

BILL ANALYSIS

Senate Research Center
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S.B. 1395
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many Texans believe that the term "retarded" is hurtful and offensive to persons with intellectual disabilities. Though the term mental retardation is a medical diagnosis, it should not be used to describe a person or a person's character. What is more, national efforts are under way to change "mental retardation" to "intellectual disability" in the Diagnostic and Statistical Manual of Mental Disorders-Fourth Edition (Text Revision) anticipated to occur next year. Self-advocates, family members, advocates, and others object to the use of demeaning words to describe themselves or the persons they care about. All Texas citizens deserve to be treated with dignity and respect, therefore, official language used by the state should reflect that respect.

The term mental retardation in its various forms (e.g., retarded, mentally retarded, and mental retard) was meant to be an improvement of previous language used to label persons with cognitive or intellectual disabilities. Prior to being labeled "mentally retarded," persons were called idiots and morons, legal terms that are now passé and used only as insults. Over the decades, the term mentally retarded has deteriorated in many cases to the same level as its predecessors and is often used as an intentional insult to degrade persons purposely.

As proposed, S.B. 1395 amends current law relating to the use of person first respectful language in reference to individuals with disabilities.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle Z, Title 3, Government Code, by adding Chapter 392, as follows:

CHAPTER 392. PERSON FIRST RESPECTFUL LANGUAGE INITIATIVE

Sec. 392.001. FINDINGS AND INTENT. Provides that the legislature finds that language used in reference to persons with disabilities shapes and reflects society's attitudes toward persons with disabilities. Provides that certain terms are demeaning and create an invisible barrier to inclusion as equal community members. Provides that it is the intent of the legislature to clarify the preferred language for new and revised laws by requiring the use of terminology that places the person before the disability.

Sec. 392.002. USE OF PERSON FIRST RESPECTFUL LANGUAGE REQUIRED. (a) Provides that the legislature and the Texas Legislative Council (TLC) are directed to avoid using the following terms in any new statute or resolution, and to change such references in any existing statute or resolution as sections including these references are otherwise amended by law: disabled, developmentally disabled, mentally disabled, mentally ill, mentally retarded, handicapped, cripple, and crippled.

(b) Provides that the legislature and TLC are directed to replace terms referenced in Subsection (a) as appropriate with the following revised terminology or appropriate variations of that terminology: "persons with disabilities," "persons with developmental disabilities," "persons with mental illness," and "persons with intellectual disabilities."

(c) Provides that a statute or resolution is not invalid because it does not comply with this section.

SECTION 2. Amends Chapter 325, Government Code, by adding Section 325.0123, as follows:

Sec. 325.0123. REVIEW OF CERTAIN AGENCIES FOR RESPECTFUL LANGUAGE. (a) Requires the Sunset Advisory Commission (Sunset), as part of its review of a health and human services agency, to consider and make recommendations regarding revising the agency's provisions to use the term "intellectual disability" instead of "mental retardation" and the term "person with intellectual disability" instead of "person with mental retardation."

(b) Requires Sunset, as part of its review of an agency, to consider and recommend, as appropriate, implementing the person first respectful language initiative under Chapter 392.

SECTION 3. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.0227, as follows:

Sec. 531.0227. PERSON FIRST RESPECTFUL LANGUAGE PROMOTION. Requires the executive commissioner of the Health and Human Services Commission (HHSC) to ensure that HHSC and each health and human services agency use the preferred terms from the person first respectful language initiative in Chapter 392 when proposing, adopting, or amending HHSC's or agency's rules, reference materials, publications, and electronic media.

SECTION 4. Amends Section 591.003, Health and Safety Code, by adding Subdivisions (7-a) and (15-a) and amending Subdivisions (13) and (16), as follows:

(a-7) Defines "intellectual disability."

(13) Redefines "mental retardation."

(a-15) Defines "person with intellectual disability."

(16) Redefines "person with mental retardation."

SECTION 5. Provides that it is not the intent of the legislature that the changes in law made by this Act affect the application or interpretation of the Penal Code or eligibility for any program.

SECTION 6. Effective date: September 1, 2009.