

By: Simmons

H.B. No. 3282

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the establishment by the commissioner of education of
3 an autism program to provide applied behavior analysis services to
4 students with autism spectrum disorder and to the coordination of
5 autism services in this state.

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

7 SECTION 1. Chapter 33, Education Code, is amended by adding
8 Subchapter H to read as follows:

9 SUBCHAPTER H. AUTISM PROGRAM

10 Sec. 33.281. DEFINITIONS. In this subchapter:

11 (1) "Certified assistant behavior analyst" means an
12 individual who is certified as a board certified assistant behavior
13 analyst by the Behavior Analyst Certification Board, Inc., or has
14 earned a similar credential from another entity that is approved by
15 the commissioner and is accredited by the National Commission on
16 Certifying Agencies or the American National Standards Institute to
17 issue credentials in the professional practice of applied behavior
18 analysis.

19 (2) "Certified behavior analyst" means an individual
20 who is certified as a board certified behavior analyst or board
21 certified behavior analyst-Doctoral by the Behavior Analyst
22 Certification Board, Inc., or has earned a similar credential from
23 another entity that is approved by the commissioner and accredited
24 by the National Commission on Certifying Agencies or the American

1 National Standards Institute to issue credentials in the
2 professional practice of applied behavior analysis.

3 (3) "Participating entity" means a university, local
4 community agency, or organization that has entered into a grant
5 contract with a school district to provide applied behavior
6 analysis services under the program to students of the district.

7 (4) "Program" means the autism program established
8 under this subchapter.

9 (5) "Service provider" means one or more individuals
10 employed by or under a contract with a participating entity to
11 provide applied behavior analysis services under the program to
12 students.

13 Sec. 33.282. ESTABLISHMENT; CONTRACT WITH HEALTH AND HUMAN
14 SERVICES COMMISSION. (a) The commissioner shall establish and
15 administer an autism program to provide applied behavior analysis
16 services to students with autism spectrum disorder through grant
17 contracts between school districts and participating universities,
18 local community agencies, and other organizations that provide
19 applied behavior analysis services in this state, to the extent
20 funds are appropriated by the legislature for that purpose.

21 (b) The Health and Human Services Commission shall contract
22 with the commissioner for the agency to assume all responsibilities
23 of the Health and Human Services Commission and the Department of
24 Assistive and Rehabilitative Services relating to the provision of
25 autism services to students eligible for services under this
26 subchapter who are recipients of assistance under the Medicaid
27 program or the child health plan program.

1 Sec. 33.283. STUDENT ELIGIBILITY AND ENROLLMENT. (a) To be
2 eligible for services under the program, a student must:

3 (1) apply to a participating entity on the form and in
4 the manner prescribed by commissioner rule;

5 (2) be a resident of this state;

6 (3) be eight years of age or younger; and

7 (4) have a documented diagnosis on the autism spectrum
8 made by a qualified professional.

9 (b) The application and enrollment process adopted by the
10 commissioner must provide that if a participating entity receives
11 more applications from eligible students for admission to a
12 participating entity's program than available positions in the
13 program, the eligible student who is not initially offered
14 admission to the program may be placed on an interest list
15 maintained by the participating entity and may be offered admission
16 to the program upon the opening of available positions with the
17 participating entity.

18 Sec. 33.284. PROGRAM SERVICES. (a) A participating entity
19 shall:

20 (1) ensure that services provided to a student with
21 autism spectrum disorder under the program do not include physical
22 aversive interventions that cause pain or discomfort;

23 (2) develop a treatment plan for each student served
24 under the program;

25 (3) provide parent training as a component of services
26 offered under the program;

27 (4) provide ongoing analysis and evaluation of the

1 progress of each student under the program;

2 (5) document the services provided to each student
3 under the program;

4 (6) administer pretreatment and posttreatment
5 measures in accordance with contractual requirements between the
6 participating entity and a school district; and

7 (7) create and maintain documented transition plans
8 for each student determined to no longer require services under the
9 program.

10 (b) A school district may contract with a university for the
11 university to act as a participating entity only if the university
12 has an autism center or program.

13 Sec. 33.285. DURATION OF TREATMENT. (a) The duration of
14 each student's treatment under the program must be based on the
15 student's needs, except that a student may not receive services
16 under the program for more than a cumulative period of 24 months,
17 which may be composed of nonconsecutive periods of treatment.

18 (b) The maximum period of a student's treatment prescribed
19 by Subsection (a) applies regardless of any change in a contract
20 between a school district and a participating entity or any change
21 in service providers.

22 (c) A student who ceases receiving treatment under the
23 program before receiving services for the maximum period of
24 treatment prescribed by Subsection (a) may reenroll in the program
25 not earlier than six months after the date the student ceases
26 receiving services under the program, unless the student receives
27 written approval for early reenrollment from the school district

1 before withdrawing from the program.

2 (d) A parent or guardian of a student who has received
3 treatment under the program for the maximum period prescribed by
4 Subsection (a) may elect to pay the expense for the student to
5 continue receiving services from the participating entity under a
6 contract between the parent or guardian and the participating
7 entity. A school district is not liable for any costs accrued in the
8 provision of services to a student who has received treatment under
9 the program for the maximum period prescribed by Subsection (a).

10 Sec. 33.286. SERVICE PROVIDER REQUIREMENTS. (a) A service
11 provider who provides assessment of or oversees treatment of
12 students under the program or who trains and supervises
13 paraprofessional personnel involved in direct delivery of program
14 services must have:

15 (1) a master's degree or doctoral degree in
16 psychology, behavior analysis, or a related field obtained from an
17 accredited institution of higher education;

18 (2) documented graduate level coursework in
19 behavioral assessment and intervention, selecting outcomes and
20 strategies, behavior change procedures, experimental methods, and
21 measuring and interpreting behavioral data;

22 (3) knowledge of typical childhood development of
23 children in the age range of 3 years through 15 years; and

24 (4) a board certified behavior analyst accreditation
25 issued by the Behavior Analyst Certification Board, Inc.

26 (b) A service provider must include at least one individual
27 with the accreditation described by Subsection (a)(4) who has

1 experience providing applied behavior analysis services for a child
2 of each age in the age range of 3 years through 15 years.

3 (c) A service provider who provides any direct services to
4 students under the program must:

5 (1) have been awarded a high school diploma or the
6 equivalent;

7 (2) be 18 years of age or older;

8 (3) have completed at least 40 hours of training
9 before working with students under the program;

10 (4) receive ongoing training; and

11 (5) be supervised by a certified behavior analyst.

12 (d) The training required under Subsection (c) must:

13 (1) be formalized training developed and supervised by
14 a certified behavior analyst on methods for data collection,
15 procedures for implementing discrete trial teaching, prompting
16 procedures, behavior management strategies for addressing problem
17 behavior, and other applied behavior analysis techniques and
18 program-specific methods;

19 (2) be provided by a certified behavior analyst or a
20 certified assistant behavior analyst through didactic instruction,
21 workshops, readings, observation of modeling of techniques by
22 supervisors, role-play with supervisors, and training in the
23 natural environment in which supervisors provide specific feedback
24 and additional training as needed;

25 (3) to ensure individual acquisition of the skills
26 necessary to accurately implement applied behavior analysis
27 treatments, be assessed for effectiveness through:

1 (A) written exams, with criteria to determine
2 mastery; or

3 (B) direct observation by an individual who is a
4 board certified behavior analyst supervisor of therapists working
5 directly with students, with fidelity checklists to determine
6 accurate use of procedures and criteria to determine mastery;

7 (4) provide instruction on all of the tasks in the
8 Behavior Analyst Certification Board, Inc.'s, Registered Behavior
9 Technician Task List; and

10 (5) include ethics and professional conduct training.

11 (e) The supervision required under Subsection (c)(5) must:

12 (1) occur at least once every two weeks;

13 (2) include direct observation of applied behavior
14 analysis programming to assess if procedures are implemented
15 accurately and to inform the supervisor of the potential need to
16 adjust teaching procedures; and

17 (3) include ongoing review, no less than two times per
18 week, of data from applied behavior analysis programs and data
19 pertaining to problem behavior.

20 Sec. 33.287. COORDINATION OF SERVICES; COMMUNICATION ON
21 BEST PRACTICES. In administering the program, the commissioner
22 shall ensure communication and coordination among school
23 districts, participating entities, service providers, and other
24 state agencies or other entities providing applied behavior
25 analysis services to children with autism spectrum disorder in this
26 state regarding best practices for delivering those services.

27 Sec. 33.288. RESTRICTION ON GRANT USE. A grant awarded to a

1 participating entity through the program may be used only to
2 provide applied behavior analysis services to students under the
3 program and may not be used for educational, research, or student
4 loan repayment assistance purposes.

5 Sec. 33.289. STATEWIDE AUTISM DATABASE; REPORT. (a) The
6 commissioner shall maintain a statewide autism database of
7 information regarding the number of students served through the
8 program, statewide best practices for the delivery of applied
9 behavior analysis services to students with autism spectrum
10 disorder, and the identification of underserved regions of the
11 state with regard to those services.

12 (b) Annually, the commissioner shall submit to the
13 legislature a report on the information maintained in the database.

14 (c) On request by the commissioner, a service provider shall
15 submit any quarterly data the commissioner considers necessary to
16 carry out the commissioner's duties under this section.

17 (d) The commissioner may not include in the database
18 personal information of any kind pertaining to a student receiving
19 services under the program or the student's family.

20 (e) The commissioner shall make the database readily
21 accessible online for school districts, participating entities,
22 service providers, and the public.

23 Sec. 33.290. RULES. The commissioner shall adopt rules as
24 necessary for the administration of this subchapter.

25 SECTION 2. SELECT COMMITTEES ON AUTISM SERVICES. (a) Not
26 later than November 30, 2015:

27 (1) the speaker of the house of representatives shall

1 appoint to a House Select Committee on Statewide Coordination of
2 Autism Services seven members with one member designated as chair;
3 and

4 (2) the lieutenant governor shall appoint to a Senate
5 Select Committee on Statewide Coordination of Autism Services five
6 members with one member designated as chair.

7 (b) The committees established under this section may meet
8 separately at the call of the chair of the committee or jointly at
9 the call of both chairs. In joint meetings, the chairs shall act as
10 joint chairs.

11 (c) The committees established under this section, meeting
12 separately or jointly, shall review, study, and evaluate:

13 (1) autism service programs in other states;

14 (2) university programs in this state that provide
15 autism treatment and services;

16 (3) community agencies and organizations that provide
17 ABA services;

18 (4) ways to improve communication and coordination
19 among entities providing autism services across the state;

20 (5) areas of the state that are most underserved with
21 regard to autism services; and

22 (6) ways to provide autism services to more children.

23 (d) Following consideration of the factors described by
24 Subsection (c) of this section, the committees established under
25 this section shall jointly adopt recommendations related to the
26 reviewed topics and shall provide a written report to the
27 legislature of the committees' recommendations for legislative or

1 other action not later than January 13, 2017.

2 (e) This section expires September 1, 2017.

3 SECTION 3. This Act takes effect September 1, 2015.