

By: Klick

H.B. No. 2951

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-IID provider with fewer than six 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) "Local authority" means a local intellectual and
developmental disability authority.

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

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

1 Sec. 556.002. STATE SUPPORTED LIVING CENTER REALIGNMENT
2 COMMISSION. The State Supported Living Center Realignment
3 Commission is established to evaluate the state supported living
4 centers and make recommendations regarding the operation and
5 management of the state supported living centers, including
6 recommendations for the closure of state supported living centers,
7 other than the Austin State Supported Living Center. The
8 realignment commission is administratively attached to the
9 department but is independent of direction by the department. The
10 department shall provide to the realignment commission
11 administrative support and resources and access to the department's
12 documents relating to the state supported living centers as
13 necessary to enable the realignment commission to perform its
14 duties.

15 Sec. 556.003. EXPIRATION. This chapter expires and the
16 realignment commission is abolished September 1, 2027.

17 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

18 Sec. 556.021. APPOINTMENT OF REALIGNMENT COMMISSION
19 MEMBERS. (a) The realignment commission is composed of nine
20 appointed members and three nonvoting ex officio members as
21 provided by this section.

22 (b) The nonvoting ex officio members are:

23 (1) the executive commissioner or the executive
24 commissioner's designee;

25 (2) the executive director of the Texas Facilities
26 Commission or the executive director's designee; and

27 (3) the land commissioner or the land commissioner's

1 designee.

2 (c) The appointed members are:

3 (1) three members of the public appointed by the
4 governor;

5 (2) three members of the public appointed by the
6 lieutenant governor; and

7 (3) three members of the public appointed by the
8 governor from a list provided by the speaker of the house of
9 representatives.

10 (d) To be eligible for appointment to the realignment
11 commission, a person may not:

12 (1) be an agent, paid consultant, officer, or employee
13 of a state supported living center, state center, local authority,
14 licensed provider of ICF-IID services, or other provider of
15 services to individuals with an intellectual or developmental
16 disability;

17 (2) have a financial interest in a state supported
18 living center, state center, local authority, licensed provider of
19 ICF-IID services, or other provider of services to individuals with
20 an intellectual or developmental disability;

21 (3) have a financial interest in the closure of a state
22 supported living center;

23 (4) be an officer, employee, or paid consultant of a
24 trade association in the field of residential services for
25 individuals with an intellectual or developmental disability;

26 (5) be a resident of a state supported living center;

27 or

1 (6) be related within the second degree by affinity or
2 consanguinity, as determined under Chapter 573, Government Code, to
3 a person who is an officer, employee, paid consultant, or resident
4 of a state supported living center, state center, local authority,
5 licensed provider of ICF-IID services, or other provider of
6 services to individuals with an intellectual or developmental
7 disability.

8 (e) A person may not serve as an appointed member of the
9 realignment commission or act as the general counsel to the
10 realignment commission if the person is required to register as a
11 lobbyist under Chapter 305, Government Code, because of the
12 person's activities for compensation on behalf of a profession
13 related to the operation of the realignment commission.

14 (f) Chapter 551, Government Code, applies to the
15 realignment commission.

16 (g) A majority of the members of the realignment commission
17 constitutes a quorum for the transaction of business.

18 (h) Appointments to the realignment commission shall be
19 made without regard to the race, color, disability, sex, religion,
20 age, or national origin of the appointees.

21 (i) An appointed member of the realignment commission
22 serves at the will of the person who appointed the member.

23 Sec. 556.022. VACANCY. The governor or lieutenant governor
24 shall fill a vacancy on the realignment commission in the same
25 manner as the original appointment.

26 Sec. 556.023. PRESIDING OFFICER; OTHER OFFICERS;
27 MEETINGS. (a) The members of the realignment commission shall

1 elect a presiding officer and other necessary officers.

2 (b) The realignment commission shall hold meetings in
3 different areas of the state.

4 Sec. 556.024. COMPENSATION; TRAVEL EXPENSES. A member of
5 the realignment commission may not receive compensation for service
6 on the realignment commission but is entitled to reimbursement for
7 travel expenses incurred while conducting realignment commission
8 business.

9 SUBCHAPTER C. POWERS AND DUTIES OF REALIGNMENT COMMISSION

10 Sec. 556.051. GENERAL POWERS AND DUTIES OF REALIGNMENT
11 COMMISSION. The realignment commission shall recommend the closure
12 of state supported living centers, other than the Austin State
13 Supported Living Center, in accordance with criteria and benchmarks
14 as described by this chapter and determined by the realignment
15 commission. The realignment commission shall oversee the
16 implementation of the realignment commission's recommendations by
17 the department as required by this chapter.

18 Sec. 556.052. ADVISORY COMMITTEE. (a) An advisory
19 committee is created to assist and provide information to the
20 realignment commission.

21 (b) The advisory committee is composed of the following
22 members, appointed by the executive commissioner:

23 (1) one representative of the commission;

24 (2) one representative of the department;

25 (3) one representative of the Department of State
26 Health Services;

27 (4) two representatives of community services

1 providers;

2 (5) one representative of local authorities;

3 (6) two representatives of advocacy groups that focus
4 on the independent living of persons with disabilities;

5 (7) two family members of individuals residing in a
6 state supported living center; and

7 (8) two individuals with an intellectual or
8 developmental disability, including one individual who resides or
9 has resided in a state supported living center.

10 (c) The advisory committee shall study and make
11 recommendations to the realignment commission regarding the
12 evaluation and closure of state supported living centers.

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

14 (a) The realignment commission shall evaluate the state supported
15 living center system and determine which state supported living
16 centers, other than the Austin State Supported Living Center,
17 should be closed by the department.

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

20 (1) the proximity of the state supported living center
21 to other state supported living centers and the geographical
22 distribution of remaining state supported living centers if the
23 state supported living center is closed;

24 (2) the proximity of the state supported living center
25 to community services providers and the geographical distribution
26 of those providers;

27 (3) the cost of operating the state supported living

1 center;

2 (4) the availability of other employment
3 opportunities in the area for employees that would be displaced by
4 the closure of the state supported living center, including
5 additional employment that may be needed by community services
6 providers if the state supported living center is closed;

7 (5) the condition of existing state supported living
8 center structures and existing community services providers;

9 (6) the property value, marketability, and deed
10 restrictions of the property where the state supported living
11 center is located, as determined in consultation with persons with
12 business development expertise, and whether the property should be
13 sold or converted to another use if the state supported living
14 center is closed;

15 (7) the ease of client transfer capability to a
16 community placement or another state supported living center;

17 (8) the capacity at remaining state supported living
18 centers to accommodate persons who will need or want to be
19 transferred from the state supported living center to another state
20 supported living center if the state supported living center is
21 closed;

22 (9) the capacity of local community services providers
23 to accommodate persons formerly served by the state supported
24 living center who will need or want to be transferred to a community
25 placement if the state supported living center is closed;

26 (10) the quality of services provided at the state
27 supported living center, the state supported living center's most

1 recent certification inspections, and the state supported living
2 center's ability to meet the minimum standards for an ICF-IID
3 facility;

4 (11) specialty programs and services available at the
5 state supported living center, including programs and services for
6 alleged offenders and high-risk residents, and whether those
7 programs and services are available at other state supported living
8 centers or from local community services providers;

9 (12) the history of incidents of abuse, neglect, or
10 exploitation at the state supported living center, and any findings
11 of circumstances at the state supported living center constituting
12 immediate jeopardy to the health or safety of the residents;

13 (13) the state supported living center's record of
14 compliance with the systemwide settlement agreement between the
15 state and the United States Department of Justice regarding the
16 department of justice's investigation of state supported living
17 centers, as determined by the independent monitors engaged in
18 monitoring compliance with the settlement agreement;

19 (14) the services and supports that are not available
20 in the community and that resulted in commitment of individuals to
21 the state supported living center during the previous five years;

22 (15) the support needs of residents in the state
23 supported living center and the availability of programs that
24 provide those services in the community;

25 (16) the effect of expanding community programs in the
26 area of the state supported living center, particularly in
27 historically underserved areas of the state; and

1 (17) any other relevant factor as determined by the
2 realignment commission.

3 (c) The advisory committee to the realignment commission
4 may assist the realignment commission in performing the evaluation
5 required by this section.

6 (d) The realignment commission shall hold public hearings
7 throughout the state in a manner that accommodates individuals with
8 disabilities and their families in order to solicit input during
9 the evaluation process.

10 Sec. 556.054. RECOMMENDATION FOR CLOSURE; REPORT. (a) Not
11 later than December 1, 2016, the realignment commission shall
12 submit to the governor, the commission, the department, the
13 lieutenant governor, the speaker of the house of representatives,
14 and the presiding officers of the standing committees of the senate
15 and house of representatives having primary jurisdiction over
16 intellectual and developmental disability issues a report
17 detailing the realignment commission's evaluation of each state
18 supported living center and proposing the closure of certain state
19 supported living centers, other than the Austin State Supported
20 Living Center.

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

22 (1) the name and location of each state supported
23 living center recommended by the realignment commission to be
24 closed;

25 (2) the estimated number of individuals that would
26 require a transfer to another state supported living center or a
27 community services provider as a result of each recommended

1 closure;

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

7 (4) the number and type of training competencies that
8 would be needed to assist state supported living center employees
9 in gaining the skills needed to transfer to providing services in
10 the community; and

11 (5) any other relevant information as determined by
12 the realignment commission.

13 Sec. 556.055. EFFECT OF RECOMMENDATION. (a) The 85th
14 Legislature shall consider legislation proposing the closure of the
15 state supported living centers recommended for closure. In
16 considering the proposed legislation described by this subsection,
17 members of the legislature may not propose amendments to the
18 legislation.

19 (b) If the legislation described by Subsection (a) is
20 enacted and becomes law, the department shall develop a plan and
21 timeline for the closure of the state supported living centers
22 approved by the legislature for closure under Subsection (a) and
23 close those state supported living centers no later than August 31,
24 2025. In developing the plan and timeline under this section, the
25 department shall identify specific resources available to assist
26 residents and employees of those state supported living centers
27 with the transition. The department shall use the evaluation of the

1 closure of the Austin State Supported Living Center as a guide for
2 closing the state supported living centers under this section. In
3 closing the state supported living centers under this section, the
4 department shall consult with the commission regarding the sale of
5 any property. The proceeds of the sale of property where a state
6 supported living center was located may be appropriated only for
7 the long-term services and supports system.

8 Sec. 556.056. MORATORIUM ON STATE SUPPORTED LIVING CENTER
9 PLACEMENTS. (a) An individual with an intellectual or
10 developmental disability may not be admitted or committed to a
11 state supported living center under Chapter 593 on or after
12 September 1, 2015, if:

13 (1) the closure of the center has been recommended by
14 the realignment commission; or

15 (2) as provided by the Centers for Medicare and
16 Medicaid Services:

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

20 (B) the center's certification is at risk of
21 termination in 90 days because of noncompliance with certification
22 requirements.

23 (b) The department shall ensure that individuals who would
24 otherwise be committed under Chapter 593 receive services by
25 ensuring programs are available to provide those services through
26 diversion and other community capacity building activities.

27 SECTION 2. (a) Not later than September 1, 2015, the

1 governor and lieutenant governor shall appoint the members of the
2 State Supported Living Center Realignment Commission as provided by
3 Chapter 556, Health and Safety Code, as added by this Act.

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

8 SECTION 3. If before implementing any provision of this Act
9 a state agency determines that a waiver or authorization from a
10 federal agency is necessary for implementation of that provision,
11 the agency affected by the provision shall request the waiver or
12 authorization and may delay implementing that provision until the
13 waiver or authorization is granted.

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