

BILL ANALYSIS

H.B. 2590
By: Raymond
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties have expressed a need to provide an appeal process for administrative penalties imposed on providers contracted to deliver services under the home and community-based services and the Texas home living waiver programs similar to the appeal processes applicable to other long-term care providers. H.B. 2590 seeks to address this need by establishing an informal dispute resolution process and an amelioration process for such providers.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 1 and 2 of this bill.

ANALYSIS

H.B. 2590 amends the Human Resources Code to authorize the Health and Human Services Commission (HHSC), in lieu of demanding payment of an administrative penalty assessed for a violation of a law or rule relating to the home and community-based services waiver program or the Texas home living waiver program, to allow the provider participating in such a program who is subject to the penalty to use, under the supervision of HHSC, any portion of the amount of the penalty to ameliorate the violation or to improve services in the waiver program in which the provider participates. The bill requires HHSC to offer amelioration to a provider under the bill not later than the 10th day after the date the provider receives from HHSC a final notification of the assessment of an administrative penalty that is sent to the provider after an informal dispute resolution process but before an administrative hearing. The bill requires a provider to whom amelioration has been offered to file a plan for amelioration not later than the 45th day after the date the provider receives the offer of amelioration from HHSC and requires the provider in submitting the plan to agree to waive the provider's right to an administrative hearing if HHSC approves the plan. The bill requires a plan for amelioration at a minimum to propose changes to the management or operation of the waiver program in which the provider participates that will improve services to or quality of care for clients in the program, to identify through measurable outcomes the ways in which and the extent to which the proposed changes will improve services to or quality of care for clients in the waiver program, to establish clear goals to be achieved through the proposed changes, to establish a timeline for implementing the proposed changes, and to identify specific actions necessary to implement the proposed changes. The bill authorizes HHSC to require an amelioration plan to propose changes that would result in conditions that exceed the requirements of a law or rule relating to the waiver program in which the provider participates. The bill requires HHSC to approve or deny an amelioration plan not later than the 45th day after the date HHSC receives the plan. The bill requires HHSC or the

State Office of Administrative Hearings, as appropriate and on approval of a provider's plan, to deny a pending request for a hearing submitted by the provider. The bill prohibits HHSC from offering amelioration to a provider more than three times in a two-year period or more than one time in a two-year period for the same or similar violation.

H.B. 2590 requires the executive commissioner of HHSC by rule to establish an informal dispute resolution process that provides for adjudication by an appropriate disinterested person of disputes relating to a proposed enforcement action or related proceeding of HHSC against a provider participating in the home and community-based services waiver program or the Texas home living waiver program. The bill requires the informal dispute resolution process to require a provider participating in such a waiver program to request informal dispute resolution not later than the 10th calendar day after the date of notification by HHSC of the violation of a law or rule relating to the program and requires HHSC to complete the process not later than the 30th calendar day after the date of receipt of a request from a provider for informal dispute resolution. The bill requires HHSC as part of that informal dispute resolution process to contract with an appropriate disinterested person who is a nonprofit organization to adjudicate disputes between a provider participating in an applicable waiver program and HHSC concerning a statement of violations prepared by HHSC. The bill makes Government Code provisions relating to impartial third parties inapplicable to the selection of an appropriate disinterested person under the bill's provisions. The bill requires the person with whom HHSC contracts to adjudicate all disputes described by the bill's provisions and requires the executive commissioner to adopt rules to adjudicate claims in contested cases. The bill prohibits HHSC from delegating its responsibility to administer the informal dispute resolution process to another state agency. The bill requires the executive commissioner of HHSC to adopt rules necessary to implement the bill's provisions.

EFFECTIVE DATE

September 1, 2017.