

By: Shapleigh

S.B. No. 1407

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the creation of the State Developmental Center  
3 Evaluation Authority and the residential placement of individuals  
4 with mental retardation.

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

6 SECTION 1. Section 531.002(17), Health and Safety Code, is  
7 amended to read as follows:

8 (17) "State developmental center [~~school~~]" means a  
9 state-supported and structured residential facility operated by  
10 the Department of Aging and Disability Services [~~department~~] to  
11 provide to clients with mental retardation a variety of services,  
12 including medical treatment, specialized therapy, and training in  
13 the acquisition of personal, social, and vocational skills.

14 SECTION 2. Chapter 531, Health and Safety Code, is amended  
15 by adding Section 531.0021 to read as follows:

16 Sec. 531.0021. REFERENCE TO STATE SCHOOL. A reference in  
17 law to a "state school" means a state developmental center.

18 SECTION 3. Section 532.001(b), Health and Safety Code, is  
19 amended to read as follows:

20 (b) The Department of Aging and Disability Services and the  
21 Department of State Health Services [~~department~~] also include  
22 [~~includes~~] community services operated by those departments [~~the~~  
23 ~~department~~] and the following facilities, as appropriate:

24 (1) the central office of the department;

- 1 (2) the Austin State Hospital;
- 2 (3) the Big Spring State Hospital;
- 3 (4) the Kerrville State Hospital;
- 4 (5) the Rusk State Hospital;
- 5 (6) the San Antonio State Hospital;
- 6 (7) the Terrell State Hospital;
- 7 (8) the North Texas State Hospital;
- 8 (9) the Abilene State Developmental Center [~~School~~];
- 9 (10) the Austin State Developmental Center [~~School~~];
- 10 (11) the Brenham State Developmental Center [~~School~~];
- 11 (12) the Corpus Christi State Developmental Center
- 12 [~~School~~];
- 13 (13) the Denton State Developmental Center [~~School~~];
- 14 (14) the Lubbock State Developmental Center [~~School~~];
- 15 (15) the Lufkin State Developmental Center [~~School~~];
- 16 (16) the Mexia State Developmental Center [~~School~~];
- 17 (17) the Richmond State Developmental Center
- 18 [~~School~~];
- 19 (18) the San Angelo State Developmental Center
- 20 [~~School~~];
- 21 (19) the San Antonio State Developmental Center
- 22 [~~School~~];
- 23 (20) the El Paso State Developmental Center;
- 24 (21) the Rio Grande State Center; and
- 25 (22) the Waco Center for Youth.

26 SECTION 4. Subtitle B, Title 7, Health and Safety Code, is  
27 amended by adding Chapter 556 to read as follows:

1 CHAPTER 556. STATE DEVELOPMENTAL CENTER EVALUATION AUTHORITY

2 SUBCHAPTER A. GENERAL PROVISIONS

3 Sec. 556.001. DEFINITIONS. In this chapter:

4 (1) "Authority" means the State Developmental Center  
5 Evaluation Authority.

6 (2) "Commission" means the Health and Human Services  
7 Commission.

8 (3) "Community services provider" includes a licensed  
9 ICF-MR provider with fewer than 16 beds.

10 (4) "Department" means the Department of Aging and  
11 Disability Services.

12 (5) "Executive commissioner" means the executive  
13 commissioner of the Health and Human Services Commission.

14 Sec. 556.002. STATE DEVELOPMENTAL CENTER EVALUATION  
15 AUTHORITY. The State Developmental Center Evaluation Authority is  
16 established to evaluate and make recommendations regarding the  
17 operation and management of state developmental centers. The  
18 authority is administratively attached to the commission but is  
19 independent of direction by the commission or the executive  
20 commissioner. The commission shall provide administrative support  
21 and resources to the authority as necessary to enable the authority  
22 to perform its duties.

23 Sec. 556.003. SUNSET PROVISION. The State Developmental  
24 Center Evaluation Authority is subject to Chapter 325, Government  
25 Code (Texas Sunset Act). Unless continued in existence as provided  
26 by that chapter, the authority is abolished and this chapter  
27 expires September 1, 2021.

1 [Sections 556.004-556.020 reserved for expansion]

2 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

3 Sec. 556.021. APPOINTMENT OF AUTHORITY MEMBERS. (a) The  
4 authority is composed of nine members of the public appointed as  
5 follows:

6 (1) three members of the public appointed by the  
7 governor;

8 (2) three members appointed by the lieutenant  
9 governor; and

10 (3) three members appointed by the governor from a  
11 list provided by the speaker of the house of representatives.

12 (b) To be eligible for appointment to the authority, a  
13 person may not:

14 (1) be an agent, paid consultant, officer, or employee  
15 of a state developmental center, state center, local mental  
16 retardation authority, licensed provider of ICF-MR services, or  
17 other provider of services to individuals with mental retardation;

18 (2) have a financial interest in a state developmental  
19 center, state center, local mental retardation authority, licensed  
20 provider of ICF-MR services, or other provider of services to  
21 individuals with mental retardation;

22 (3) be an officer, employee, or paid consultant of a  
23 trade association in the field of residential services for  
24 individuals with mental retardation; or

25 (4) be related within the second degree by affinity or  
26 consanguinity, as determined under Chapter 573, Government Code, to  
27 a person who is an officer, employee, paid consultant, or resident

1 of a state developmental center, state center, local mental  
2 retardation authority, licensed provider of ICF-MR services, or  
3 other provider of services to individuals with mental retardation.

4 (c) A person may not serve as a member of the authority or  
5 act as the general counsel to the authority if the person is  
6 required to register as a lobbyist under Chapter 305, Government  
7 Code, because of the person's activities for compensation on behalf  
8 of a profession related to the operation of the authority.

9 (d) Chapter 551, Government Code, applies to the authority.

10 (e) A majority of the members of the authority constitute a  
11 quorum for the transaction of business.

12 (f) Appointments to the authority shall be made without  
13 regard to the race, color, disability, sex, religion, age, or  
14 national origin of the appointees.

15 (g) Members serve at the will of the person who appointed  
16 the member.

17 Sec. 556.022. VACANCY. The governor or lieutenant governor  
18 shall fill a vacancy on the authority in the same manner as the  
19 original appointment.

20 Sec. 556.023. PRESIDING OFFICER; OTHER OFFICERS;  
21 MEETINGS. (a) The members of the authority shall elect a presiding  
22 officer and other necessary officers.

23 (b) The authority may hold meetings in different areas of  
24 the state.

25 [Sections 556.024-556.050 reserved for expansion]

26 SUBCHAPTER C. POWERS AND DUTIES OF AUTHORITY

27 Sec. 556.051. GENERAL POWERS AND DUTIES OF AUTHORITY. (a)

1 The authority is responsible for recommending the consolidation or  
2 closure of state developmental centers in accordance with criteria  
3 and benchmarks as described by this chapter and determined by the  
4 authority. The authority is also responsible for overseeing the  
5 implementation of the authority's recommendations by the  
6 commission and the department as required by this chapter.

7 (b) The authority shall ensure that the capacity of state  
8 developmental centers has been reduced to not more than 3,000  
9 individuals by January 1, 2014.

10 Sec. 556.052. ADVISORY COMMITTEE. (a) An advisory  
11 committee is created to assist and provide information to the  
12 authority.

13 (b) The advisory committee is composed of the following  
14 representatives, appointed by the executive commissioner:

15 (1) one representative of the commission;

16 (2) one representative of the department;

17 (3) one representative of the Department of State  
18 Health Services;

19 (4) two representatives of community services  
20 providers;

21 (5) one representative of local mental retardation  
22 authorities;

23 (6) two representatives of an advocacy group for  
24 persons with disabilities; and

25 (7) one family member of an individual residing in a  
26 state developmental center.

27 (c) The advisory committee shall study and make

1 recommendations to the authority regarding the evaluation and  
2 consolidation or closure of state developmental centers.

3 Sec. 556.053. EVALUATION OF STATE DEVELOPMENTAL CENTERS.

4 (a) Each biennium, the authority shall evaluate the state  
5 developmental center system and determine which state  
6 developmental centers should be consolidated or closed by the  
7 commission and the department.

8 (b) In evaluating a state developmental center, the  
9 authority shall consider the following factors:

10 (1) the proximity of the state developmental center to  
11 other state developmental centers and the geographical  
12 distribution of remaining state developmental centers;

13 (2) the proximity of the state developmental centers  
14 to community services providers and the geographical distribution  
15 of those providers;

16 (3) the administrative cost of the state developmental  
17 center;

18 (4) the availability of other employment  
19 opportunities in the area for employees displaced by the  
20 consolidation or closure, including additional employment that may  
21 be needed by community services providers if the state  
22 developmental center is consolidated or closed;

23 (5) the condition of existing state developmental  
24 center structures and existing community services providers;

25 (6) the marketability of the property where the state  
26 developmental center is located, as determined in consultation with  
27 persons with business development expertise, and whether the

1 property should be sold or converted to another use if the state  
2 developmental center is consolidated or closed;

3 (7) the ease of client transfer capability;

4 (8) the capacity at remaining state developmental  
5 centers to accommodate persons transferred from a facility  
6 identified for consolidation or closure;

7 (9) the capacity of local community services providers  
8 to accommodate persons formerly served by the state developmental  
9 center;

10 (10) identification of specialty programs and  
11 services available at the state developmental center and whether  
12 those programs and services are available at other state  
13 developmental centers or from local community services providers;

14 (11) the history of incidents of abuse, neglect, or  
15 exploitation at the state developmental center;

16 (12) the services and supports that are not available  
17 in the community and that resulted in commitment of individuals to  
18 the state developmental center during the previous five years;

19 (13) the support needs of residents in the state  
20 developmental center and the availability of programs that provide  
21 those services in the community;

22 (14) the impact of expanding community programs in the  
23 area of the state developmental center, particularly in  
24 historically underserved areas of the state; and

25 (15) any other relevant factor as determined by the  
26 authority.

27 (c) The advisory committee to the authority may assist the



1 authority in performing the evaluation required by this section.

2 (d) The authority may solicit public testimony and input  
3 during the evaluation process.

4 Sec. 556.054. RECOMMENDATION FOR CONSOLIDATION OR CLOSURE;  
5 REPORT. (a) Not later than December 1 of each even-numbered year,  
6 the authority shall submit a report to the governor, the lieutenant  
7 governor, the speaker of the house of representatives, and the  
8 standing committee of each house of the legislature with  
9 jurisdiction over state developmental centers. The report must  
10 include a specific recommendation of whether to consolidate or  
11 close one or more state developmental centers and, if consolidation  
12 or closure is recommended, which state developmental center or  
13 centers should be consolidated or closed.

14 (b) The authority shall include in the report:

15 (1) the name and location of each state developmental  
16 center to be consolidated or closed;

17 (2) the number of individuals that will require a  
18 transfer to another state developmental center or a community  
19 services provider as a result of the consolidation or closure;

20 (3) the number and type of community programs that  
21 need to be developed, based on the services and supports the  
22 authority determined are not available in the community and that  
23 resulted in commitment of individuals to the state developmental  
24 center during the previous five years;

25 (4) the number and type of training competencies  
26 needed to assist state developmental center employees in gaining  
27 the skills needed to transfer to providing services in the

1 community; and

2 (5) any other relevant information as determined by  
3 the authority.

4 Sec. 556.055. EFFECT OF RECOMMENDATION. (a) Unless the  
5 legislature adopts a resolution rejecting the consolidation or  
6 closure of a state developmental center recommended for  
7 consolidation or closure by the authority in the first regular  
8 legislative session following the report's submission by the  
9 authority, the commission and the department shall implement the  
10 consolidation or closure of the state developmental center  
11 beginning on September 1 of the odd-numbered year following the  
12 submission of the report.

13 (b) The authority shall monitor the consolidation or  
14 closure of a state developmental center that was recommended for  
15 consolidation or closure by the authority.

16 Sec. 556.056. MORATORIUM ON STATE DEVELOPMENTAL CENTER  
17 PLACEMENTS. An individual with mental retardation may not be  
18 admitted or committed to a state developmental center under Chapter  
19 593 on or after September 1, 2009, and until a census of 3,000 has  
20 been achieved. The department shall ensure that individuals who  
21 would otherwise be committed under that chapter receive services by  
22 ensuring programs are available to provide those services.

23 [Sections 556.057-556.100 reserved for expansion]

24 SUBCHAPTER D. COMMUNITY-BASED GROUP HOMES PILOT PROGRAM

25 Sec. 556.101. COMMUNITY-BASED GROUP HOMES PILOT PROGRAM.

26 (a) The department shall establish a pilot program to study the  
27 feasibility of the department operating group homes serving not

1 more than four individuals with mental retardation who voluntarily  
2 choose to reside at the group home.

3 (b) In establishing a pilot program under this section, the  
4 department shall:

5 (1) identify and select two areas in the state that  
6 have few community-based resources for individuals with mental  
7 retardation;

8 (2) operate at least one group home in each selected  
9 community for not less than 12 months; and

10 (3) evaluate whether the operation of the group home  
11 by the department:

12 (A) is feasible and cost-effective;

13 (B) provides a necessary alternative for  
14 individuals with mental retardation in the selected community; and

15 (C) results in a positive and safe living  
16 arrangement for individuals with mental retardation who  
17 participate in the pilot program.

18 (c) Not later than December 1, 2010, the department shall  
19 submit to the governor, the lieutenant governor, the speaker of the  
20 house of representatives, and the commission a report that  
21 includes:

22 (1) a description regarding the organization of the  
23 pilot program;

24 (2) the findings and recommendations of the department  
25 regarding the operation of group homes by the department, including  
26 any recommended legislation; and

27 (3) any other relevant information regarding the pilot

1 program as determined by the department.

2 Sec. 556.102. EXPIRATION. This subchapter expires  
3 September 2, 2011.

4 SECTION 5. (a) Not later than September 1, 2009, the  
5 governor and lieutenant governor shall appoint the members of the  
6 State Developmental Center Evaluation Authority as provided by  
7 Chapter 556, Health and Safety Code, as added by this Act.

8 (b) Not later than January 1, 2010, the executive  
9 commissioner of the Health and Human Services Commission shall  
10 appoint the advisory committee as provided by Section 556.052,  
11 Health and Safety Code, as added by this Act.

12 (c) Not later than September 1, 2009, the Department of  
13 Aging and Disability Services shall establish and begin  
14 implementation of the community-based group homes pilot program  
15 under Subchapter D, Chapter 556, Health and Safety Code, as added by  
16 this Act.

17 SECTION 6. If before implementing any provision of this Act  
18 a state agency determines that a waiver or authorization from a  
19 federal agency is necessary for implementation of that provision,  
20 the agency affected by the provision shall request the waiver or  
21 authorization and may delay implementing that provision until the  
22 waiver or authorization is granted.

23 SECTION 7. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2009.