

1-1 By: Van de Putte S.B. No. 1648  
1-2 (In the Senate - Filed March 10, 2009; March 20, 2009, read  
1-3 first time and referred to Committee on Veteran Affairs and  
1-4 Military Installations; April 29, 2009, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 5,  
1-6 Nays 0; April 29, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1648 By: Van de Putte

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to providing outreach services, behavioral health  
1-11 services, and certain health care services related to mental health  
1-12 to certain members and veterans of the armed forces and their  
1-13 families and providing for the creation of related clinical  
1-14 practice guidelines.

1-15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-16 SECTION 1. Title 12, Health and Safety Code, is amended by  
1-17 designating Chapter 1001, Health and Safety Code, as Subtitle A and  
1-18 adding a heading for Subtitle A to read as follows:

1-19 SUBTITLE A. ADMINISTRATION BY DEPARTMENT

1-20 SECTION 2. Title 12, Health and Safety Code, is amended by  
1-21 adding Subtitle B to read as follows:

1-22 SUBTITLE B. DEPARTMENT OF STATE HEALTH SERVICES PROGRAMS

1-23 CHAPTER 1022. SERVICES FOR SERVICEMEMBERS

1-24 SUBCHAPTER A. GENERAL PROVISIONS

1-25 Sec. 1022.001. DEFINITIONS. In this chapter:

1-26 (1) "Department" means the Department of State Health  
1-27 Services.

1-28 (2) "Post-traumatic stress disorder" means a  
1-29 psychiatric disorder that can occur in people who have experienced  
1-30 or witnessed life-threatening events, including natural disasters,  
1-31 serious accidents, terrorist incidents, war, or violent personal  
1-32 assaults.

1-33 (3) "Program" means the program established under this  
1-34 chapter.

1-35 (4) "Servicemember" has the meaning assigned by  
1-36 Section 161.551.

1-37 (5) "Traumatic brain injury" means an acquired injury  
1-38 to the brain, including brain injuries caused by anoxia due to near  
1-39 drowning. The term does not include brain dysfunction caused by  
1-40 congenital or degenerative disorders or birth trauma.

1-41 Sec. 1022.002. RULES. The executive commissioner of the  
1-42 Health and Human Services Commission shall adopt rules to implement  
1-43 this chapter.

1-44 Sec. 1022.003. CREATION AND PURPOSE. The department shall  
1-45 establish a program under this chapter to promote the wellness of  
1-46 servicemembers and their families through the development,  
1-47 maintenance, and dissemination of clinical practice guidelines and  
1-48 other information for the effective treatment of psychological  
1-49 trauma and the reintegration of servicemembers into their  
1-50 communities, families, and workplaces, with emphasis on the trauma  
1-51 of war, including post-traumatic stress disorder, traumatic brain  
1-52 injury, and sexual trauma that occurs in military settings.

1-53 [Sections 1022.004-1022.050 reserved for expansion]

1-54 SUBCHAPTER B. CLINICAL PRACTICE GUIDELINES FOR TRAUMA

1-55 Sec. 1022.051. CLINICAL GUIDELINES. (a) The department  
1-56 shall develop evidence-based clinical practice guidelines  
1-57 containing recommendations to clinicians and other providers of  
1-58 mental health services for the management of trauma, including  
1-59 post-traumatic stress disorder, traumatic brain injury, and other  
1-60 trauma impacting behavioral health.

1-61 (b) In developing clinical practice guidelines, the  
1-62 department shall consider the recommendations and research of the  
1-63 National Center for Posttraumatic Stress Disorder of the federal

2-1 Veterans Health Administration, the trauma registry and research  
 2-2 database of the United States Army Institute of Surgical Research,  
 2-3 and other appropriate and reputable sources of clinical research  
 2-4 and information as determined by the department.

2-5 (c) The department shall provide for the ongoing  
 2-6 maintenance and updating of the clinical practice guidelines in a  
 2-7 manner that reflects current diagnostic and treatment best  
 2-8 practices.

2-9 (d) Clinical practice guidelines established under this  
 2-10 subchapter do not constitute the sole source of guidance in the  
 2-11 management of trauma. Guidelines are intended to assist clinicians  
 2-12 by providing a framework for clinical decision making. These  
 2-13 guidelines do not provide the only appropriate approach to the  
 2-14 management of trauma or replace other clinical judgment.

2-15 Sec. 1022.052. DISSEMINATION OF GUIDELINES. (a) The  
 2-16 department shall make the clinical practice guidelines and other  
 2-17 information developed under this subchapter available to providers  
 2-18 of physical and behavioral health services.

2-19 (b) The department shall provide the clinical practice  
 2-20 guidelines and information to the appropriate professional  
 2-21 associations to be used in continuing education and shall, to the  
 2-22 extent feasible, enter into agreements or take other action to  
 2-23 promote the use of the materials for continuing education purposes.

2-24 (c) The department or its designees shall provide training  
 2-25 and continuing education to clinicians and shall recognize through  
 2-26 certificates or other means the health care providers that have  
 2-27 demonstrated knowledge and mastery of the clinical practice  
 2-28 guidelines and other materials developed by the department for the  
 2-29 program.

2-30 Sec. 1022.053. TRAINING AND EDUCATIONAL MATERIALS. In  
 2-31 addition to clinical practice guidelines, the department shall  
 2-32 develop, with the advice of and in consultation with the Texas  
 2-33 Veterans Commission, training and educational materials for the use  
 2-34 of the Texas Veterans Commission, veterans county service officers,  
 2-35 and other service providers. The materials must promote the  
 2-36 understanding and effective treatment of trauma affecting  
 2-37 behavioral health and other health-related information pertaining  
 2-38 to the reintegration of servicemembers into their communities,  
 2-39 families, and workplaces.

2-40 [Sections 1022.054-1022.100 reserved for expansion]

2-41 SUBCHAPTER C. BEHAVIORAL HEALTH SERVICES AND SERVICE COORDINATION

2-42 Sec. 1022.101. SERVICE COORDINATION. (a) The department,  
 2-43 in consultation with the United States Department of Veterans  
 2-44 Affairs, the Texas military forces, the Texas Information and  
 2-45 Referral Network, the Texas Veterans Commission, and the General  
 2-46 Land Office, shall provide service coordination for servicemembers  
 2-47 and their families in all geographic regions of the state to connect  
 2-48 them to behavioral health services that may be available through  
 2-49 the United States Department of Veterans Affairs or available under  
 2-50 this chapter.

2-51 (b) In geographic areas in this state in which services are  
 2-52 not yet available or accessible through the United States  
 2-53 Department of Veterans Affairs, the department shall provide  
 2-54 service coordination for veterans to connect them to behavioral  
 2-55 health services that may be available through community mental  
 2-56 health centers or other community resources with which the  
 2-57 department contracts until federal services are available.

2-58 (c) The department shall provide servicemembers and their  
 2-59 families current, accurate, and complete information about  
 2-60 behavioral health services and resources through existing  
 2-61 Internet-based resource programs and through:

2-62 (1) the directory of services for military personnel  
 2-63 and their families disseminated through the Texas Information and  
 2-64 Referral Network under Subchapter U, Chapter 161; and

2-65 (2) the service referral program under Section  
 2-66 431.0291, Government Code, as added by Chapter 1381 (S.B. 1058),  
 2-67 Acts of the 80th Legislature, Regular Session, 2007.

2-68 Sec. 1022.102. ELIGIBILITY. (a) To qualify for behavioral  
 2-69 health services under Section 1022.103, a servicemember must:

- 3-1 (1) reside in this state;
- 3-2 (2) be younger than 65 years of age;
- 3-3 (3) have served for at least 180 days of duty after the
- 3-4 servicemember's initial training;
- 3-5 (4) not be an inmate of a public institution;
- 3-6 (5) not be a resident of a nursing facility;
- 3-7 (6) not have health care coverage that provides
- 3-8 diagnostic review and treatment for post-traumatic stress
- 3-9 disorder, traumatic brain injury, or other trauma occurring in a
- 3-10 military setting that impacts behavioral health; and
- 3-11 (7) be ineligible for services from the United States
- 3-12 Department of Veterans Affairs or be unable to access those
- 3-13 services because:

3-14 (A) the servicemember resides more than 50 miles  
 3-15 from the nearest service provider;

3-16 (B) the servicemember does not have  
 3-17 transportation to a service provider; or

3-18 (C) the servicemember must wait more than 45 days  
 3-19 for an appointment with a service provider.

3-20 (b) A servicemember who does not meet the eligibility  
 3-21 requirements for services under this section shall be referred to  
 3-22 an appropriate service provider for follow-up care.

3-23 (c) To receive behavioral health services under Section  
 3-24 1022.103, an eligible servicemember must enroll in the program.  
 3-25 Following expiration of the term of a servicemember's enrollment in  
 3-26 the program, the servicemember may reenroll for services under the  
 3-27 program if the department or its designee determines that the  
 3-28 servicemember continues to qualify for treatment for  
 3-29 post-traumatic stress disorder, traumatic brain injury, or other  
 3-30 trauma occurring in a military setting that impacts behavioral  
 3-31 health.

3-32 (d) A family member of an enrolled servicemember may receive  
 3-33 behavioral health services under the program as described by  
 3-34 Section 1022.103.

3-35 Sec. 1022.103. BEHAVIORAL HEALTH SERVICES PROGRAM.

3-36 (a) The department shall establish a program to provide behavioral  
 3-37 health services in accordance with this section for eligible  
 3-38 servicemembers under Section 1022.102. The behavioral health  
 3-39 services provided under this section may include:

3-40 (1) crisis services in all geographic regions of the  
 3-41 state; and

3-42 (2) behavioral health services in areas of the state  
 3-43 in which existing federal and state behavioral health services are  
 3-44 determined by the department to be inadequate or inaccessible.

3-45 (b) The behavioral health services provided under  
 3-46 Subsection (a)(2) must to the greatest extent possible be provided  
 3-47 in a peer-based treatment environment and may include:

3-48 (1) screening assessments;

3-49 (2) individual, family, and group therapy;

3-50 (3) substance abuse early intervention and  
 3-51 detoxification services; and

3-52 (4) substance abuse medication-assisted treatment.

3-53 (c) The provision of services by the department under this  
 3-54 section must be based on medical necessity criteria established by  
 3-55 department rule.

3-56 (d) The department shall seek reimbursement for the costs of  
 3-57 services provided under this section from the United States  
 3-58 Department of Veterans Affairs and from other governmental agencies  
 3-59 that may provide behavioral health services or payments for such  
 3-60 services to servicemembers and their families.

3-61 (e) In order to enhance service coordination and assess the  
 3-62 needs of servicemembers and their families, the department shall  
 3-63 provide an opportunity for servicemembers to disclose military  
 3-64 status when accessing local behavioral health services that receive  
 3-65 funding from the department.

3-66 [Sections 1022.104-1022.150 reserved for expansion]

3-67 SUBCHAPTER D. BEHAVIORAL HEALTH OUTREACH

3-68 Sec. 1022.151. OUTREACH ACTIVITIES. (a) Through a public  
 3-69 outreach program, the department shall provide to servicemembers

4-1 and their families information on accessing services through the  
4-2 Texas Information and Referral Network and through other  
4-3 organizations participating in memoranda of understanding  
4-4 maintained by the Texas military forces.

4-5 (b) The department's outreach activities must describe  
4-6 programs administered by health and human services agencies that  
4-7 could be of interest to servicemembers and their families,  
4-8 including early childhood intervention services, state vocational  
4-9 rehabilitation services, and higher education benefits and support  
4-10 services.

4-11 (c) The department's outreach efforts must be:

4-12 (1) conducted on a statewide basis;

4-13 (2) conducted through a contract or contracts with  
4-14 statewide or local community-based organizations with experience  
4-15 in statewide outreach to the military; and

4-16 (3) staffed by individuals with demonstrated  
4-17 experience in working with the military and military service  
4-18 organizations.

4-19 (d) Outreach methods must include direct personal contacts  
4-20 with servicemembers and outreach using communications media and  
4-21 printed materials. As a component of the department's outreach  
4-22 activities, the department shall maintain or support an existing  
4-23 interactive Internet-based resource program that:

4-24 (1) allows individuals to access comprehensive  
4-25 information, advocacy resources, and other resources regarding  
4-26 public and private behavioral health services, crisis and emergency  
4-27 services, and early intervention and prevention programs; and

4-28 (2) enables the public and private health care  
4-29 communities to work together to address the problems related to  
4-30 obtaining access to behavioral health services and other  
4-31 reintegration services for servicemembers and their families.

4-32 (e) The interactive Internet-based program established  
4-33 under Subsection (d) shall be developed or maintained by the  
4-34 department with the advice of and in consultation with the Texas  
4-35 military forces. The department shall collaborate with state  
4-36 agencies and the Texas military forces to develop strategies to use  
4-37 existing interactive Internet-based resources that serve  
4-38 servicemembers and their families.

4-39 SECTION 3. Subchapter A, Chapter 431, Government Code, is  
4-40 amended by adding Section 431.0186 to read as follows:

4-41 Sec. 431.0186. SCREENING FOR TRAUMATIC BRAIN INJURY.

4-42 (a) The adjutant general shall require each member of the Texas  
4-43 National Guard who served during Operation Enduring Freedom or  
4-44 Operation Iraqi Freedom to be screened for traumatic brain injury.

4-45 (b) The adjutant general shall assist a member of the Texas  
4-46 National Guard who tests positive for traumatic brain injury in  
4-47 obtaining appropriate medical care.

4-48 SECTION 4. Section 434.007, Government Code, is amended to  
4-49 read as follows:

4-50 Sec. 434.007. DUTIES. (a) The commission shall:

4-51 (1) compile federal, state, and local laws enacted to  
4-52 benefit members of the armed forces, veterans, and their families  
4-53 and dependents;

4-54 (2) collect information relating to services and  
4-55 facilities available to veterans;

4-56 (3) cooperate with veterans service agencies in the  
4-57 state;

4-58 (4) inform members and veterans of the armed forces,  
4-59 their families and dependents, and military and civilian  
4-60 authorities about the existence or availability of:

4-61 (A) educational training and retraining  
4-62 facilities;

4-63 (B) health, medical, rehabilitation, and housing  
4-64 services and facilities;

4-65 (C) employment and reemployment services;

4-66 (D) provisions of federal, state, and local law  
4-67 affording rights, privileges, and benefits to members and veterans  
4-68 of the armed forces and their families and dependents; and

4-69 (E) other similar, related, or appropriate

5-1 matters;

5-2 (5) assist veterans and their families and dependents

5-3 in presenting, proving, and establishing claims, privileges,

5-4 rights, and benefits they may have under federal, state, or local

5-5 law, including establishing eligibility for health care services

5-6 and treatments from the federal Veterans Health Administration and

5-7 for services provided through the Department of State Health

5-8 Services;

5-9 (6) cooperate with all government and private agencies

5-10 securing services or benefits to veterans and their families and

5-11 dependents;

5-12 (7) investigate, and if possible correct, abuses or

5-13 exploitation of veterans or their families or dependents, and

5-14 recommend necessary legislation for full correction;

5-15 (8) coordinate the services and activities of state

5-16 departments and divisions having services and resources affecting

5-17 veterans or their families or dependents;

5-18 (9) provide training and certification of veterans

5-19 county service officers and assistant veterans county service

5-20 officers in accordance with Section 434.038; and

5-21 (10) through surveys or other reasonable and accurate

5-22 methods of estimation, collect and maintain for each county in the

5-23 state the number of servicemembers and veterans residing in the

5-24 county and annually update and publish the information on the

5-25 commission's website.

5-26 (b) The commission shall enter into a memorandum of

5-27 understanding with the Department of State Health Services to

5-28 develop training materials for veterans county service officers and

5-29 veterans service organizations that promote the understanding and

5-30 effective treatment of trauma affecting behavioral health and other

5-31 health-related information that promotes the reintegration of

5-32 members and veterans of the armed forces into their communities,

5-33 families, and workplaces. The commission shall:

5-34 (1) disseminate training and educational materials

5-35 for the development of clinical practice guidelines and other

5-36 training and educational materials that it receives from the

5-37 department;

5-38 (2) enter into a contract or other agreement for the

5-39 development of the training and educational materials with the

5-40 department;

5-41 (3) reimburse the department for costs of preparing

5-42 the materials from appropriations or other amounts available to the

5-43 commission; and

5-44 (4) enter into relationships with established

5-45 training programs for the purpose of providing peer support

5-46 training and certification for veterans county service officers.

5-47 SECTION 5. Subsection (a), Section 434.0078, Government

5-48 Code, is amended to read as follows:

5-49 (a) The commission shall adopt procedures for administering

5-50 claims assistance services under Section 434.007(5). Claims

5-51 assistance services shall be provided for establishing eligibility

5-52 for health care services and treatments from the federal Veterans

5-53 Health Administration. The procedures shall include:

5-54 (1) criteria for determining when a veteran's initial

5-55 claim is substantially complete and basic eligibility requirements

5-56 are met as provided by federal law;

5-57 (2) a process for expediting a claim based on

5-58 hardship, including whether the veteran:

5-59 (A) is in immediate need;

5-60 (B) is terminally ill;

5-61 (C) has a verifiable financial hardship; or

5-62 (D) has a disability that presents an undue

5-63 burden;

5-64 (3) a procedure for counseling veterans on the

5-65 potential merits or drawbacks of pursuing a claim;

5-66 (4) a process to ensure adequate documentation and

5-67 development of a claim or appeal, including early client

5-68 involvement, collection of needed evidence and records, and

5-69 analysis of actions necessary to pursue and support a claim or

6-1 appeal;

6-2 (5) criteria for evaluating whether a decision of the  
6-3 United States Department of Veterans Affairs contains sufficient  
6-4 cause for filing an appeal;

6-5 (6) a requirement that a claims counselor report to  
6-6 the United States Department of Veterans Affairs if the counselor  
6-7 has direct knowledge that a claim contains false or deceptive  
6-8 information; and

6-9 (7) a procedure for prioritizing a claim, when  
6-10 appropriate, or providing an alternative source for obtaining  
6-11 claims assistance services when it is not appropriate to  
6-12 prioritize.

6-13 SECTION 6. The Department of State Health Services shall  
6-14 conduct an immediate analysis of the behavioral health needs of  
6-15 servicemembers and their families and submit a preliminary report  
6-16 of its findings and recommendations to the legislature and the  
6-17 governor on or before December 1, 2009, and a final report of its  
6-18 findings and recommendations on or before December 1, 2010. The  
6-19 report shall:

6-20 (1) identify the gaps in behavioral health services  
6-21 available to servicemembers and their families;

6-22 (2) identify impediments to the ability of  
6-23 servicemembers and their families to access the behavioral health  
6-24 services that are available, particularly in the state's rural  
6-25 areas;

6-26 (3) evaluate collaboration among organizations and  
6-27 entities that provide behavioral health services to servicemembers  
6-28 and their families;

6-29 (4) make recommendations with respect to improving  
6-30 outreach to servicemembers and their families in need of behavioral  
6-31 health services;

6-32 (5) include a specific plan of action to promote  
6-33 federal and state collaboration to maximize funding and access to  
6-34 resources for the behavioral health needs of servicemembers and  
6-35 their families;

6-36 (6) make recommendations with respect to building  
6-37 provider capacity and increasing provider training to meet the  
6-38 behavioral health needs of servicemembers and their families  
6-39 through peer support treatment methodologies; and

6-40 (7) make recommendations with respect to improving the  
6-41 coordination of behavioral health services for servicemembers and  
6-42 their families.

6-43 SECTION 7. Not later than January 1, 2010, the executive  
6-44 commissioner of the Health and Human Services Commission shall  
6-45 adopt rules as necessary to administer Chapter 1022, Health and  
6-46 Safety Code, as added by this Act.

6-47 SECTION 8. This Act does not make an appropriation. This  
6-48 Act takes effect only if a specific appropriation for the  
6-49 implementation of the Act is provided in a general appropriations  
6-50 act of the 81st Legislature.

6-51 SECTION 9. Except as provided by Section 8 of this Act, this  
6-52 Act takes effect September 1, 2009.

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