

BILL ANALYSIS

Senate Research Center

S.B. 49
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Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this legislation is to include children with intellectual and developmental disabilities who are residing in general residential operations (GRO) licensed by the Department of Family and Protective Services (DFPS) in the Texas Promoting Independence Plan to ensure timely access to home and community-based services (HCS).

Children in DFPS-licensed facilities are the only institutionalized population of children with intellectual and developmental disabilities (IDD) who are not included in the Promoting Independence Plan. These DFPS-licensed facilities, which often serve as long-term settings for children, are not addressed in the Texas Promoting Independence Plan, and, therefore, the children in these facilities do not have timely access to Medicaid waiver services that will ensure their appropriate long-term support in the community.

Texas currently licenses three GROs that are 24-hour residential facilities specifically designated for children with IDD in Child Protective Services (CPS) conservatorship. Under DFPS's minimum standards for GROs these residential child-care operations provide care for 13 or more children or young adults with IDD who have an IQ of 70 or below. Children in these facilities have similar support needs as children living in Intermediate Care Facilities for Persons with Disabilities (ICF) who have access to Medicaid waivers through the Promoting Independence Plan. GROs offer similar treatment services as those offered to persons living in ICFs, but operate under different licensing standards.

Children in GROs have access to DFPS funding for foster care, but have not been able to be served adequately in the DFPS foster family system for a variety of reasons. The rates, for example, paid to foster families in DFPS are substantially lower than the foster/companion rate paid to families caring for a child with comparable needs in the HCS waiver. The lower rates paid to foster families in the DFPS system include both the cost for services as well as general living expenses, while the rate for foster/companion care in HCS is strictly for services, and Supplemental Security Income (SSI) is used to cover the cost of living expenses. Children in DFPS foster families do not get SSI. DFPS foster families willing to accept these children often care for large numbers of other children in order to make the rate viable, and, in turn, cannot safely serve children with more complex needs.

The Promoting Independence Plan serves as an analysis of the availability, application, and efficacy of existing community-based supports for persons with disabilities and currently only serves persons residing in nursing facilities, state supported living centers, and large community ICFs.

If children with IDD residing in DFPS-licensed GROs were designated as part of the Promoting Independence Plan population they would receive a designated HCS waiver slot and be provided with immediate or expedited access to Medicaid 1915(c) waiver programs and community/family living options.

S.B. 49 amends current law relating to transitional living assistance and appropriate care settings for children with disabilities who reside in general residential operations.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 531.0244, Government Code, by adding Subsection (c-1), as follows:

(c-1) Requires a health and human services agency, for purposes of determining the appropriateness of transfers under Subsection (b)(3) (relating to requiring that the comprehensive, effectively working plan require appropriate health and human services agencies to facilitate a timely and appropriate transfer of a person with a disability from an institution to an appropriate setting if certain conditions are met) and developing the strategies required by Subsection (b)(4) (relating to requiring that the comprehensive, effectively working plan require appropriate health and human services agencies to develop strategies to prevent the unnecessary placement in an institution of a person with a disability), to presume the eligibility of a child residing in a general residential operation, as defined by Section 42.002 (Definitions), Human Resources Code, for transfer to an appropriate community-based setting.

SECTION 2. Amends Section 531.059(a)(1), Government Code, to redefine "institutional housing."

SECTION 3. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 4. Effective date: upon passage or September 1, 2013.