

By: McClendon, Kolchorst, Burkett,  
J. Davis of Harris, Rose

H.B. No. 205

Substitute the following for H.B. No. 205:

By: Naishtat

C.S.H.B. No. 205

A BILL TO BE ENTITLED

AN ACT

relating to the allocation of outpatient mental health services and  
beds in certain mental health facilities and the commitment of  
certain persons to receive mental health services.

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

SECTION 1. Subchapter B, Chapter 533, Health and Safety  
Code, is amended by adding Sections 533.051, 533.052, and 533.053  
to read as follows:

Sec. 533.051. ALLOCATION OF OUTPATIENT MENTAL HEALTH  
SERVICES AND BEDS IN STATE HOSPITALS. (a) To ensure the  
appropriate and timely provision of mental health services to  
patients who voluntarily receive those services or who are ordered  
by a court to receive those services in civil or criminal  
proceedings, the department, in conjunction with the commission,  
shall plan for the proper and separate allocation of outpatient or  
community-based mental health services provided by secure and  
nonsecure outpatient facilities that provide residential care  
alternatives and mental health services and for the proper and  
separate allocation of beds in the state hospitals for the  
following two groups of patients:

(1) patients who are voluntarily receiving outpatient  
or community-based mental health services, voluntarily admitted to  
a state hospital under Chapter 572, admitted to a state hospital for  
emergency detention under Chapter 573, or ordered by a court under

1 Chapter 574 to receive inpatient mental health services at a state  
2 hospital or outpatient mental health services from an outpatient  
3 facility that provides residential care alternatives and mental  
4 health services; and

5 (2) patients who are ordered to participate in an  
6 outpatient treatment program to attain competency to stand trial  
7 under Chapter 46B, Code of Criminal Procedure, or committed to a  
8 state hospital or other facility to attain competency to stand  
9 trial under Chapter 46B, Code of Criminal Procedure, or to receive  
10 inpatient mental health services following an acquittal by reason  
11 of insanity under Chapter 46C, Code of Criminal Procedure.

12 (b) The plan developed by the department under Subsection  
13 (a) must include:

14 (1) a determination of the needs for outpatient mental  
15 health services of the two groups of patients described by  
16 Subsection (a);

17 (2) a determination of the minimum number of beds that  
18 the state hospital system must maintain to adequately serve the two  
19 groups of patients;

20 (3) a statewide plan for and the allocation of  
21 sufficient funds for meeting the outpatient mental health service  
22 needs of and for the maintenance of beds by the state hospitals for  
23 the two groups of patients; and

24 (4) a process to address and develop, without adverse  
25 impact to local service areas, the accessibility and availability  
26 of sufficient outpatient mental health services provided to and  
27 beds provided by the state hospitals to the two groups of patients

1 based on the success of contractual outcomes with mental health  
2 service providers and facilities under Sections 533.034 and  
3 533.052.

4 (c) To assist in the development of the plan under  
5 Subsection (a), the department shall establish and meet at least  
6 monthly with an advisory panel composed of the following persons:

7 (1) one representative designated by the Texas  
8 Department of Criminal Justice;

9 (2) one representative designated by the Texas  
10 Association of Counties;

11 (3) two representatives designated by the Texas  
12 Council of Community Centers, including one representative of an  
13 urban local service area and one representative of a rural local  
14 service area;

15 (4) two representatives designated by the County  
16 Judges and Commissioners Association of Texas, including one  
17 representative who is the presiding judge of a court with  
18 jurisdiction over mental health matters;

19 (5) one representative designated by the Sheriffs'  
20 Association of Texas;

21 (6) two representatives designated by the Texas  
22 Municipal League, including one representative who is a municipal  
23 law enforcement official;

24 (7) one representative designated by the Texas  
25 Conference of Urban Counties;

26 (8) one representative designated by the Texas  
27 Catalyst for Empowerment; and

1           (9) four representatives designated by the Department  
2 of State Health Services' Council for Advising and Planning for the  
3 Prevention and Treatment of Mental and Substance Use Disorders,  
4 including:

5                   (A) the chair of the council;

6                   (B) one representative of the council's members  
7 who is a consumer of or advocate for mental health services;

8                   (C) one representative of the council's members  
9 who is a consumer of or advocate for substance abuse treatment; and

10                   (D) one representative of the council's members  
11 who is a family member of or advocate for persons with mental health  
12 and substance abuse disorders.

13           (d) In developing the plan under Subsection (a), the  
14 department and advisory panel shall consider:

15                   (1) needs for outpatient mental health services of the  
16 two groups of patients described by Subsection (a);

17                   (2) the frequency of use of beds and the historical  
18 patterns of use of beds in the state hospitals and other facilities  
19 by the two groups of patients;

20                   (3) local needs and demands for outpatient mental  
21 health services by the two groups of patients;

22                   (4) local needs and demands for beds in the state  
23 hospitals and other facilities for the two groups of patients;

24                   (5) the availability of outpatient mental health  
25 service providers and inpatient mental health facilities that may  
26 be contracted with to provide outpatient mental health services and  
27 beds for the two groups of patients;

1           (6) the differences between the two groups of patients  
2 with regard to:

3                   (A) admission to and discharge from a state  
4 hospital or outpatient facility;

5                   (B) rapid stabilization and discharge to the  
6 community;

7                   (C) length of stay in a state hospital or  
8 outpatient facility;

9                   (D) disputes arising from the determination of a  
10 patient's length of stay in a state hospital by a health maintenance  
11 organization or a managed care organization;

12                   (E) third-party billing; and

13                   (F) legal challenges or requirements related to  
14 the examination and treatment of the patients; and

15           (7) public input provided to the department or  
16 advisory panel in a form and at a time and place that is effective  
17 and appropriate and in a manner that complies with any applicable  
18 laws, including administrative rules.

19           (e) The department shall update the plan biennially.

20           (f) Not later than December 31, 2013, the department, in  
21 conjunction with the advisory panel, shall develop the initial  
22 version of the plan required by Subsection (a).

23           (g) Not later than August 31, 2014, the department shall:

24                   (1) identify standards and methodologies for the  
25 implementation of the plan required by Subsection (a); and

26                   (2) begin implementing the plan.

27           (h) Not later than December 1, 2014, the department shall

1 submit a report to the legislature and governor that includes the  
2 initial version of the plan, the status of the plan's  
3 implementation, and the impact of the plan on the delivery of  
4 services.

5 (i) While the plan required by Subsection (a) is being  
6 developed and implemented, the department may not, pursuant to any  
7 rule, contract, or directive, impose a sanction, penalty, or fine  
8 on a local mental health authority for the authority's  
9 noncompliance with any methodology or standard adopted or applied  
10 by the department relating to the allocation of beds by authorities  
11 for the two groups of patients described by Subsection (a).

12 Sec. 533.052. CONTRACTING WITH CERTAIN MENTAL HEALTH  
13 SERVICE PROVIDERS AND FACILITIES TO PROVIDE SERVICES AND BEDS FOR  
14 CERTAIN PERSONS. The department shall make every effort, through  
15 collaboration and contractual arrangements with local mental  
16 health authorities, to contract with and use a broad base of local  
17 community outpatient mental health service providers and inpatient  
18 mental health facilities, as appropriate, to make available a  
19 sufficient and appropriately located amount of outpatient mental  
20 health services and a sufficient and appropriately located number  
21 of beds in inpatient mental health facilities, as specified in the  
22 plan developed by the department under Section 533.051, to ensure  
23 the appropriate and timely provision of mental health services to  
24 the two groups of patients described by Section 533.051(a).

25 Sec. 533.053. INFORMING COURTS OF COMMITMENT OPTIONS. The  
26 department shall develop and implement a procedure through which a  
27 court that has the authority to commit a person who is incompetent

1 to stand trial or who has been acquitted by reason of insanity under  
2 Chapters 46B and 46C, Code of Criminal Procedure, is aware of all of  
3 the commitment options for the person, including jail diversion and  
4 community-based programs.

5 SECTION 2. Not later than May 1, 2014, the executive  
6 commissioner of the Health and Human Services Commission shall  
7 adopt any rules necessary to implement Section 533.051, Health and  
8 Safety Code, as added by this Act, and the rules required by Section  
9 533.053, Health and Safety Code, as added by this Act.

10 SECTION 3. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2013.