

By: Rose

H.B. No. 1589

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a strategic plan to reform long-term services and supports for individuals with disabilities.

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

SECTION 1. Subtitle I, Title 4, Government Code, is amended by adding Chapter 536 to read as follows:

CHAPTER 536. STRATEGIC PLAN REGARDING LONG-TERM SERVICES AND SUPPORTS FOR INDIVIDUALS WITH DISABILITIES

Sec. 536.001. PURPOSE; INTENT. (a) The purpose of this chapter is to develop a comprehensive plan to reform and rebalance Texas' system of long-term services and supports for people with disabilities, including individuals who are eligible for ICF-MR services.

(b) It is the intent of the legislature that the system analysis and planning effort prescribed by this chapter encompass services for individuals with disabilities across different programs and settings.

(c) It is the intent of the legislature that the reformed system:

- (1) be based on principles of self-determination;
- (2) include person-centered planning and maximize opportunities for consumer direction for all eligible individuals;
- (3) provide and expand timely access to services in the consumer's setting of choice, whether in the community or in an

1 institution;

2 (4) base service provision on functional need;

3 (5) simplify and streamline community-based services
4 to ensure that, to the extent possible, individuals have access to
5 the same array of services regardless of an individual's
6 disability;

7 (6) improve the quality of services delivered across
8 programs and settings, with particular attention given to services
9 delivered to consumers in state schools and state centers;

10 (7) strengthen oversight of community-based services;
11 and

12 (8) increase the cost-effectiveness and
13 sustainability of long-term care services and supports.

14 Sec. 536.002. PRINCIPLES OF SELF-DETERMINATION. For
15 purposes of this chapter, "self-determination" includes the
16 following principles:

17 (1) freedom, the opportunity to choose where and with
18 whom one lives and how one organizes all important aspects of one's
19 life with freely chosen assistance as needed;

20 (2) authority, the ability to control some targeted
21 amount of public dollars;

22 (3) support, the ability to organize support in ways
23 that are unique to the individual;

24 (4) responsibility, the obligation to use public
25 dollars wisely and to contribute to one's community; and

26 (5) confirmation, the recognition that individuals
27 with disabilities must be a major part of the redesign of the human

1 services system of long-term care.

2 Sec. 536.003. CREATION OF STRATEGIC PLAN. The commission
3 shall create a strategic plan for reform of the services and
4 supports available for persons with disabilities, including
5 individuals eligible for ICF-MR services. The commission shall
6 develop the plan using a clearly defined process that allows
7 ongoing and meaningful statewide public involvement.

8 Sec. 536.004. CONTENTS OF STRATEGIC PLAN. (a) The
9 strategic plan required by this chapter must:

10 (1) assess the need for services and supports based on
11 current interest lists, national trends, best practices, consumer
12 satisfaction surveys, and any other relevant data;

13 (2) prescribe methods to expand timely access to
14 community-based services by:

15 (A) eliminating wait times for services of
16 greater than two years;

17 (B) transferring funds from institutional to
18 community-based strategies where appropriate;

19 (C) developing community-based provider
20 capacity;

21 (D) providing incentives for ICF-MR providers to
22 transition to serving consumers in the most integrated setting;

23 (E) improving and expanding behavioral supports
24 in the community for adults and children; and

25 (F) applying "Money Follows the Person" methods
26 of financing for persons residing in state schools, state centers,
27 or public or private ICF-MRs;

1 (3) analyze current utilization management methods
2 for community-based services and determine necessary modifications
3 to ensure more timely access to services;

4 (4) examine local access issues for community-based
5 services and identify appropriate solutions;

6 (5) examine the current functional eligibility
7 criteria, functional assessment tools, and service planning
8 reimbursement methodology for the home and community-based
9 services waiver system and determine appropriate methods to modify
10 those protocols so individuals can access needed services,
11 regardless of the program in which the individual is enrolled;

12 (6) prescribe methods to redesign the home and
13 community-based services waiver system across all programs by:

14 (A) simplifying and streamlining the
15 administrative, policy, and regulatory processes to the extent
16 possible;

17 (B) ensuring that person-centered plans and
18 philosophy match utilization review and utilization management
19 methods and philosophy;

20 (C) permitting, to the extent allowed by federal
21 law, flexibility in the development of a consumer's individualized
22 service plan based on the needs of the consumer rather than the
23 consumer's disability label or diagnosis;

24 (D) ensuring that a consumer's individualized
25 service plan can be modified when the consumer's support needs
26 change; and

27 (E) implementing other strategies to streamline

1 services for consumers with a disability who are eligible for
2 waiver services;

3 (7) prescribe methods to improve services delivered to
4 consumers in state schools and state centers;

5 (8) prescribe methods to reduce reliance on
6 institutional placements of consumers;

7 (9) prescribe methods to end institutional placements
8 of individuals who are younger than 22 years of age;

9 (10) prescribe methods to consolidate and close state
10 schools and state centers in accordance with Subsection (b);

11 (11) prescribe methods to downsize large and
12 medium-sized public and private ICF-MRs;

13 (12) prescribe methods to improve the quality of
14 services provided to consumers by:

15 (A) examining current methods and processes
16 related to the quality of services and identifying which methods or
17 processes:

18 (i) need further enhancements;
19 (ii) need to be developed; or
20 (iii) are effective and should be
21 considered for implementation across all services;

22 (B) increasing oversight and accountability in
23 community-based settings;

24 (C) developing an appropriate population of
25 qualified direct services workers in the community;

26 (D) developing and making available alternatives
27 to guardianship for consumers who need support in their

1 decision-making; and

2 (E) identifying quality measures, including
3 timeliness of service delivery, number of consumers served, and
4 types of services being received, and providing a process by which
5 this information is reported to the legislature on an annual basis;
6 and

7 (13) identify barriers to system reform and make
8 recommendations to eliminate or address barriers to system reform,
9 including any necessary statutory amendment.

10 (b) The strategic plan must prescribe a method that will
11 result in the consolidation and closure of state school and state
12 center facilities through a reduction in the number of consumers
13 placed in those facilities. In determining the method for
14 consolidating and closing state school and state center facilities,
15 the plan must:

16 (1) establish a goal of reducing, within eight years
17 of the submission of the strategic plan, the utilization rate of
18 state schools and other facilities with 16 or more beds to not more
19 than the average national utilization rate;

20 (2) establish benchmarks that will demonstrate
21 measurable progress during the eight-year period following the
22 submission of the strategic plan toward the reduction of the
23 utilization rate of state schools and other facilities with 16 or
24 more beds;

25 (3) reflect the recommendations of a steering
26 committee that includes:

27 (A) as appointed by the speaker of the house of

representatives:

(i) one member representing a district in which a state school or state center is located; and

(ii) one member representing a district in which no state school or state center is located;

(B) as appointed by the lieutenant governor:

(i) one senator representing a district in which a state school or state center is located; and

(ii) one senator representing a district in which no state school or state center is located;

(C) as appointed by the executive commissioner, one representative of:

(i) providers of community-based services;

(ii) providers of ICF-MR services;

(iii) state school employees;

(iv) consumers;

(v) advocates for consumers;

(vi) advocates for consumers who are children;

(vii) families of residents of a state school located in a rural area;

(viii) families of residents of a state school located in an urban area; and

(ix) local mental retardation authorities; and

(D) for the purpose of providing assistance and serving as a resource to the steering committee, representatives of

1 relevant agencies, including the Texas Department of Housing and
2 Community Affairs and other agencies other than the commission, as
3 determined by the other members of the steering committee;

4 (4) require the executive commissioner to appoint or
5 hire a person, who is not an employee of the Department of Aging and
6 Disability Services, to oversee the closure process;

7 (5) identify the number and location of state schools
8 and state centers that will be closed under the plan and the
9 timeline for each closure;

10 (6) establish guiding principles for state schools and
11 state centers that will be closed under the plan, including
12 guidelines for the future use of closed facilities and principles
13 addressing the needs of:

14 (A) residents and their families;

15 (B) employees; and

16 (C) affected communities;

17 (7) define transitional supports, including
18 employment supports, that will be made available to a state school
19 or state center resident who moves from a state school or state
20 center; and

21 (8) prescribe methods to provide consumers in state
22 schools or state centers who do not have a legally authorized
23 representative with access to alternatives to guardianship.

24 (c) The strategic plan must establish a timeline and defined
25 benchmarks for measuring progress in implementing the plan. The
26 executive commissioner shall ensure that the plan includes an
27 ongoing evaluation process that allows the plan to be amended in

response to needs identified by the process. The proposed timeline and benchmarks must progressively move the state closer to the goal of reducing the utilization rate of state schools and other facilities with 16 or more beds to a rate that is not more than the national utilization rate and to the goal of reducing wait times for community-based services. The plan must require the commission to inform the governor, the lieutenant governor, the speaker of the house of representatives, the Legislative Budget Board, and the standing committees of both houses of the legislature with appropriate subject matter jurisdiction when significant revisions to the strategic plan are made or when a proposed timeline is not met.

(d) The executive commissioner, in developing the strategic plan, shall consider the efforts of other states, Texas' settlement of *Lelsz v. Kavanagh*, and any relevant directives or information resulting from the investigation of state school or state center facilities by the United States Department of Justice.

(e) The executive commissioner may contract with a disinterested person with expertise in evaluating and planning long-term care services and supports for persons with disabilities, self-determination and consumer direction, and facilities closures, to aid the commission in developing the plan required by this chapter.

Sec. 536.005. CLOSURE OR CONSOLIDATION OF CERTAIN FACILITIES. As soon as possible after the commission submits the strategic plan required by this chapter, the executive commissioner shall begin the facility closure process described by the plan. The

1 commission may begin the implementation of the plan and close or
2 consolidate a facility as described by the plan without additional
3 or specific legislative action.

4 SECTION 2. Not later than December 1, 2010, the Health and
5 Human Services Commission shall submit the strategic plan required
6 by Chapter 536, Government Code, as added by this Act, to the
7 presiding officers of the Senate Health and Human Services
8 Committee and the House Human Services Committee.

9 SECTION 3. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2009.