

By: Klick

H.B. No. 3528

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the State Supported Living Center
Realignment Commission.

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 556 to read as follows:

CHAPTER 556. STATE SUPPORTED LIVING CENTER REALIGNMENT COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 556.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services
Commission.

(2) "Community services provider" means a provider of
services under a home and community-based services waiver program
and a licensed ICF-MR provider with fewer than 6 beds.

(3) "Department" means the Department of Aging and
Disability Services.

(4) "Executive commissioner" means the executive
commissioner of the Health and Human Services Commission.

(5) "Realignment commission" means the State
Supported Living Center Realignment Commission.

(6) "State supported living center" has the meaning
assigned by Section 531.002.

Sec. 556.002. 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. 556.003. 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, 2025.

14 [Sections 556.004-556.020 reserved for expansion]

15 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

16 Sec. 556.021. 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 authority, licensed provider of ICF-MR services, or
3 other provider of services to individuals with intellectual
4 disabilities;

5 (2) have a financial interest in a state supported
6 living center, state center, local mental retardation authority,
7 licensed provider of ICF-MR services, or other provider of services
8 to individuals with intellectual disabilities;

9 (3) be an officer, employee, or paid consultant of a
10 trade association in the field of residential services for
11 individuals with intellectual disabilities; or

12 (4) be related within the second degree by affinity or
13 consanguinity, as determined under Chapter 573, Government Code, to
14 a person who is an officer, employee, paid consultant, or resident
15 of a state supported living center, state center, local mental
16 retardation authority, licensed provider of ICF-MR services, or
17 other provider of services to individuals with intellectual
18 disabilities.

19 (c) A person may not serve as a member of the realignment
20 commission or act as the general counsel to the realignment
21 commission if the person is required to register as a lobbyist under
22 Chapter 305, Government Code, because of the person's activities
23 for compensation on behalf of a profession related to the operation
24 of the authority.

25 (d) Chapter 551, Government Code, applies to the
26 realignment commission.

27 (e) A majority of the members of the realignment commission

1 constitute a quorum for the transaction of business.

2 (f) Appointments to the realignment commission shall be
3 made without regard to the race, color, disability, sex, religion,
4 age, or national origin of the appointees.

5 (g) Members serve at the will of the person who appointed
6 the member.

7 Sec. 556.022. VACANCY. The governor or lieutenant governor
8 shall fill a vacancy on the realignment commission in the same
9 manner as the original appointment.

10 Sec. 556.023. PRESIDING OFFICER; OTHER OFFICERS;
11 MEETINGS. (a) The members of the realignment commission shall
12 elect a presiding officer and other necessary officers.

13 (b) The realignment commission may hold meetings in
14 different areas of the state.

15 [Sections 556.024-556.050 reserved for expansion]

16 SUBCHAPTER C. POWERS AND DUTIES OF REALIGNMENT COMMISSION

17 Sec. 556.051. GENERAL POWERS AND DUTIES OF REALIGNMENT
18 COMMISSION. The realignment commission is responsible for
19 recommending the consolidation or closure of state supported living
20 centers in accordance with criteria and benchmarks as described by
21 this chapter and determined by the realignment commission. The
22 realignment commission is also responsible for overseeing the
23 implementation of the realignment commission's recommendations by
24 the commission and the department as required by this chapter.

25 Sec. 556.052. ADVISORY COMMITTEE. (a) An advisory
26 committee is created to assist and provide information to the
27 realignment commission.

1 (b) The advisory committee is composed of the following
2 representatives, appointed by the executive commissioner:

3 (1) one representative of the commission;

4 (2) one representative of the department;

5 (3) one representative of the Department of State
6 Health Services;

7 (4) two representatives of community services
8 providers;

9 (5) one representative of local mental retardation
10 authorities;

11 (6) two representatives of an advocacy group for
12 persons with disabilities; and

13 (7) one family member of an individual residing in a
14 state supported living center.

15 (c) The advisory committee shall study and make
16 recommendations to the realignment commission regarding the
17 evaluation and consolidation or closure of state supported living
18 centers.

19 Sec. 556.053. EVALUATION OF STATE SUPPORTED LIVING CENTERS.

20 (a) Each biennium, the realignment commission shall evaluate the
21 state supported living center system and determine which state
22 supported living centers should be consolidated or closed by the
23 commission and the department.

24 (b) In evaluating a state supported living center, the
25 realignment commission shall consider the following factors:

26 (1) the proximity of the state supported living center
27 to other state supported living centers and the geographical

- 1 distribution of remaining state supported living centers;
2 (2) the proximity of the state supported living
3 centers to community services providers and the geographical
4 distribution of those providers;
5 (3) the administrative cost of the state supported
6 living center;
7 (4) the availability of other employment
8 opportunities in the area for employees displaced by the
9 consolidation or closure, including additional employment that may
10 be needed by community services providers if the state supported
11 living center is consolidated or closed;
12 (5) the condition of existing state supported living
13 center structures and existing community services providers;
14 (6) the marketability of the property where the state
15 supported living center is located, as determined in consultation
16 with persons with business development expertise, and whether the
17 property should be sold or converted to another use if the state
18 supported living center is consolidated or closed;
19 (7) the ease of client transfer capability;
20 (8) the capacity at remaining state supported living
21 centers to accommodate persons transferred from a facility
22 identified for consolidation or closure;
23 (9) the capacity of local community services providers
24 to accommodate persons formerly served by the state supported
25 living center;
26 (10) identification of specialty programs and
27 services available at the state supported living center and whether

1 those programs and services are available at other state supported
2 living centers or from local community services providers;

3 (11) the history of incidents of abuse, neglect, or
4 exploitation at the state supported living center;

5 (12) the services and supports that are not available
6 in the community and that resulted in commitment of individuals to
7 the state supported living center during the previous five years;

8 (13) the support needs of residents in the state
9 supported living center and the availability of programs that
10 provide those services in the community;

11 (14) the impact of expanding community programs in the
12 area of the state supported living center, particularly in
13 historically underserved areas of the state; and

14 (15) any other relevant factor as determined by the
15 realignment commission.

16 (c) The advisory committee to the realignment commission
17 may assist the realignment commission in performing the evaluation
18 required by this section.

19 (d) The realignment commission may solicit public testimony
20 and input during the evaluation process.

21 Sec. 556.054. RECOMMENDATION FOR CONSOLIDATION OR CLOSURE;
22 REPORT. (a) Not later than December 1 of each even-numbered year,
23 the realignment commission shall submit a report to the governor,
24 the lieutenant governor, the speaker of the house of
25 representatives, and the standing committee of each house of the
26 legislature with jurisdiction over state supported living centers.
27 The report must include a specific recommendation of whether to

1 consolidate or close one or more state supported living centers
2 and, if consolidation or closure is recommended, which state
3 supported living center or centers should be consolidated or
4 closed.

5 (b) The realignment commission shall include in the report:

6 (1) the name and location of each state supported
7 living center to be consolidated or closed;

8 (2) the number of individuals that will require a
9 transfer to another state supported living center or a community
10 services provider as a result of the consolidation or closure;

11 (3) the number and type of community programs that
12 need to be developed, based on the services and supports the
13 realignment commission determined are not available in the
14 community and that resulted in commitment of individuals to the
15 state supported living center during the previous five years;

16 (4) the number and type of training competencies
17 needed to assist state supported living center employees in gaining
18 the skills needed to transfer to providing services in the
19 community; and

20 (5) any other relevant information as determined by
21 the realignment commission.

22 Sec. 556.055. EFFECT OF RECOMMENDATION. (a) The
23 activities of the realignment commission shall not prevent the
24 Health and Human Services Commission from taking action to close or
25 consolidate one or more state supported living centers at any time.

26 Sec. 556.056. MORATORIUM ON STATE SUPPORTED LIVING CENTER
27 PLACEMENTS. An individual with an intellectual disability may not

1 be admitted or committed to a state supported living center under
2 Chapter 593 on or after September 1, 2013, if the facility is
3 identified for downsizing, consolidation or closure, or if
4 deficient practices at the facility placed its certification at
5 risk based on immediate jeopardy to residents health and safety as
6 defined by the Centers for Medicare and Medicaid Services (CMS) or
7 non-compliance resulting in risk of termination of certification
8 within 90 days as defined by the Centers for Medicare and Medicaid
9 Services (CMS). The department shall ensure that individuals who
10 would otherwise be committed under that Chapter receive services by
11 ensuring programs are available to provide those services through
12 diversion and other community capacity building activities.

13 [Sections 556.057-556.100 reserved for expansion]

14 SECTION 2. (a) Not later than September 1, 2013, the
15 governor and lieutenant governor shall appoint the members of the
16 State Supported Living Center Realignment Commission as provided by
17 Chapter 556, Health and Safety Code, as added by this Act.

18 (b) Not later than January 1, 2014 the executive
19 commissioner of the Health and Human Services Commission shall
20 appoint the advisory committee as provided by Section 556.052,
21 Health and Safety Code, as added by this Act.

22 (c) Not later than September 1, 2013, the Department of
23 Aging and Disability Services shall establish and begin
24 implementation of the community-based group homes pilot program
25 under Subchapter D, Chapter 556, Health and Safety Code, as added by
26 this Act.

27 SECTION 3. If before implementing any provision of this Act

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

6 SECTION 4. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2013.