's fees, and any interest on these amounts that is authorized by law.

All else in the committee substitute is identical.