

By: Rodriguez

S.B. No. 614

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.