

By: Davis of Harris

H.B. No. 607

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 six beds.

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

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

(5) "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
Commission is established to evaluate and make recommendations
regarding the operation and management of state supported living

1 centers. The realignment commission is administratively attached
2 to the commission but is independent of direction by the commission
3 or the executive commissioner. The commission shall provide
4 administrative support and resources to the realignment commission
5 as necessary to enable the realignment commission to perform its
6 duties.

7 Sec. 556.003. SUNSET PROVISION. The State Supported Living
8 Center Realignment Commission is subject to Chapter 325, Government
9 Code (Texas Sunset Act). Unless continued in existence as provided
10 by that chapter, the realignment commission is abolished and this
11 chapter expires September 1, 2027.

12 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

13 Sec. 556.021. APPOINTMENT OF REALIGNMENT COMMISSION
14 MEMBERS. (a) The realignment commission is composed of nine
15 members of the public appointed as follows:

16 (1) three members of the public appointed by the
17 governor;

18 (2) three members appointed by the lieutenant
19 governor; and

20 (3) three members appointed by the governor from a
21 list provided by the speaker of the house of representatives.

22 (b) To be eligible for appointment to the realignment
23 commission, a person may not:

24 (1) be an agent, paid consultant, officer, or employee
25 of a state supported living center, state center, local mental
26 retardation authority, licensed provider of ICF-MR services, or
27 other provider of services to individuals with intellectual

1 disabilities;

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

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

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

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

21 (d) Chapter 551, Government Code, applies to the
22 realignment commission.

23 (e) A majority of the members of the realignment commission
24 constitute a quorum for the transaction of business.

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

1 (g) Members serve at the will of the person who appointed
2 the member.

3 Sec. 556.022. VACANCY. The governor or lieutenant governor
4 shall fill a vacancy on the realignment commission in the same
5 manner as the original appointment.

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

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

11 SUBCHAPTER C. POWERS AND DUTIES OF REALIGNMENT COMMISSION

12 Sec. 556.051. GENERAL POWERS AND DUTIES OF REALIGNMENT
13 COMMISSION. The realignment commission is responsible for
14 recommending the consolidation or closure of state supported living
15 centers in accordance with criteria and benchmarks as described by
16 this chapter and determined by the realignment commission. The
17 realignment commission is also responsible for overseeing the
18 implementation of the realignment commission's recommendations by
19 the commission and the Department of Aging and Disability Services
20 as required by this chapter.

21 Sec. 556.052. ADVISORY COMMITTEE. (a) An advisory
22 committee is created to assist and provide information to the
23 realignment commission.

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

26 (1) one representative of the commission;

27 (2) one representative of the Department of Aging and

1 Disability Services;

2 (3) one representative of the Department of State

3 Health Services;

4 (4) two representatives of community services
5 providers;

6 (5) one representative of local mental retardation
7 authorities;

8 (6) two representatives of an advocacy group for
9 persons with disabilities; and

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

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

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

17 (a) Each biennium, the realignment commission shall evaluate the
18 state supported living center system and determine which state
19 supported living centers should be consolidated or closed by the
20 commission and the Department of Aging and Disability Services.

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

23 (1) the proximity of the state supported living center
24 to other state supported living centers and the geographical
25 distribution of remaining state supported living centers;

26 (2) the proximity of the state supported living
27 centers to community services providers and the geographical

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

1 exploitation at the state supported living center;

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

5 (13) the support needs of residents in the state
6 supported living center and the availability of programs that
7 provide those services in the community;

8 (14) the impact of expanding community programs in the
9 area of the state supported living center, particularly in
10 historically underserved areas of the state; and

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

13 (c) The advisory committee to the realignment commission
14 may assist the realignment commission in performing the evaluation
15 required by this section.

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

18 Sec. 556.054. RECOMMENDATION FOR CONSOLIDATION OR CLOSURE;
19 REPORT. (a) Not later than December 1 of each even-numbered year,
20 the realignment commission shall submit a report to the governor,
21 the lieutenant governor, the speaker of the house of
22 representatives, and the standing committee of each house of the
23 legislature with jurisdiction over state supported living centers.
24 The report must include a specific recommendation of whether to
25 consolidate or close one or more state supported living centers
26 and, if consolidation or closure is recommended, which state
27 supported living center or centers should be consolidated or

1 closed.

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

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

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

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

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

17 (5) any other relevant information as determined by
18 the realignment commission.

19 Sec. 556.055. EFFECT OF REALIGNMENT COMMISSION'S
20 RECOMMENDATIONS AND ACTIVITIES. The commission and the Department
21 of Aging and Disability Services are not bound by any
22 recommendation of the realignment commission, and the realignment
23 commission may not prevent the commission or the department from
24 taking action to consolidate or close a state supported living
25 center at any time.

26 Sec. 556.056. MORATORIUM ON STATE SUPPORTED LIVING CENTER
27 PLACEMENTS. (a) An individual with an intellectual disability may

1 not be admitted or committed to a state supported living center
2 under Chapter 593 on or after September 1, 2015, if:

3 (1) the center has been identified for downsizing,
4 consolidation, or closure; or

5 (2) as provided by the Centers for Medicare and
6 Medicaid Services:

7 (A) the center's certification is at risk because
8 of deficient practices that have put the health and safety of the
9 center's residents in immediate jeopardy; or

10 (B) the center's certification is at risk of
11 termination in 90 days because of noncompliance with certification
12 requirements.

13 (b) The Department of Aging and Disability Services shall
14 ensure that individuals who would otherwise be committed under
15 Chapter 593 receive services by ensuring programs are available to
16 provide those services through diversion and other community
17 capacity building activities.

18 SECTION 2. (a) Not later than September 1, 2015, the
19 governor and lieutenant governor shall appoint the members of the
20 State Supported Living Center Realignment Commission as provided by
21 Chapter 556, Health and Safety Code, as added by this Act.

22 (b) Not later than January 1, 2016, the executive
23 commissioner of the Health and Human Services Commission shall
24 appoint the advisory committee as provided by Section 556.052,
25 Health and Safety Code, as added by this Act.

26 SECTION 3. If before implementing any provision of this Act
27 a state agency determines that a waiver or authorization from a

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

5 SECTION 4. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2015.