

By: Zerwas

H.B. No. 3251

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the assessment of the long-term care needs of certain  
3 persons with intellectual and developmental disabilities and a  
4 resource allocation system for certain Medicaid program services  
5 provided to those persons.

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

7 SECTION 1. Subchapter D, Chapter 161, Human Resources Code,  
8 is amended by adding Sections 161.087 and 161.088 to read as  
9 follows:

10 Sec. 161.087. ASSESSMENT TOOL FOR PERSONS WITH INTELLECTUAL  
11 AND DEVELOPMENTAL DISABILITIES. (a) In this section:

12 (1) "ICF/IID" has the meaning assigned to "ICF-MR" by  
13 Section 531.002, Health and Safety Code.

14 (2) "Section 1915(c) waiver program" has the meaning  
15 assigned by Section 531.001, Government Code.

16 (b) The department shall, in accordance with this section,  
17 implement an automated functional assessment tool for use in  
18 assessing the needs of persons with intellectual and developmental  
19 disabilities who:

20 (1) receive long-term care services and supports,  
21 including services and supports provided under a Section 1915(c)  
22 waiver program, from the state; or

23 (2) are on an interest list for a program, including a  
24 Section 1915(c) waiver program, under which the state provides

1 long-term care services and supports.

2 (c) The department may elect to use a national standardized  
3 assessment tool or develop a state-based automated functional  
4 assessment tool under this section. The department shall consult  
5 with stakeholders in selecting the automated functional assessment  
6 tool required under this section.

7 (d) The department shall establish a procedure through  
8 which a person whose needs are assessed by the department using the  
9 automated functional assessment tool implemented under this  
10 section may request an informal hearing to contest the department's  
11 determination of the person's level of need.

12 (e) Not later than August 31, 2014, the department shall  
13 prepare and submit to the governor and the Legislative Budget Board  
14 a report containing:

15 (1) a description of the automated functional  
16 assessment tool that the department develops or selects under this  
17 section; and

18 (2) a plan for the implementation of the tool.

19 (f) Not later than January 1, 2018, the department shall  
20 implement, in the most cost-effective manner possible and in the  
21 following phases, the automated functional assessment tool  
22 selected under this section:

23 (1) an initial phase, during which the department uses  
24 the tool to assess persons receiving services under the home and  
25 community-based services (HCS) waiver program;

26 (2) an expansion phase, during which the department  
27 uses the tool to assess persons receiving services under the:

1           (A) community living assistance and support  
2 services (CLASS) waiver program;

3           (B) deaf, blind, and multiple disabilities  
4 (DBMD) waiver program; and

5           (C) Texas home living (TxHmL) waiver program; and

6           (3) a final phase, during which the department uses  
7 the tool to assess:

8           (A) residents of ICF/IID facilities, including  
9 residents of state supported living centers;

10           (B) persons served by other programs or  
11 facilities that provide safety-net services to persons with  
12 intellectual and developmental disabilities and are funded through  
13 appropriations by the legislature from the general revenue fund;  
14 and

15           (C) persons on an interest list for a waiver  
16 program described in Subdivision (1) or (2).

17           (g) Not later than August 31 of each year, the department  
18 shall prepare and submit to the governor and the Legislative Budget  
19 Board a report that:

20           (1) summarizes the department's progress in  
21 implementing the automated functional assessment tool required  
22 under this section; and

23           (2) analyzes the needs of the persons described in  
24 Subsection (f) to the extent that their needs have been assessed  
25 using the automated functional assessment tool required under this  
26 section.

27           (h) This subsection and Subsections (e), (f), and (g) expire

1 January 1, 2020.

2 Sec. 161.088. RESOURCE ALLOCATION SYSTEM FOR HOME AND  
3 COMMUNITY-BASED SERVICES WAIVER PROGRAM. (a) The department shall  
4 develop and implement a resource allocation system for use in the  
5 home and community-based services (HCS) waiver program that:

6 (1) is based on a reliable assessment of the types and  
7 levels of need of persons receiving and seeking services under the  
8 program; and

9 (2) ensures that persons receiving services under the  
10 program only receive services:

11 (A) that are appropriate and medically  
12 necessary; and

13 (B) at the appropriate funding levels.

14 (b) The department shall ensure that the resource  
15 allocation system implemented under this section includes a process  
16 through which a person assessed under the system may request a  
17 reassessment of the person's level of need if the person believes  
18 that the services that the person is receiving are insufficient due  
19 to a change in the person's diagnosis or available supports.

20 (c) The department may contract with a third party who has  
21 experience developing resource allocation systems to aid in the  
22 implementation of the allocation system developed under this  
23 section.

24 SECTION 2. The Department of Aging and Disability Services  
25 shall develop and implement the resource allocation system required  
26 by Section 161.088, Human Resources Code, as added by this Act, not  
27 later than August 31, 2015.

1           SECTION 3. If before implementing any provision of this Act  
2 a state agency determines that a waiver or authorization from a  
3 federal agency is necessary for implementation of that provision,  
4 the agency affected by the provision shall request the waiver or  
5 authorization and may delay implementing that provision until the  
6 waiver or authorization is granted.

7           SECTION 4. This Act takes effect September 1, 2013.