

By: Schwertner

H.B. No. 2536

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the State Supported Living Center  
Realignment Commission and the residential placement of  
individuals with intellectual and developmental disabilities.

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

SECTION 1. Subtitle B, Title 7, Health and Safety Code, is  
amended by adding Chapter 557 to read as follows:

CHAPTER 557. STATE SUPPORTED LIVING CENTER

REALIGNMENT COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 557.001. DEFINITIONS. In this chapter:

(1) "Realignment Commission" means the State  
Supported Living Center Realignment Commission.

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

(3) "Community services provider" means a contracted  
Home and Community-based Services waiver provider or a licensed  
ICF-MR provider with fewer than 16 beds.

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

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

Sec. 557.002. STATE SUPPORTED LIVING CENTER REALIGNMENT  
COMMISSION. The State Supported Living Center Realignment

1 Commission is established to evaluate and make recommendations  
2 regarding the operation and management of state supported living  
3 centers. The Realignment Commission is administratively attached  
4 to the commission but is independent of direction by the commission  
5 or the executive commissioner. The commission shall provide  
6 administrative support and resources to the Realignment Commission  
7 as necessary to enable the Realignment Commission to perform its  
8 duties.

9 Sec. 557.003. SUNSET PROVISION. The State Supported Living  
10 Center Realignment Commission is subject to Chapter 325, Government  
11 Code (Texas Sunset Act). Unless continued in existence as provided  
12 by that chapter, the Realignment Commission is abolished and this  
13 chapter expires September 1, 2023.

14 [Sections 557.004-557.020 reserved for expansion]

15 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

16 Sec. 557.021. APPOINTMENT OF REALIGNMENT COMMISSION  
17 MEMBERS. (a) The Realignment Commission is composed of nine  
18 members of the public appointed as follows:

19 (1) three members of the public appointed by the  
20 governor;

21 (2) three members appointed by the lieutenant  
22 governor; and

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

25 (b) To be eligible for appointment to the Realignment  
26 Commission, a person may not:

27 (1) be an agent, paid consultant, officer, or employee

1 of a state supported living center, state center, local mental  
2 retardation Realignment Commission, licensed provider of ICF-MR  
3 services, or other provider of services to individuals with  
4 intellectual and developmental disabilities;

5 (2) have a financial interest in a state supported  
6 living center, state center, local mental retardation Realignment  
7 Commission, licensed provider of ICF-MR services, or other provider  
8 of services to individuals with intellectual and developmental  
9 disabilities;

10 (3) be an officer, employee, or paid consultant of a  
11 trade association in the field of residential services for  
12 individuals with intellectual and developmental disabilities; or

13 (4) be related within the second degree by affinity or  
14 consanguinity, as determined under Chapter 573, Government Code, to  
15 a person who is an officer, employee, paid consultant, or resident  
16 of a state supported living center, state center, local mental  
17 retardation Realignment Commission, licensed provider of ICF-MR  
18 services, or other provider of services to individuals with  
19 intellectual and developmental disabilities.

20 (c) A person may not serve as a member of the Realignment  
21 Commission or act as the general counsel to the Realignment  
22 Commission if the person is required to register as a lobbyist under  
23 Chapter 305, Government Code, because of the person's activities  
24 for compensation on behalf of a profession related to the operation  
25 of the Realignment Commission.

26 (d) Chapter 551, Government Code, applies to the  
27 Realignment Commission.

1       (e) A majority of the members of the Realignment Commission  
2 constitute a quorum for the transaction of business.

3       (f) Appointments to the Realignment Commission shall be  
4 made without regard to the race, color, disability, sex, religion,  
5 age, or national origin of the appointees.

6       (g) Members serve at the will of the person who appointed  
7 the member.

8       Sec. 557.022. VACANCY. The governor or lieutenant governor  
9 shall fill a vacancy on the Realignment Commission in the same  
10 manner as the original appointment.

11       Sec. 557.023. PRESIDING OFFICER; OTHER OFFICERS;  
12 MEETINGS. (a) The members of the Realignment Commission shall  
13 elect a presiding officer and other necessary officers.

14       (b) The Realignment Commission may hold meetings in  
15 different areas of the state.

16       [Sections 557.024-557.050 reserved for expansion]

17       SUBCHAPTER C. POWERS AND DUTIES OF REALIGNMENT COMMISSION

18       Sec. 557.051. GENERAL POWERS AND DUTIES OF REALIGNMENT  
19 COMMISSION. (a) The Realignment Commission is responsible for  
20 recommending the consolidation or closure of state supported living  
21 centers in accordance with criteria and benchmarks as described by  
22 this chapter and determined by the Realignment Commission. The  
23 Realignment Commission is also responsible for overseeing the  
24 implementation of the Realignment Commission's recommendations by  
25 the commission and the department as required by this chapter.

26       (b) The Realignment Commission shall ensure that the  
27 capacity of state supported living centers has been reduced to not

1 more than 3,000 individuals by January 1, 2016.

2 Sec. 557.052. ADVISORY COMMITTEE. (a) An advisory  
3 committee is created to assist and provide information to the  
4 Realignment Commission.

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

7 (1) one representative of the commission;

8 (2) one representative of the department;

9 (3) one representative of the Department of State  
10 Health Services;

11 (4) two representatives of community services  
12 providers;

13 (5) one representative of local mental retardation  
14 authorities;

15 (6) two representatives of an advocacy group for  
16 persons with disabilities; and

17 (7) one family member of an individual residing in a  
18 state supported living center.

19 (c) The advisory committee shall study and make  
20 recommendations to the Realignment Commission regarding the  
21 evaluation and consolidation or closure of state supported living  
22 centers.

23 Sec. 557.053. EVALUATION OF STATE SUPPORTED LIVING CENTERS.

24 (a) Each biennium, the Realignment Commission shall evaluate the  
25 state supported living center system and determine which state  
26 supported living centers should be consolidated or closed by the  
27 commission and the department.

1        (b) In evaluating a state supported living center, the  
2 Realignment Commission shall consider the following factors:

3            (1) the proximity of the state supported living center  
4 to other state supported living centers and the geographical  
5 distribution of remaining state supported living centers;

6            (2) the proximity of the state supported living  
7 centers to community services providers and the geographical  
8 distribution of those providers;

9            (3) the administrative cost of the state supported  
10 living center;

11           (4) the availability of other employment  
12 opportunities in the area for employees displaced by the  
13 consolidation or closure, including additional employment that may  
14 be needed by community services providers if the state supported  
15 living center is consolidated or closed;

16           (5) the condition of existing state supported living  
17 center structures and existing community services providers;

18           (6) the marketability of the property where the state  
19 supported living center is located, as determined in consultation  
20 with persons with business development expertise, and whether the  
21 property should be sold or converted to another use if the state  
22 supported living center is consolidated or closed;

23           (7) the ease of client transfer capability;

24           (8) the capacity at remaining state supported living  
25 centers to accommodate persons transferred from a facility  
26 identified for consolidation or closure;

27           (9) the capacity of local community services providers

1 to accommodate persons formerly served by the state supported  
2 living center;

3 (10) identification of specialty programs and  
4 services available at the state supported living center and whether  
5 those programs and services are available at other state supported  
6 living centers or from local community services providers;

7 (11) the history of incidents of abuse, neglect, or  
8 exploitation at the state supported living center;

9 (12) the services and supports that are not available  
10 in the community and that resulted in commitment of individuals to  
11 the state supported living center during the previous five years;

12 (13) the support needs of residents in the state  
13 supported living center and the availability of programs that  
14 provide those services in the community;

15 (14) the impact of expanding community programs in the  
16 area of the state supported living center, particularly in  
17 historically underserved areas of the state; and

18 (15) any other relevant factor as determined by the  
19 Realignment Commission.

20 (c) The advisory committee to the Realignment Commission  
21 may assist the Realignment Commission in performing the evaluation  
22 required by this section.

23 (d) The Realignment Commission may solicit public testimony  
24 and input during the evaluation process.

25 Sec. 557.054. RECOMMENDATION FOR CONSOLIDATION OR CLOSURE;  
26 REPORT. (a) Not later than December 1 of each even-numbered year,  
27 the Realignment Commission shall submit a report to the governor,

1 the lieutenant governor, the speaker of the house of  
2 representatives, and the standing committee of each house of the  
3 legislature with jurisdiction over state supported living centers.  
4 The report must include a specific recommendation of whether to  
5 consolidate or close one or more state supported living centers  
6 and, if consolidation or closure is recommended, which state  
7 supported living center or centers should be consolidated or  
8 closed.

9 (b) The Realignment Commission shall include in the report:

10 (1) the name and location of each state supported  
11 living center to be consolidated or closed;

12 (2) the number of individuals that will require a  
13 transfer to another state supported living center or a community  
14 services provider as a result of the consolidation or closure;

15 (3) the number and type of community programs that  
16 need to be developed, based on the services and supports the  
17 Realignment Commission determined are not available in the  
18 community and that resulted in commitment of individuals to the  
19 state supported living center during the previous five years;

20 (4) the number and type of training competencies  
21 needed to assist state supported living center employees in gaining  
22 the skills needed to transfer to providing services in the  
23 community; and

24 (5) any other relevant information as determined by  
25 the Realignment Commission.

26 Sec. 557.055. EFFECT OF RECOMMENDATION. (a) Unless the  
27 legislature adopts a resolution rejecting the consolidation or



1 closure of a state supported living center recommended for  
2 consolidation or closure by the Realignment Commission in the first  
3 regular legislative session following the report's submission by  
4 the Realignment Commission, the commission and the department shall  
5 implement the consolidation or closure of the state supported  
6 living center beginning on September 1 of the odd-numbered year  
7 following the submission of the report.

8 (b) The Realignment Commission shall monitor the  
9 consolidation or closure of a state supported living center that  
10 was recommended for consolidation or closure by the Realignment  
11 Commission.

12 Sec. 557.056. MORATORIUM ON STATE SUPPORTED LIVING CENTER  
13 PLACEMENTS. An individual with intellectual and developmental  
14 disabilities may not be admitted or committed to a state supported  
15 living center under Chapter 593 on or after September 1, 2011, and  
16 until a census of 3,000 has been achieved. The department shall  
17 ensure that individuals who would otherwise be committed under that  
18 chapter receive services by ensuring programs are available to  
19 provide those services.

20 [Sections 557.057-557.100 reserved for expansion]

21 SUBCHAPTER D. COMMUNITY-BASED GROUP HOMES PILOT PROGRAM

22 Sec. 557.101. COMMUNITY-BASED GROUP HOMES PILOT PROGRAM.

23 (a) The department shall establish a pilot program to study the  
24 feasibility of the department operating group homes serving not  
25 more than four individuals with intellectual and developmental  
26 disabilities who voluntarily choose to reside at the group home.

27 (b) In establishing a pilot program under this section, the

1 department shall:

2 (1) identify and select two areas in the state that  
3 have few community-based resources for individuals with  
4 intellectual and developmental disabilities;

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

7 (3) evaluate whether the operation of the group home  
8 by the department:

9 (A) is feasible and cost-effective;

10 (B) provides a necessary alternative for  
11 individuals with intellectual and developmental disabilities in  
12 the selected community; and

13 (C) results in a positive and safe living  
14 arrangement for individuals with intellectual and developmental  
15 disabilities who participate in the pilot program.

16 (c) Not later than December 1, 2012, the department shall  
17 submit to the governor, the lieutenant governor, the speaker of the  
18 house of representatives, and the commission a report that  
19 includes:

20 (1) a description regarding the organization of the  
21 pilot program;

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

25 (3) any other relevant information regarding the pilot  
26 program as determined by the department.

27 Sec. 557.102. EXPIRATION. This subchapter expires

1 September 2, 2013.

2 SECTION 2. (a) Not later than September 1, 2011, the  
3 governor and lieutenant governor shall appoint the members of the  
4 State Supported Living Center Realignment Commission as provided by  
5 Chapter 557, Health and Safety Code, as added by this Act.

6 (b) Not later than January 1, 2012, the executive  
7 commissioner of the Health and Human Services Commission shall  
8 appoint the advisory committee as provided by Section 557.052,  
9 Health and Safety Code, as added by this Act.

10 (c) Not later than September 1, 2011, the Department of  
11 Aging and Disability Services shall establish and begin  
12 implementation of the community-based group homes pilot program  
13 under Subchapter D, Chapter 557, Health and Safety Code, as added by  
14 this Act.

15 SECTION 3. If before implementing any provision of this Act  
16 a state agency determines that a waiver or authorization from a  
17 federal agency is necessary for implementation of that provision,  
18 the agency affected by the provision shall request the waiver or  
19 authorization and may delay implementing that provision until the  
20 waiver or authorization is granted.

21 SECTION 4. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2011.