

BILL ANALYSIS

C.S.H.B. 4027
By: Allen
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties suggest that the Education Code is in need of certain updates with regard to transition planning for public school students enrolled in a special education program to reflect recent related legislation and prevent these students and their families from being given incomplete or incorrect information. C.S.H.B. 4027 seeks to provide those updates.

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. 4027 amends the Education Code with regard to transition planning for a public school student enrolled in a special education program to revise the issues such a student's admission, review, and dismissal (ARD) committee is required to consider and, if appropriate, address in the student's individualized education program (IEP) in the manner specified by procedures adopted by the commissioner of education for compliance with federal requirements relating to transition services for such students as follows:

- includes appropriate involvement in the transition for a student younger than 18 years of age by persons other than the student's parents who are invited to participate by the student's parents or the public school district in which the student is enrolled;
- for a student who is at least 18 years of age, replaces appropriate parental involvement in the student's transition if the parent is invited to participate by the student or the district in which the student is enrolled with involvement in the student's transition and future by the student's parents and other persons if the parent or other person is so invited or has the student's consent to participate under an agreement made under the Supported Decision-Making Agreement Act;
- specifies that the issue of appropriate postsecondary education options includes preparation for postsecondary-level coursework and that the issue of the availability of age-appropriate instructional environments for a student who is at least 18 years of age includes community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living in coordination with the student's transition goals and objectives;
- changes the issue concerning appropriate circumstances for referring a student or the student's parents to a governmental agency for services to appropriate circumstances for

facilitating a referral of the student or parents to a governmental agency for services or for public benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student, such as a waiver program established under certain provisions of the federal Social Security Act; and

- includes as an issue the use and availability of appropriate supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills and appropriate supports and services to foster the student's independence and self-determination, including a supported decision-making agreement.

C.S.H.B. 4027 requires a student's ARD committee to review annually the issues the committee must consider and address for transition planning purposes and, if necessary, to update the portions of the student's IEP that address those issues. The bill specifies that the information and resources about effective transition planning and services provided by a district's or shared services arrangement's applicable designee includes each such issue. The bill includes local and regional staff of the Texas Workforce Commission among the persons with whom such a designee must ensure that local school staff communicate and collaborate, as appropriate, and requires the commissioner to review and, if necessary, update the minimum training guidelines for a designee at least once every four years and to solicit input from stakeholders in reviewing and updating the guidelines. The bill requires the commissioner of education to develop and post on the Texas Education Agency (TEA) website a list of services and public benefits for which referral of a student or the student's parents to a governmental agency may be appropriate.

C.S.H.B. 4027 specifies that the transition and employment guide developed by TEA for special education students and their parents must be written in plain language, that information in the guide regarding community and long-term services and support includes the option to place the student on a waiting list with a governmental agency for public benefits available to the student, such as a waiver program established under certain provisions of the Social Security Act, and that information in the guide regarding guardianship and alternatives to guardianship includes a supported decision-making agreement. The bill requires a district to provide written information and, if necessary, assistance regarding how to access the electronic version of the guide to a student, in addition to a parent, and changes the time at which a district is required to do so from the first meeting of the student's ARD committee at which transition is discussed or the first committee meeting that occurs after the date the guide becomes available, if a student has already had an ARD committee meeting discussing transition, to the first ARD meeting at which the transition is discussed and the first committee meeting at which transition is discussed that occurs after the date on which the guide is updated. The bill requires a district to provide a printed copy of the guide on request to a student or parent.

C.S.H.B. 4027 requires the district at which a student with a disability is enrolled, not later than one year before the student's 18th birthday, to provide to the student and the student's parents written notice regarding the transfer of parental rights to the student at the age of majority and information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement, and other supports and services that may enable the student to live independently and to ensure that the student's IEP includes a statement that the district provided the required notice, information, and resources. The bill specifies that a district's notification of a student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under applicable law and of such a student's parents of the transfer of parental rights in accordance with certain federal regulations is the provision of written notice and requires that notice to include the same information and resources regarding supports and services that may enable the student to live independently that are required to accompany the notice issued before the student's 18th birthday.

C.S.H.B. 4027 requires a district, if a student with a disability who is enrolled at the district or the student's parent requests information regarding guardianship or alternatives to guardianship, to provide to the student or parent information and resources on supported decision-making

agreements under the Supported Decision-Making Agreement Act. The bill requires the commissioner to develop and post on the TEA website a model form for use by districts in notifying students and parents of the transfer of parental rights at the age of majority; requires the form to include the requisite information and resources regarding guardianship, alternatives to guardianship, and other relevant supports and services; and requires the commissioner to review and update the form, including the information and resources, as necessary. The bill requires the commissioner to develop and post on the TEA website the information and resources required by the bill regarding guardianship, alternatives to guardianship, and other relevant supports and services, including the information and resources on supported decision-making agreements required to be provided to a student or parent requesting information regarding guardianship or alternatives to guardianship. The bill establishes that nothing in provisions relating to the transfer of parental rights at the age of majority prohibits a student from entering into a supported decision-making agreement after the transfer of parental rights.

C.S.H.B. 4027 applies beginning with the 2018-2019 school year.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4027 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

SECTION 1. Section 29.011, Education Code, is amended to read as follows:

Sec. 29.011. TRANSITION PLANNING.

(a) The commissioner shall by rule adopt procedures for compliance with federal requirements relating to transition services for students who are enrolled in special education programs under this subchapter. The procedures must specify the manner in which a student's admission, review, and dismissal committee must consider[,] and appropriately [~~if appropriate,~~] address the following issues in the student's individualized education program:

(1) appropriate student involvement in the student's transition to life outside the public school system;

(2) if the student is younger than 18 years of age, appropriate [~~parental~~] involvement in the student's transition by the student's parents and other persons invited to participate by:

(A) the student's parents; or

(B) the school district in which the student is enrolled;

(3) if the student is at least 18 years of age,

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 29.011, Education Code, is amended to read as follows:

Sec. 29.011. TRANSITION PLANNING.

(a) The commissioner shall by rule adopt procedures for compliance with federal requirements relating to transition services for students who are enrolled in special education programs under this subchapter. The procedures must specify the manner in which a student's admission, review, and dismissal committee must consider, and if appropriate, address the following issues in the student's individualized education program:

(1) appropriate student involvement in the student's transition to life outside the public school system;

(2) if the student is younger than 18 years of age, appropriate [~~parental~~] involvement in the student's transition by the student's parents and other persons invited to participate by:

(A) the student's parents; or

(B) the school district in which the student is enrolled;

(3) if the student is at least 18 years of age,

appropriate [parental] involvement in the student's transition and future by the student's parents and other persons, if the parent or other person:

(A) is invited to participate by the student or the school district in which the student is enrolled; or

(B) has the student's consent to participate pursuant to a supported decision-making agreement under Chapter 1357, Estates Code, or a similar agreement;

(4) appropriate [any] postsecondary education options, including preparation for postsecondary-level coursework;

(5) an appropriate [a] functional vocational evaluation;

(6) appropriate employment goals and objectives;

(7) if the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living in coordination with the student's transition goals and objectives;

(8) appropriate independent living goals and objectives; [and]

(9) appropriate circumstances for facilitating the referral of [referring] a student or the student's parents to a governmental agency for services and public benefits, including facilitating the referral of the student or the student's parents to a governmental agency to place the student on a waiting list for public benefits available to the student, such as a waiver program established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)); and

(10) the use and availability of:

(A) appropriate supplementary aids, services, curriculum, and other opportunities to assist the student in developing decision-making skills; and

(B) appropriate supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Chapter 1357, Estates Code.

(a-1) A student's admission, review, and dismissal committee shall annually review the issues described by Subsection (a) and, if necessary, update the portions of the

[appropriate-parental] involvement in the student's transition and future by the student's parents and other persons, if the parent or other person:

(A) is invited to participate by the student or the school district in which the student is enrolled; or

(B) has the student's consent to participate pursuant to a supported decision-making agreement under Chapter 1357, Estates Code;

(4) appropriate [any] postsecondary education options, including preparation for postsecondary-level coursework;

(5) an appropriate [a] functional vocational evaluation;

(6) appropriate employment goals and objectives;

(7) if the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives;

(8) appropriate independent living goals and objectives; [and]

(9) appropriate circumstances for facilitating a referral of [referring] a student or the student's parents to a governmental agency for services or public benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student, such as a waiver program established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)); and

(10) the use and availability of appropriate:

(A) supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and

(B) supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Chapter 1357, Estates Code.

(a-1) A student's admission, review, and dismissal committee shall annually review the issues described by Subsection (a) and, if necessary, update the portions of the

student's individualized education program that address those issues.

(a-2) The commissioner shall maintain on the agency's Internet website a list of the services and public benefits described by Subsection (a)(9).

(b) The commissioner shall require each school district or shared services arrangement to designate at least one employee to serve as the district's or shared services arrangement's designee on transition and employment services for students enrolled in special education programs under this subchapter. The commissioner shall develop minimum training guidelines for a district's or shared services arrangement's designee. An individual designated under this subsection must provide information and resources about effective transition planning and services, including each issue described by Subsection (a), and interagency coordination to ensure that local school staff communicate and collaborate with:

(1) students enrolled in special education programs under this subchapter and the parents of those students; and

(2) as appropriate, local and regional staff of the:

(A) Health and Human Services Commission;

(B) Texas Workforce Commission [~~Department of Aging and Disability Services~~];

(C) [~~Department of Assistive and Rehabilitative Services~~];

~~[(D)]~~ Department of State Health Services; and

~~(D)~~ ~~[(E)]~~ Department of Family and Protective Services.

(b-1) At least every four years, the commissioner shall review and, if necessary, update the minimum training guidelines described by Subsection (b). In reviewing the guidelines, the commissioner shall solicit input from interested stakeholders.

SECTION 2. Sections 29.0112(b) and (e), Education Code, are amended to read as follows:

(b) The transition and employment guide must be written in plain language and

student's individualized education program that address those issues.

(a-2) The commissioner shall develop and post on the agency's Internet website a list of services and public benefits for which referral may be appropriate under Subsection (a)(9).

(b) The commissioner shall require each school district or shared services arrangement to designate at least one employee to serve as the district's or shared services arrangement's designee on transition and employment services for students enrolled in special education programs under this subchapter. The commissioner shall develop minimum training guidelines for a district's or shared services arrangement's designee. An individual designated under this subsection must provide information and resources about effective transition planning and services, including each issue described by Subsection (a), and interagency coordination to ensure that local school staff communicate and collaborate with:

(1) students enrolled in special education programs under this subchapter and the parents of those students; and

(2) as appropriate, local and regional staff of the:

(A) Health and Human Services Commission;

(B) Texas Workforce Commission [~~Department of Aging and Disability Services~~];

(C) [~~Department of Assistive and Rehabilitative Services~~];

~~[(D)]~~ Department of State Health Services; and

~~(D)~~ ~~[(E)]~~ Department of Family and Protective Services.

(c) The commissioner shall review and, if necessary, update the minimum training guidelines developed under Subsection (b) at least once every four years. In reviewing and updating the guidelines, the commissioner shall solicit input from stakeholders.

SECTION 2. Sections 29.0112(b) and (e), Education Code, are amended to read as follows:

(b) The transition and employment guide must be written in plain language and

contain information specific to this state regarding:

- (1) transition services;
- (2) employment and supported employment services;
- (3) social security programs;
- (4) community and long-term services and support, including information regarding placing the student on a waiting list for public benefits available to the student from a governmental agency, such as a waiver program established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c));
- (5) postsecondary educational programs and services, including the inventory maintained by the Texas Higher Education Coordinating Board under Section 61.0663;
- (6) information sharing with health and human services agencies and providers;
- (7) guardianship and alternatives to guardianship, including a supported decision-making agreement under Chapter 1357, Estates Code;
- (8) self-advocacy, person-directed planning, and self-determination; and
- (9) contact information for all relevant state agencies.

(e) A school district shall:

- (1) post the transition and employment guide on the district's website if the district maintains a website; ~~[and]~~
- (2) provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at:
 - (A) the first meeting of the student's admission, review, and dismissal committee at which transition is discussed; and ~~[or]~~
 - (B) the first committee meeting at which transition is discussed that occurs after the date on which the guide is updated; and
 - (3) on request, provide a printed copy of the guide to a student or parent ~~[becomes available, if a student has already had an admission, review, and dismissal committee meeting discussing transition].~~

SECTION 3. Section 29.017, Education Code, is amended by amending Subsections (c) and (d) and adding Subsections (c-1), (c-2), (e), (f), and (g) to read as follows:

(c) Not later than one year before the 18th birthday of a student with a disability, the

contain information specific to this state regarding:

- (1) transition services;
- (2) employment and supported employment services;
- (3) social security programs;
- (4) community and long-term services and support, including the option to place the student on a waiting list with a governmental agency for public benefits available to the student, such as a waiver program established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c));
- (5) postsecondary educational programs and services, including the inventory maintained by the Texas Higher Education Coordinating Board under Section 61.0663;
- (6) information sharing with health and human services agencies and providers;
- (7) guardianship and alternatives to guardianship, including a supported decision-making agreement under Chapter 1357, Estates Code;
- (8) self-advocacy, person-directed planning, and self-determination; and
- (9) contact information for all relevant state agencies.

(e) A school district shall:

- (1) post the transition and employment guide on the district's website if the district maintains a website; ~~[and]~~
- (2) provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at:
 - (A) the first meeting of the student's admission, review, and dismissal committee at which transition is discussed; and ~~[or]~~
 - (B) the first committee meeting at which transition is discussed that occurs after the date on which the guide is updated; and
 - (3) on request, provide a printed copy of the guide to a student or parent ~~[becomes available, if a student has already had an admission, review, and dismissal committee meeting discussing transition].~~

SECTION 3. Section 29.017, Education Code, is amended by amending Subsections (c) and (d) and adding Subsections (c-1), (c-2), (c-3), (e), and (f) to read as follows:

(c) Not later than one year before the 18th birthday of a student with a disability, the

school district at which the student is enrolled shall:

(1) provide to the student and the student's parents:

(A) written notice regarding the transfer of rights under this section; and

(B) information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement under Chapter 1357, Estates Code, and other supports and services that may enable the student to live independently; and

(2) ensure that the student's individualized education program includes a statement that the district provided the notice, information, and resources required under Subdivision (1).

(c-1) In accordance with 34 C.F.R. Section 300.520 [300.517], the school district shall provide written notice to [notify] the student and the student's parents of the transfer of rights under this section. The notice must include the information and resources described by Subsection (c)(1)(B).

(c-2) If a student with a disability or the student's parent requests information regarding guardianship or alternatives to guardianship from the school district at which the student is enrolled, the school district shall provide to the student or parent information and resources on supported decision-making agreements under Chapter 1357, Estates Code.

(d) Nothing in this section prohibits a student from entering into a supported decision-making agreement under Chapter 1357, Estates Code, after the transfer of rights under this section.

(e) The commissioner shall develop a model form for use by school districts in notifying students and parents under Subsections (c) and (c-1). The commissioner shall post the form on the agency's Internet website.

(f) The commissioner shall develop and update as necessary the information and resources described by Subsections (c), (c-

school district at which the student is enrolled shall:

(1) provide to the student and the student's parents:

(A) written notice regarding the transfer of rights under this section; and

(B) information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement under Chapter 1357, Estates Code, and other supports and services that may enable the student to live independently; and

(2) ensure that the student's individualized education program includes a statement that the district provided the notice, information, and resources required under Subdivision (1).

(c-1) In accordance with 34 C.F.R. Section 300.520 [300.517], the school district shall provide written notice to [notify] the student and the student's parents of the transfer of rights under this section. The notice must include the information and resources provided under Subsection (c)(1)(B).

(c-2) If a student with a disability or the student's parent requests information regarding guardianship or alternatives to guardianship from the school district at which the student is enrolled, the school district shall provide to the student or parent information and resources on supported decision-making agreements under Chapter 1357, Estates Code.

(See Subsec. (e) below.)

(c-3) The commissioner shall develop and post on the agency's Internet website a model form for use by school districts in notifying students and parents as required by Subsections (c) and (c-1). The form must include the information and resources described by Subsection (c). The commissioner shall review and update the form, including the information and resources, as necessary.

(d) The commissioner shall develop and post on the agency's Internet website the information and resources described by

1), and (c-2). The commissioner shall post the information and resources on the agency's Internet website.

(See Subsec. (d) above)

(g) The commissioner shall adopt rules implementing the provisions of 34 C.F.R. Section 300.520(b) [300.517(b)].

SECTION 4. This Act applies beginning with the 2017-2018 school year.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

Subsections (c), (c-1), and (c-2).

(e) Nothing in this section prohibits a student from entering into a supported decision-making agreement under Chapter 1357, Estates Code, after the transfer of rights under this section.

(f) The commissioner shall adopt rules implementing the provisions of 34 C.F.R. Section 300.520(b) [300.517(b)].

SECTION 4. This Act applies beginning with the 2018-2019 school year.

SECTION 5. Same as introduced version.