

## **BILL ANALYSIS**

C.S.S.B. 1648  
By: Van de Putte  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The U.S. Department of Veterans Affairs (VA) is faced with a daunting task as military servicemembers continue to return from Iraq and Afghanistan requiring mental and behavioral health treatment. The number of returning troops is projected to increase, and the VA faces the possibility of being unable to meet all the needs of the returning soldiers, sailors, airmen, and marines.

C.S.S.B. 1648 amends current law relating to the provision of outreach services, behavioral health services, and certain other health care services related to mental health, to members and veterans of the state military services and U.S. armed forces and their families. The bill provides for the development of related clinical practice guidelines.

### **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 SECTIONS 2 and 7 of this bill.

### **ANALYSIS**

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission (HHSC) all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practicable, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.S.B. 1648 adds a new Health and Safety Code chapter relating to services for servicemembers and to require the Department of State Health Services (DSHS) to establish a program to promote the wellness of servicemembers and their families through the development, maintenance, and dissemination of clinical practice guidelines and other information for the effective treatment of psychological trauma and the reintegration of servicemembers into their communities, families, and workplaces, with emphasis on the trauma of war, including post-traumatic stress disorder, traumatic brain injury, and sexual trauma that occurs in military settings. The bill for purposes of the new chapter defines "servicemember," by reference to other statutes, to mean a Texas resident who is a member or a former member of the state military services or a component of the United States armed forces, including a reserve component. The bill for the same purposes defines "department," "post-traumatic stress disorder," "program," and "traumatic brain injury." The bill requires the executive commissioner of the Health and Human Services Commission to adopt rules to implement the chapter not later than January 1, 2010.

C.S.S.B. 1648 requires DSHS to develop evidence-based clinical practice guidelines containing recommendations to clinicians and other providers of mental health services for the management of trauma, including post-traumatic stress disorder, traumatic brain injury, and other trauma that impacts behavioral health. The bill requires DSHS to consider the recommendations and research of the National Center for Posttraumatic Stress Disorder of the federal Veterans Health Administration, the trauma registry and research database of the United States Army Institute of Surgical Research, and other appropriate and reputable sources of clinical research and information as determined by DSHS. The bill requires DSHS to provide for the ongoing maintenance and updating of the clinical practice guidelines in a manner that reflects current diagnostic and treatment best practices. The bill establishes that the DSHS guidelines do not constitute the sole source of guidance in the management of trauma and neither provide the only appropriate approach to the management of trauma nor replace other clinical judgment, but rather are intended to assist clinicians by providing a framework for clinical decision making.

C.S.S.B. 1648 requires DSHS to make the clinical guidelines and other information available to providers of physical and behavioral health services and to the appropriate professional associations for continuing education purposes. The bill requires DSHS to the extent feasible to enter into agreements or take other action to promote the use of the materials for continuing education. The bill requires DSHS to provide training and continuing education to clinicians and to recognize demonstrated knowledge and mastery of the guidelines and other materials through certificates or other means. The bill requires DSHS, with the advice of and in consultation with the Texas Veterans Commission, to develop training and educational materials for the use of that commission, veterans county service officers, and other service providers. The bill requires the materials to promote understanding and effective treatment of trauma affecting behavioral health and other health-related information pertaining to the reintegration of servicemembers into their communities, families, and workplaces.

C.S.S.B. 1648 requires DSHS, in consultation with the U.S. Department of Veterans Affairs (VA), the Texas military forces, the Texas Information and Referral Network, the Texas Veterans Commission, and the General Land Office, to provide service coordination for servicemembers and their families throughout Texas to connect them to behavioral health services that may be available through the VA or under the provisions of the bill. The bill requires DSHS, in geographic areas of Texas in which services are not yet available or accessible through the VA, to negotiate contracts with the VA for behavioral health services provided through community health centers or other community resources with which DSHS contracts until federal services are available.

C.S.S.B. 1648 requires DSHS to provide servicemembers and their families current, accurate, and complete information about behavioral health services and resources through existing Internet-based resource programs and through the directory of services for military personnel and their families disseminated through the Texas Information and Referral Network and the reintegration services referral program of the adjutant general's department.

C.S.S.B. 1648 requires DSHS to seek reimbursement for the costs of such services from the VA and from other governmental entities that may provide behavioral health services or payments for such services to servicemembers and their families. The bill requires DSHS to provide an opportunity for servicemembers to disclose military status when accessing local behavior health services that receive funding from DSHS.

C.S.S.B. 1648, in temporary provisions, set to expire September 1, 2011, requires DSHS to establish pilot programs in El Paso County and Bexar County to evaluate the effectiveness of a program to provide behavioral health services to eligible servicemembers, and to contract with the local mental health authorities in those counties to administer the pilot programs.

C.S.S.B. 1648 provides that to qualify for such behavioral health services, a servicemember must:

- reside in El Paso or Bexar County;
- be younger than 65 years of age;
- have served for at least 180 days of duty after the servicemember's initial training;
- not be an inmate of a public institution;
- not be a resident of a nursing facility;
- not have health care coverage that provides diagnostic review and treatment for post-traumatic stress disorder, traumatic brain injury, or other trauma occurring in a military setting that impacts behavioral health; and
- be ineligible for services from the VA or be unable to access those services because the servicemember does not have transportation to a service provider or because the servicemember must wait more than 30 days for an appointment with a service provider.

The bill requires a servicemember who does not meet such eligibility requirements under the program to be referred to an appropriate service provider for follow-up care. The bill requires an eligible servicemember, in order to receive behavioral health services through a pilot program, to enroll in the pilot program with the local mental health authority. The bill authorizes a servicemember, following expiration of the term of the servicemember's enrollment in the pilot program, to reenroll for services if the local mental health authority determines that the servicemember continues to qualify for treatment for post-traumatic stress disorder, traumatic brain injury, or other trauma occurring in a military setting that impacts behavioral health. The bill authorizes a family member of an enrolled servicemember to receive behavioral health services under the program.

C.S.S.B. 1648 includes provisions governing DSHS establishment of the pilot programs through contracts with the local mental health authorities in El Paso County and Bexar County. The bill authorizes such services to include crisis services and behavioral health services. The bill requires the latter, to the greatest extent possible, to be provided in a peer-based treatment environment that may include: screening assessments; individual, family, and group therapy; substance abuse early intervention and detoxification services; and substance abuse medication-assisted treatment. The bill requires the provision of services by the local mental health authority to be based on medical necessity criteria established by rule. The bill requires DSHS to seek reimbursement for the costs of pilot program services provided from the VA and from other governmental entities that may provide behavioral health services or payments for such services to servicemembers and their families.

C.S.S.B. 1648 requires DSHS, not later than December 1, 2010, to submit a report to the governor, lieutenant governor, and speaker of the house of representatives that includes an analysis of the effectiveness of the pilot program and recommendations regarding continuation or expansion of the pilot program.

C.S.S.B. 1648 requires DSHS through a public outreach program to provide information to servicemembers and their families on accessing services through the Texas Information and Referral Network and through other organizations participating in memoranda of understanding maintained by the Texas military forces. The bill requires such outreach activities to describe programs administered by health and human services agencies that could be of interest to servicemembers and their families, including early childhood intervention services, state vocational rehabilitation services, and higher education benefits and support services. The bill requires the outreach efforts to be conducted on a statewide basis, through contracting with statewide or local community-based organizations with experience in statewide outreach to the military, and to be staffed by individuals with demonstrated experience in working with the military and military service organizations. The bill sets forth other requirements regarding outreach methods including an interactive Internet-based resource program.

C.S.S.B. 1648 amends the Government Code to require the adjutant general to require each member of the Texas National Guard who served during Operation Enduring Freedom or Operation Iraqi Freedom to be screened for traumatic brain injury. The bill requires the adjutant general to assist a member of the Texas National Guard who tests positive for traumatic brain injury in obtaining appropriate medical care.

C.S.S.B. 1648 includes, among the duties of the Texas Veterans Commission, assisting veterans and their families and dependents in establishing eligibility for health care services and treatments from the VA and for services provided through DSHS. The bill requires the commission to enter into a memorandum of understanding with DSHS to develop training materials for veterans county service officers and veterans service organizations that promote the understanding and effective treatment of trauma affecting behavioral health and other health-related information that promotes the reintegration of members and veterans of the armed forces into their communities, families, and workplaces. The bill requires the commission to disseminate training and educational materials for the development of clinical practice guidelines, to enter into a contract or agreement with DSHS for the development of training and educational materials, to reimburse DSHS for costs of preparing the materials, and to enter into a relationship with established training programs for the purpose of providing peer support training and certification for veterans county service officers.

C.S.S.B. 1648, amending provisions of existing law that require the commission to adopt procedures for administering claims assistance services, requires the provision of services for establishing eligibility for health care services and treatments from the VA.

C.S.S.B. 1648 requires DSHS to conduct an immediate analysis of the behavioral health needs of veterans and their families and to submit a preliminary report of its findings and recommendations to the legislature and the governor on or before December 1, 2009, and a final report of its findings and recommendations on or before December 1, 2010. The bill sets forth the requirements for the report.

C.S.S.B. 1648 provides that the bill does not make an appropriation and only takes effect if a specific appropriation for their implementation is provided in a general appropriations act of the 81st Legislature.

### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2009.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.S.B. 1648 differs from the original by requiring the Department of State Health Services (DSHS) for certain geographic areas, to negotiate contracts with the U.S. Department of Veterans Affairs (VA) for behavioral health services provided through community mental health centers, whereas the original requires DSHS, for those areas, to provide service coordination for veterans to connect them to behavioral health services that may be available through community mental health centers.

C.S.S.B. 1648 adds a provision not in the original requiring DSHS to seek reimbursement from the VA and certain other governmental agencies for costs of service coordination for behavioral health services.

C.S.S.B. 1648 differs from the original by requiring DSHS to establish behavioral health services pilot programs, the statutory provisions for which are temporary and expire September 1, 2011, rather than a single health services program without that expiration date. The substitute requires the DSHS to establish programs only in El Paso and Bexar counties, administered

through contracts with local mental health authorities in those counties, whereas the original contains no such geographic limitation and requires instead a program administered by DSHS, and authorizes crisis services throughout the state and authorizes behavioral health services in areas of the state in which DSHS determines existing federal and state behavioral health services to be inadequate or inaccessible. The substitute differs from the original in provisions relating to program eligibility by limiting eligibility to a servicemember who resides in El Paso or Bexar County, rather than a servicemember who resides in Texas as in the original. The substitute removes a requirement in the original basing eligibility in part on being unable to access VA services because the servicemember resides more than 50 miles from the nearest provider. The substitute differs from the original by specifying that a servicemember may qualify by being ineligible or unable to access VA services because the servicemember must wait more than 30 days, rather than 45 days as in the original, for an appointment with a service provider. The substitute differs from the original by requiring the local mental health authority to determine whether a servicemember qualifies for reenrollment following expiration of the servicemember's initial enrollment, whereas the original establishes DSHS or its designee makes the determination.

C.S.S.B. 1648 removes temporary provisions in the original, expiring January 1, 2015, that prohibit appropriations from the general revenue fund to pay for the cost of services, and that authorize funding by gifts, grants, or reimbursement payments from federal and private sources. The substitute removes provisions in the original, also temporary and expiring on that same date, requiring the comptroller of public accounts to estimate amounts available from such sources and to report the estimate to the governor and the Legislative Budget Board and include recommendations and related policies that would enhance funding for services. The substitute adds provisions not in the original requiring DSHS to submit a report to the governor, lieutenant governor, and speaker of the house of representatives that includes an analysis of the effectiveness of the pilot program, and recommendations regarding its continuation or expansion.

C.S.S.B. 1648 removes a provision in the original allowing the bill to take effect without regard to whether a specific appropriation from the general revenue fund, as prohibited by the bill, is made.

C.S.S.B. 1648 differs from the original by making formatting changes.