

## **BILL ANALYSIS**

Senate Research Center  
83R1264 ADM-D

S.B. 49  
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Health & Human Services  
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As Filed

### **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.

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' 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 Home and Community-based Services (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 intellectual and developmental disabilities 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.

As proposed, S.B. 49 amends current law relating to transitional living assistance 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 531.059(a)(1), Government Code, to redefine "institutional housing."

SECTION 2. Amends Section 531.059, Government Code, by adding Subsection (e) to provide that an individual residing in a general residential operation is eligible for the program only if the individual is a person with a developmental disability, as defined by Section 531.002 (Definitions), Health and Safety Code.

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.