

BILL ANALYSIS

C.S.H.B. 3842
By: Hinojosa, Gina
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, recent legislation that had originally slated the Office for the Prevention of Developmental Disabilities for abolishment was amended to allow time for the development of an alternative to abolishment. C.S.H.B. 3842 seeks to provide that alternative by transferring the office to The University of Texas at Austin as a program and renaming the office as the Office for Healthy Children.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3842 abolishes the Office for the Prevention of Developmental Disabilities as an independent office administratively attached to the Health and Human Services Commission (HHSC), transfers the office to The University of Texas at Austin as a program, and renames the office as the Office for Healthy Children. The bill abolishes the executive committee and board of advisors of the Office for the Prevention of Developmental Disabilities and the position of executive director of the office, but authorizes the president of The University of Texas System or the president's designee to hire the person serving as the executive director immediately before the bill's effective date for a position in the Office for Healthy Children.

C.S.H.B. 3842 establishes that an employee of the Office for the Prevention of Developmental Disabilities becomes an employee of the university and that all property, including records, in the office's custody becomes the university's property. The bill transfers the following to the university: all money, including gifts, donations, and grants of money, contracts, leases, rights, and obligations of the office; all funds appropriated by the legislature to the office; and all functions and activities performed by the office. The bill establishes that the validity of an action taken by the office or the office's executive committee or board of advisors before the bill's effective date is not affected by the abolishment of the office; that a rule, form, policy, procedure, or decision of the office or HHSC that is related to the office is continued in effect as a rule, form, policy, procedure, or decision of the university system until superseded by a rule, form, policy, procedure, or decision of the system; and that any action or proceeding pending before the office on the bill's effective date becomes an action or proceeding before the university.

C.S.H.B. 3842 transfers Human Resources Code provisions relating to the Office for the

Prevention of Developmental Disabilities to the Education Code and amends the Education Code to specify that the Office for Healthy Children is established under and administered by the university; to remove statutory provisions relating to the Office for the Prevention of Developmental Disabilities' administrative attachment to HHSC and elements of the office's duties pertaining to divisions within HHSC and pertaining to the monitoring and assessment of those divisions and state agencies with regard to preventing developmental disabilities; and to transfer certain duties and responsibilities from the office's executive committee to the president of the university or the president's designee and to the director hired by the president or the president's designee. The bill specifies that funds in the form of gifts, donations, and grants of money from public and private sources to assist in financing the duties and functions of the Office for Healthy Children are administered by the university and requires the university to maintain a separate accounting of such raised funds.

C.S.H.B. 3842 amends the Government Code and the Penal Code to make conforming changes.

C.S.H.B. 3842 repeals the heading to Subchapter C, Chapter 112, Human Resources Code, and the following provisions of the Human Resources Code:

- Sec. 112.0421
- Sec. 112.0431
- Sec. 112.045
- Sec. 112.0451
- Sec. 112.0452
- Sec. 112.0453
- Sec. 112.0454
- Sec. 112.046

EFFECTIVE DATE

August 31, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3842 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 531.0202(b), Government Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2. Chapter 67, Education Code, is amended by adding Subchapter E, and a heading is added to that subchapter to read as follows: <u>SUBCHAPTER E. OFFICE FOR THE PREVENTION OF DEVELOPMENTAL DISABILITIES</u>	SECTION 2. Chapter 67, Education Code, is amended by adding Subchapter E, and a heading is added to that subchapter to read as follows: <u>SUBCHAPTER E. OFFICE FOR HEALTHY CHILDREN</u>
SECTION 3. Sections 112.041, 112.042,	SECTION 3. Sections 112.041, 112.042,

112.043, 112.044, 112.047, 112.0471, 112.0472, 112.048, 112.049, 112.050, and 112.051, Human Resources Code, are transferred to Subchapter E, Chapter 67, Education Code, as added by this Act, redesignated as Sections 67.81, 67.82, 67.83, 67.84, 67.85, 67.86, 67.87, 67.88, 67.89, 67.90, and 67.91, Education Code, respectively, and amended to read as follows:

Sec. 67.81 [~~112.044~~]. PURPOSE AND POLICY. (a) The purpose of this subchapter [~~Act~~] is to minimize the economic and human losses in Texas caused by preventable disabilities through the establishment of a joint private-public initiative called the Office for the Prevention of Developmental Disabilities.

(b) The legislature finds there is a strong need for a unified, comprehensive prevention effort in the State of Texas. Many state agencies, as well as private organizations and local public agencies, are involved in prevention activities that can reduce the incidence and severity of developmental disabilities. However, a coordinated statewide plan that identifies and consolidates research findings and prevention activities has yet to be developed.

(c) The legislature further finds that by establishing a mechanism by which prevention activities can be better coordinated and needed prevention programs can be initiated, the State of Texas will be making an important investment in Texas's future.

Sec. 67.82 [~~112.042~~]. DEFINITIONS. In this subchapter:

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

[(1-a)] "Developmental disability" means a severe, chronic disability that:

(A) is attributable to a mental or physical impairment or to a combination of a mental and physical impairment;

(B) is manifested in a person before the [a] person reaches the age of 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more major life activities, including:

(i) self-care;

(ii) receptive and expressive language;

112.043, 112.044, 112.047, 112.0471, 112.0472, 112.048, 112.049, 112.050, and 112.051, Human Resources Code, are transferred to Subchapter E, Chapter 67, Education Code, as added by this Act, redesignated as Sections 67.81, 67.82, 67.83, 67.84, 67.85, 67.86, 67.87, 67.88, 67.89, 67.90, and 67.91, Education Code, respectively, and amended to read as follows:

Sec. 67.81 [~~112.044~~]. PURPOSE AND POLICY. (a) The purpose of this subchapter [~~Act~~] is to minimize the economic and human losses in Texas caused by preventable disabilities through the establishment of a joint private-public initiative called the Office for Healthy Children [~~the Prevention of Developmental Disabilities~~].

(b) The legislature finds there is a strong need for a unified, comprehensive prevention effort in the State of Texas. Many state agencies, as well as private organizations and local public agencies, are involved in prevention activities that can reduce the incidence and severity of developmental disabilities. However, a coordinated statewide plan that identifies and consolidates research findings and prevention activities has yet to be developed.

(c) The legislature further finds that by establishing a mechanism by which prevention activities can be better coordinated and needed prevention programs can be initiated, the State of Texas will be making an important investment in Texas's future.

Sec. 67.82 [~~112.042~~]. DEFINITIONS. In this subchapter:

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

[(1-a)] "Developmental disability" means a severe, chronic disability that:

(A) is attributable to a mental or physical impairment or to a combination of a mental and physical impairment;

(B) is manifested in a person before the [a] person reaches the age of 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more major life activities, including:

(i) self-care;

(ii) receptive and expressive language;

(iii) learning;
(iv) mobility;
(v) self-direction;
(vi) capacity for independent living; and
(vii) economic sufficiency; and
(E) reflects the person's needs for a combination and sequence of special interdisciplinary or generic care, treatment, or other lifelong or extended services that are individually planned and coordinated.
(2) ~~[(1-b) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.
[(2) "Executive committee" means the executive committee of the Office for the Prevention of Developmental Disabilities.
[(3) "Office" means the Office for the Prevention of Developmental Disabilities.~~

Sec. 67.83 [412.043]. OFFICE FOR THE PREVENTION OF DEVELOPMENTAL DISABILITIES[;—ADMINISTRATIVE ATTACHMENT].

~~[(a) The Office for the Prevention of Developmental Disabilities is established under and administered by [administratively attached to] the university [Health and Human Services Commission].~~

~~[(b) The Health and Human Services Commission shall:~~

- ~~[(1) provide administrative assistance, services, and materials to the office;~~
- ~~[(2) accept, deposit, and disburse money made available to the office;~~
- ~~[(3) accept gifts and grants on behalf of the office from any public or private entity;~~
- ~~[(4) pay the salaries and benefits of the executive director and staff of the office;~~
- ~~[(5) reimburse the travel expenses and other actual and necessary expenses of the executive committee, executive director, and staff of the office incurred in the performance of a function of the office, as provided by the General Appropriations Act;~~
- ~~[(6) apply for and receive on behalf of the office any appropriations, gifts, or other money from the state or federal government or any other public or private entity, subject to limitations and conditions prescribed by legislative appropriation;~~
- ~~[(7) provide the office with adequate computer equipment and support; and~~
- ~~[(8) provide the office with adequate office~~

(iii) learning;
(iv) mobility;
(v) self-direction;
(vi) capacity for independent living; and
(vii) economic sufficiency; and
(E) reflects the person's needs for a combination and sequence of special interdisciplinary or generic care, treatment, or other lifelong or extended services that are individually planned and coordinated.
(2) ~~[(1-b) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.
[(2) "Executive committee" means the executive committee of the Office for the Prevention of Developmental Disabilities.
[(3) "Office" means the Office for the Prevention of Developmental Disabilities].~~

Sec. 67.83 [412.043]. OFFICE FOR HEALTHY CHILDREN [~~THE PREVENTION OF DEVELOPMENTAL DISABILITIES;—ADMINISTRATIVE ATTACHMENT~~].

~~[(a) The Office for the Prevention of Developmental Disabilities] is established under and administered by [administratively attached to] the university [Health and Human Services Commission].~~

~~[(b) The Health and Human Services Commission shall:~~

- ~~[(1) provide administrative assistance, services, and materials to the office;~~
- ~~[(2) accept, deposit, and disburse money made available to the office;~~
- ~~[(3) accept gifts and grants on behalf of the office from any public or private entity;~~
- ~~[(4) pay the salaries and benefits of the executive director and staff of the office;~~
- ~~[(5) reimburse the travel expenses and other actual and necessary expenses of the executive committee, executive director, and staff of the office incurred in the performance of a function of the office, as provided by the General Appropriations Act;~~
- ~~[(6) apply for and receive on behalf of the office any appropriations, gifts, or other money from the state or federal government or any other public or private entity, subject to limitations and conditions prescribed by legislative appropriation;~~
- ~~[(7) provide the office with adequate computer equipment and support; and~~
- ~~[(8) provide the office with adequate office~~

~~space and permit the executive committee to meet in facilities of the commission.~~

~~[(e) The executive director and staff of the office are employees of the office and not employees of the Health and Human Services Commission.]~~

Sec. 67.84 [~~412.044~~]. DUTIES. The office shall:

- (1) educate the public and attempt to promote sound public policy regarding the prevention of developmental disabilities;
- (2) identify, collect, and disseminate information and data concerning the causes, frequency of occurrence, and preventability of developmental disabilities;
- (3) work with appropriate ~~[divisions within the commission,]~~ state agencies~~;~~ and other entities to develop a coordinated long-range plan to effectively monitor and reduce the incidence or severity of developmental disabilities;
- (4) promote and facilitate the identification, development, coordination, and delivery of needed prevention services;
- (5) solicit, receive, and spend grants and donations from public, private, state, and federal sources;
- (6) identify and encourage establishment of needed reporting systems to track the causes and frequencies of occurrence of developmental disabilities;
- (7) develop, operate, and monitor programs created under Section 67.88 [~~412.048~~] addressing the prevention of specific targeted developmental disabilities;
- (8) monitor and assess the effectiveness of ~~[divisions within the commission and of]~~ state agencies, including the Health and Human Services Commission, in preventing developmental disabilities;
- (9) recommend the role each ~~[division within the commission and each]~~ state agency should have with regard to prevention of developmental disabilities;
- (10) facilitate coordination of state agency prevention services and activities ~~[within the commission and]~~ among appropriate state agencies; and
- (11) encourage cooperative, comprehensive, and complementary planning among public, private, and volunteer individuals and organizations engaged in prevention activities, providing prevention services, or conducting related research.

~~space and permit the executive committee to meet in facilities of the commission.~~

~~[(e) The executive director and staff of the office are employees of the office and not employees of the Health and Human Services Commission.]~~

Sec. 67.84 [~~412.044~~]. DUTIES. The office shall:

- (1) educate the public and attempt to promote sound public policy regarding the prevention of developmental disabilities;
- (2) identify, collect, and disseminate information and data concerning the causes, frequency of occurrence, and preventability of developmental disabilities;
- (3) work with appropriate ~~[divisions within the commission,]~~ state agencies~~;~~ and other entities to develop a coordinated long-range plan to effectively monitor and reduce the incidence or severity of developmental disabilities;
- (4) promote and facilitate the identification, development, coordination, and delivery of needed prevention services;
- (5) solicit, receive, and spend grants and donations from public, private, state, and federal sources;
- (6) identify and encourage establishment of needed reporting systems to track the causes and frequencies of occurrence of developmental disabilities;
- (7) develop, operate, and monitor programs created under Section 67.88 [~~412.048~~] addressing the prevention of specific targeted developmental disabilities;
- (8) ~~[monitor and assess the effectiveness of divisions within the commission and of state agencies in preventing developmental disabilities;~~
- ~~[(9)]~~ recommend the role each ~~[division within the commission and each]~~ state agency should have with regard to prevention of developmental disabilities;
- (9) ~~[(10)]~~ facilitate coordination of state agency prevention services and activities ~~[within the commission and]~~ among appropriate state agencies; and
- (10) ~~[(11)]~~ encourage cooperative, comprehensive, and complementary planning among public, private, and volunteer individuals and organizations engaged in prevention activities, providing prevention services, or conducting related research.

Sec. 67.85 [112.047]. [EXECUTIVE] DIRECTOR. (a) The board [executive committee] may hire a [an executive] director to serve as the chief executive officer of the office and to perform the administrative duties of the office.

(b) The [executive] director serves at the will of the board [executive committee].

(c) The [executive] director may hire staff within guidelines established by the board [executive committee].

Sec. 67.86 [112.047]. QUALIFICATIONS AND STANDARDS OF CONDUCT. The [executive] director or the [executive] director's designee shall provide to members of the board [executive committee] and to employees of the office, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 67.87 [112.047]. EQUAL EMPLOYMENT OPPORTUNITY POLICIES.

Sec. 67.88 [112.048]. PREVENTION PROGRAMS FOR TARGETED DEVELOPMENTAL DISABILITIES. (a) The office [executive committee] shall establish guidelines for:

- (1) selecting targeted disabilities;
 - (2) assessing prevention services needs; and
 - (3) reviewing plans, budgets, and operations for programs under this section.
- (b) The office [executive committee] shall plan and implement prevention programs for specifically targeted developmental disabilities.
- (c) A program under this section:
- (1) must include a plan designed to reduce the incidence of a specifically targeted disability;
 - (2) must include a budget for implementing a plan;
 - (3) must be funded through:
 - (A) contracts for services from participating

Sec. 67.85 [112.047]. [EXECUTIVE] DIRECTOR. (a) The president of the university or the president's designee [executive committee] may hire a [an executive] director to [serve as the chief executive officer of the office and to] perform the administrative duties of the office.

(b) The [executive] director serves at the will of the president of the university or the president's designee [executive committee].

(c) The [executive] director may hire staff within guidelines established by the president of the university or the president's designee [executive committee].

Sec. 67.86 [112.047]. QUALIFICATIONS AND STANDARDS OF CONDUCT. The [executive] director or the [executive] director's designee shall provide to the president of the university or the president's designee [members of the executive committee] and to employees of the office, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

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- (b) The office [executive committee] shall plan and implement prevention programs for specifically targeted developmental disabilities.
- (c) A program under this section:
- (1) must include a plan designed to reduce the incidence of a specifically targeted disability;
 - (2) must include a budget for implementing a plan;
 - (3) must be funded through:
 - (A) contracts for services from participating

agencies;
(B) grants and gifts from private persons and consumer and advocacy organizations; and
(C) foundation support; and
(4) must be approved by the board [~~executive committee~~].

Sec. 67.89 [~~412.049~~]. EVALUATION. (a) The office shall identify or encourage the establishment of needed statistical bases for each targeted group against which the office can measure how effectively a program under Section 67.88 [~~412.048~~] is reducing the frequency or severity of a targeted developmental disability.

(b) The board [~~executive committee~~] shall regularly monitor and evaluate the results of programs under Section 67.88 [~~412.048~~].

Sec. 67.90 [~~412.050~~]. GRANTS AND OTHER FUNDING. (a) The board [~~executive committee~~] may apply for and distribute private, state, and federal funds to implement prevention policies set by the board [~~executive committee~~].

(b) The board [~~executive committee~~] shall establish criteria for application and review of funding requests and accountability standards for recipients. The board [~~executive committee~~] may adjust its criteria as necessary to meet requirements for federal funding.

(c) The board [~~executive committee~~] may not submit a legislative appropriation request for general revenue funds for purposes of this subchapter.

(d) In addition to funding under Subsection (a), the office may accept and solicit gifts, donations, and grants of money from public and private sources, including the federal government, local governments, and private entities, to assist in financing the duties and functions of the office. The university [~~commission~~] shall support office fund-raising efforts authorized by this subsection. Funds raised under this subsection are administered by the university and may only be spent in furtherance of a duty or function of the office or in accordance with rules

agencies;
(B) grants and gifts from private persons and consumer and advocacy organizations; and
(C) foundation support; and
(4) must be approved by the president of the university or the president's designee [~~executive committee~~].

Sec. 67.89 [~~412.049~~]. EVALUATION. (a) The office shall identify or encourage the establishment of needed statistical bases for each targeted group against which the office can measure how effectively a program under Section 67.88 [~~412.048~~] is reducing the frequency or severity of a targeted developmental disability.

(b) The president of the university or the president's designee [~~executive committee~~] shall regularly monitor and evaluate the results of programs under Section 67.88 [~~412.048~~].

Sec. 67.90 [~~412.050~~]. GRANTS AND OTHER FUNDING. (a) The president of the university or the president's designee [~~executive committee~~] may apply for and distribute private, state, and federal funds to implement prevention policies set by the president of the university or the president's designee [~~executive committee~~].

(b) The president of the university or the president's designee [~~executive committee~~] shall establish criteria for application and review of funding requests and accountability standards for recipients. The president of the university or the president's designee [~~executive committee~~] may adjust its criteria as necessary to meet requirements for federal funding.

(c) The board [~~executive committee~~] may not submit a legislative appropriation request for general revenue funds for purposes of this subchapter.

(d) In addition to funding under Subsection (a), the office may accept and solicit gifts, donations, and grants of money from public and private sources, including the federal government, local governments, and private entities, to assist in financing the duties and functions of the office. The university [~~commission~~] shall support office fund-raising efforts authorized by this subsection. Funds raised under this subsection are administered by the university and may only be spent in furtherance of a duty or function of the office or in accordance with rules

applicable to the office. The university shall maintain a separate accounting of funds raised under this subsection.

Sec. 67.91 [~~112.051~~]. REPORTS TO LEGISLATURE.

SECTION 4. Section 22.04(c)(3), Penal Code, is amended.

SECTION 5. The following provisions of the Human Resources Code are repealed:

- (1) Sections 112.0421, 112.0431, 112.045, 112.0451, 112.0452, 112.0453, 112.0454, and 112.046; and
- (2) the heading to Subchapter C, Chapter 112.

SECTION 6. (a) On the effective date of this Act:

- (1) the Office for the Prevention of Developmental Disabilities is abolished as an independent office and is transferred to The University of Texas at Austin as a program;
- (2) the executive committee and the board of advisors of the office are abolished;
- (3) the position of executive director of the office is abolished, but the board of regents of The University of Texas System may hire the person serving as the executive director immediately before the effective date of this Act for a position in the office;
- (4) an employee of the office becomes an employee of The University of Texas at Austin;
- (5) all money, including gifts, donations, and grants of money, contracts, leases, rights, and obligations of the office are transferred to The University of Texas at Austin;
- (6) all property, including records, in the custody of the office becomes the property of The University of Texas at Austin;
- (7) all funds appropriated by the legislature to the office are transferred to The

applicable to the office. The university shall maintain a separate accounting of funds raised under this subsection.

Sec. 67.91 [~~112.051~~]. REPORTS TO LEGISLATURE.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. (a) On the effective date of this Act:

- (1) the Office for the Prevention of Developmental Disabilities is abolished as an independent office, transferred to The University of Texas at Austin as a program, and renamed the Office for Healthy Children;
- (2) the executive committee and the board of advisors of the Office for the Prevention of Developmental Disabilities are abolished;
- (3) the position of executive director of the Office for the Prevention of Developmental Disabilities is abolished, but the president of The University of Texas System or the president's designee may hire the person serving as the executive director immediately before the effective date of this Act for a position in the office;
- (4) an employee of the Office for the Prevention of Developmental Disabilities becomes an employee of The University of Texas at Austin;
- (5) all money, including gifts, donations, and grants of money, contracts, leases, rights, and obligations of the Office for the Prevention of Developmental Disabilities are transferred to The University of Texas at Austin;
- (6) all property, including records, in the custody of the Office for the Prevention of Developmental Disabilities becomes the property of The University of Texas at Austin;
- (7) all funds appropriated by the legislature to the Office for the Prevention of

University of Texas at Austin; and

(8) all functions and activities performed by the office are transferred to The University of Texas at Austin.

(b) The validity of an action taken by the Office for the Prevention of Developmental Disabilities or the executive committee or board of advisors of the office before the effective date of this Act is not affected by the abolishment of the office.

(c) A rule, form, policy, procedure, or decision of the Office for the Prevention of Developmental Disabilities or the Health and Human Services Commission that is related to the office is continued in effect as a rule, form, policy, procedure, or decision of The University of Texas System until superseded by a rule, form, policy, procedure, or decision of the system.

(d) Any action or proceeding pending before the Office for the Prevention of Developmental Disabilities on the effective date of this Act becomes an action or proceeding before The University of Texas at Austin.

SECTION 7. This Act takes effect August 31, 2017.

Developmental Disabilities are transferred to The University of Texas at Austin; and

(8) all functions and activities performed by the Office for the Prevention of Developmental Disabilities are transferred to The University of Texas at Austin.

(b) The validity of an action taken by the Office for the Prevention of Developmental Disabilities or the executive committee or board of advisors of the office before the effective date of this Act is not affected by the abolishment of the office.

(c) A rule, form, policy, procedure, or decision of the Office for the Prevention of Developmental Disabilities or the Health and Human Services Commission that is related to the office is continued in effect as a rule, form, policy, procedure, or decision of The University of Texas System until superseded by a rule, form, policy, procedure, or decision of the system.

(d) Any action or proceeding pending before the Office for the Prevention of Developmental Disabilities on the effective date of this Act becomes an action or proceeding before The University of Texas at Austin.

SECTION 7. Same as introduced version.