

By: González of El Paso, Moody

H.B. No. 965

A BILL TO BE ENTITLED

AN ACT

1
2 relating to updating references to certain former health services
3 state agencies and certain terms used to describe persons with
4 intellectual or developmental disabilities in the Education Code.

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

6 SECTION 1. Section 25.041, Education Code, is amended to
7 read as follows:

8 Sec. 25.041. TRANSFER OF CHILDREN OR WARDS OF EMPLOYEES OF
9 STATE SUPPORTED LIVING CENTERS [~~SCHOOLS~~]. A school-age child or
10 ward of an employee of a state supported living center [~~school~~] for
11 persons with intellectual disabilities [~~the mentally retarded~~]
12 constituted as a school district who resides in the boundaries of
13 center [~~the state school~~] property but who is not a student at the
14 center [~~state school~~] is entitled to attend school in a district
15 adjacent to the center [~~state school~~] free of any charge to the
16 child's or ward's parent or guardian provided the parent or guardian
17 is required by the superintendent of the center [~~state school~~] to
18 live on the grounds of the center [~~state school~~] for the convenience
19 of this state. A tuition charge required by the admitting district
20 shall be paid by the district constituting the state supported
21 living center [~~school~~] out of funds allotted to it by the agency.

22 SECTION 2. Section 29.003(b), Education Code, is amended to
23 read as follows:

24 (b) A student is eligible to participate in a school

1 district's special education program if the student:

2 (1) is not more than 21 years of age and has a visual or
3 auditory impairment that prevents the student from being adequately
4 or safely educated in public school without the provision of
5 special services; or

6 (2) is at least three but not more than 21 years of age
7 and has one or more of the following disabilities that prevents the
8 student from being adequately or safely educated in public school
9 without the provision of special services:

10 (A) physical disability;

11 (B) intellectual or developmental disability
12 [~~mental retardation~~];

13 (C) emotional disturbance;

14 (D) learning disability;

15 (E) autism;

16 (F) speech disability; or

17 (G) traumatic brain injury.

18 SECTION 3. Section 29.012(d), Education Code, is amended to
19 read as follows:

20 (d) The Texas Education Agency, the Health and Human
21 Services Commission [~~the Texas Department of Mental Health and~~
22 ~~Mental Retardation, the Texas Department of Human Services, the~~
23 ~~Texas Department of Health, the Department of Protective and~~
24 ~~Regulatory Services, the Interagency Council on Early Childhood~~
25 ~~Intervention, the Texas Commission on Alcohol and Drug Abuse], and
26 the Texas Juvenile Justice Department by a cooperative effort shall
27 develop and by rule adopt a memorandum of understanding. The~~

1 memorandum must:

2 (1) establish the respective responsibilities of
3 school districts and of residential facilities for the provision of
4 a free, appropriate public education, as required by the
5 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
6 et seq.) and its subsequent amendments, including each requirement
7 for children with disabilities who reside in those facilities;

8 (2) coordinate regulatory and planning functions of
9 the parties to the memorandum;

10 (3) establish criteria for determining when a public
11 school will provide educational services;

12 (4) provide for appropriate educational space when
13 education services will be provided at the residential facility;

14 (5) establish measures designed to ensure the safety
15 of students and teachers; and

16 (6) provide for binding arbitration consistent with
17 Chapter 2009, Government Code, and Section 154.027, Civil Practice
18 and Remedies Code.

19 SECTION 4. Section 29.456(b), Education Code, is amended to
20 read as follows:

21 (b) If the commissioner of education and the commissioner of
22 the Department of Aging and Disability Services are unable to bring
23 the school district and forensic state supported living center to
24 agreement, the commissioners shall jointly submit a written request
25 to the attorney general to appoint a neutral third party
26 knowledgeable in special education and intellectual and
27 developmental disability [~~mental retardation~~] issues to resolve

1 each issue on which the district and the center disagree. The
2 decision of the neutral third party is final and may not be
3 appealed. The district and the center shall implement the decision
4 of the neutral third party. The commissioner of education or the
5 commissioner of the Department of Aging and Disability Services
6 shall ensure that the district and the center implement the
7 decision of the neutral third party.

8 SECTION 5. Section 29.457(b), Education Code, is amended to
9 read as follows:

10 (b) Not later than December 1 of each year, a school
11 district that receives an allotment under this section shall submit
12 a report accounting for the expenditure of funds received under
13 this section to the governor, the lieutenant governor, the speaker
14 of the house of representatives, the chairs of the standing
15 committees of the senate and house of representatives with primary
16 jurisdiction regarding persons with intellectual and developmental
17 disabilities [~~mental retardation~~] and public education, and each
18 member of the legislature whose district contains any portion of
19 the territory included in the school.

20 SECTION 6. Section 30.0015(b), Education Code, is amended
21 to read as follows:

22 (b) The agency by rule shall develop and annually
23 disseminate standards for a school district's transfer of an
24 assistive technology device to an entity listed in this subsection
25 when a student with a disability using the device changes the school
26 of attendance in the district or ceases to attend school in the
27 district that purchased the device and the student's parents, or

1 the student if the student has the legal capacity to enter into a
2 contract, agrees to the transfer. The device may be transferred to:

3 (1) the school or school district in which the student
4 enrolls;

5 (2) a state agency, including the Health and Human
6 Services Commission [~~Texas Rehabilitation Commission and the Texas~~
7 ~~Department of Mental Health and Mental Retardation~~], that provides
8 services to the student following the student's graduation from
9 high school; or

10 (3) the student's parents, or the student if the
11 student has the legal capacity to enter into a contract.

12 SECTION 7. Section 52.40(a), Education Code, is amended to
13 read as follows:

14 (a) The board may cancel the repayment of a loan received by
15 a student who earns a doctorate of psychology degree and who, prior
16 to the date on which repayment of the loan is to commence, is
17 employed by the Department of Aging and Disability Services, the
18 Department of State Health Services, or the Health and Human
19 Services Commission and performs duties formerly performed by
20 employees of the Texas Department of Human Services [~~or Texas~~
21 ~~Department of Mental Health and Mental Retardation~~], the Texas
22 Juvenile Justice Department, [~~or~~] the Texas Department of Criminal
23 Justice, or any other former state agency that provided services to
24 persons with mental illness, persons with intellectual
25 disabilities, or persons with developmental disabilities.

26 SECTION 8. Section 73.401, Education Code, is amended to
27 read as follows:

1 Sec. 73.401. ESTABLISHMENT. The Harris County Psychiatric
2 Center has been developed and built by Harris County, Texas, and a
3 former state agency that provided services to persons with mental
4 illness, persons with intellectual disabilities, and persons with
5 developmental disabilities [~~the Texas Department of Mental Health~~
6 ~~and Mental Retardation~~]. The facilities of the Harris County
7 Psychiatric Center to be operated by The University of Texas System
8 shall be operated consistent with the rules and regulations of the
9 board of regents and with the provisions of this subchapter.

10 SECTION 9. Section 73.403, Education Code, is amended to
11 read as follows:

12 Sec. 73.403. OPERATION OF COMMITMENT CENTER. Harris
13 County, the Harris Center for Mental Health and IDD, or both of
14 those entities, [~~and/or the Mental Health and Mental Retardation~~
15 ~~Authority (MHMRA) of Harris County~~] may operate on the premises of
16 the Harris County Psychiatric Center a commitment center, the
17 functions of which may include patient screening, intake, and
18 admissions (both voluntary and involuntary) to the Harris County
19 Psychiatric Center as may be provided for in a lease [~~and/or~~
20 ~~sublease~~] and operating agreement or a sublease and operating
21 agreement as authorized under Section 73.405 [~~of this code~~]. The
22 functions of the Harris County Psychiatric Commitment Center
23 located on the premises of the Harris County Psychiatric Center
24 both in terms of operation and in terms of funding shall not be the
25 responsibility of the Health and Human Services Commission [~~Texas~~
26 ~~Department of Mental Health and Mental Retardation~~] or The
27 University of Texas System. As may be provided for in a lease

1 ~~[and/or sublease]~~ and operating agreement or a sublease and
2 operating agreement, The University of Texas System may charge for
3 any support services provided by the Harris County Psychiatric
4 Center to the commitment center.

5 SECTION 10. Section 73.404, Education Code, is amended to
6 read as follows:

7 Sec. 73.404. FUNDING. (a) Funding for the state-supported
8 facilities and operations of the Harris County Psychiatric Center
9 shall be provided through legislative appropriations to the Health
10 and Human Services Commission [~~Texas Department of Mental Health~~
11 ~~and Mental Retardation~~] and to The University of Texas System, and
12 any appropriations to the commission [~~department~~] for the Harris
13 County Psychiatric Center shall be transferred to The University of
14 Texas System in accordance with the General Appropriations Act and
15 the lease ~~[and/or sublease]~~ and operating agreement or sublease and
16 operating agreement provided for in Section 73.405 [~~of this code~~].
17 Legislative appropriations may be for any further construction at
18 the Harris County Psychiatric Center; for equipment, both fixed
19 and movable; for utilities, including data processing and
20 communications; for maintenance, repairs, renovations, and
21 additions; for any damage or destruction; and for operations of
22 the Harris County Psychiatric Center; provided, however, that as
23 to funding for Harris County Psychiatric Center operations,
24 legislative appropriations shall not exceed 85 percent of the total
25 operating costs of the entire Harris County Psychiatric Center,
26 exclusive of any costs of the commitment center.

27 (b) Any funding, under a lease ~~[and/or sublease]~~ and

1 operating agreement or sublease and operating agreement wherein The
 2 University of Texas System is the lessee, for [~~the county-supported~~
 3 ~~and/or MHMPRA-supported~~] facilities and operations of the Harris
 4 County Psychiatric Center supported by the county or the Health and
 5 Human Services Commission, which may be provided through county
 6 appropriations, including funds made available by the Harris Center
 7 for Mental Health and IDD [~~County Mental Health and Mental~~
 8 ~~Retardation Authority~~], or from gifts and grants, shall be
 9 transferred in accordance with the lease [~~and/or sublease~~] and
 10 operating agreement or sublease and operating agreement provided
 11 for in Section 73.405 [~~of this code~~]. Such funds may be for any
 12 further construction at the Harris County Psychiatric Center; for
 13 equipment, both fixed and movable; for utilities, including data
 14 processing and communications; for maintenance, repairs,
 15 renovations, and additions; for any damage or destruction; and for
 16 Harris County Psychiatric Center operations which latter funding
 17 may be proportional to the total costs of The University of Texas
 18 System operating the entire Harris County Psychiatric Center,
 19 exclusive of any additional cost incurred by [~~of~~] Harris County or
 20 the Health and Human Services Commission for [~~and/or MHMPRA~~]
 21 operating the commitment center, which costs shall remain the sole
 22 responsibility of the entity or entities that incurred those costs
 23 [~~Harris County and/or MHMPRA~~].

24 SECTION 11. Sections 73.405(a) and (d), Education Code, are
 25 amended to read as follows:

26 (a) The state-supported facilities of the Harris County
 27 Psychiatric Center shall be leased to and operated and administered

1 by The University of Texas System in accordance with a lease and
2 operating agreement. The ~~[county-supported and/or~~
3 ~~MHMPA-supported]~~ facilities supported by the county or the Harris
4 Center for Mental Health and IDD, exclusive of the commitment
5 center, may be leased or ~~[and/or]~~ subleased by The University of
6 Texas System in the same lease ~~[and/or sublease]~~ and operating
7 agreement or sublease and operating agreement. Any lease ~~[and/or~~
8 ~~sublease]~~ and operating agreement or sublease and operating
9 agreement shall provide for a lease payment by The University of
10 Texas System of no more than \$1 per year plus other good and
11 valuable consideration as provided for in Section 73.406 ~~[of this~~
12 ~~code]~~.

13 (d) Any lease ~~[and/or sublease]~~ and operating agreement or
14 sublease and operating agreement shall provide that The University
15 of Texas System shall cause the Harris County Psychiatric Center to
16 be operated in accordance with the standards for accreditation of
17 The ~~[the]~~ Joint Commission ~~[on Accreditation of Hospitals]~~; that
18 all financial transactions and performance programs may be
19 appropriately audited; that an admission, discharge, and transfer
20 coordination policy be established; that appropriate patient data
21 be made available to the Health and Human Services Commission, the
22 Harris Center for Mental Health and IDD ~~[department, MHMPA]~~, and
23 the county, including but not limited to diagnosis and lengths of
24 stay; and that a priority of patient treatment policy be
25 established.

26 SECTION 12. Section 73.406, Education Code, is amended to
27 read as follows:

1 Sec. 73.406. REVENUES. That portion of any revenues
2 related to the provision of patient services through the operation
3 of the Harris County Psychiatric Center facilities that are leased
4 or [and/or] subleased by and to The University of Texas System shall
5 be accounted for and expended in accordance with the rules,
6 regulations, and bylaws of The University of Texas System and in
7 such manner that such revenues will reduce appropriated and funded
8 requirements by both the state and county or the Harris Center for
9 Mental Health and IDD [MHMRA] on a prorated basis, all as may be
10 provided for in a lease [~~and/or sublease~~] and operating agreement
11 or sublease and operating agreement.

12 SECTION 13. Section 73.501, Education Code, is amended to
13 read as follows:

14 Sec. 73.501. TRANSFER AND LEASE OF FACILITIES. (a) The
15 governance, operation, management, and control of the Texas
16 Research Institute of Mental Sciences [~~created by Chapter 427, Acts~~
17 ~~of the 55th Legislature, Regular Session, 1957, as amended (Article~~
18 ~~3174b-4, Vernon's Texas Civil Statutes),~~] and all land, buildings,
19 improvements thereon, and major fixed equipment comprising said
20 institute shall be leased from the Health and Human Services
21 Commission or a former state agency that provided services to
22 persons with mental illness, persons with intellectual
23 disabilities, and persons with developmental disabilities [Texas
24 ~~Department of Mental Health and Mental Retardation]~~ and transferred
25 to the board of regents of The University of Texas System for \$1 a
26 year and shall be subject to the provisions of [~~Subdivision (9) of~~
27 ~~Subsection (a) of]~~ Section 65.02(a)(9) [~~65.02 of the Education~~

1 ~~Code~~].

2 (b) All land, buildings, and improvements thereon and major
3 fixed equipment comprising said institute leased by The University
4 of Texas System shall be utilized only for purposes of patient care
5 services, research, and education related to mental health,
6 intellectual disability, and developmental disability [~~mental~~
7 ~~retardation~~]. The Health and Human Services Commission or a former
8 state agency that provided services to persons with mental illness,
9 persons with intellectual disabilities, and persons with
10 developmental disabilities [~~Texas Department of Mental Health and~~
11 ~~Mental Retardation~~] may sell or otherwise dispose of the land,
12 buildings, improvements thereon, or major fixed equipment provided
13 that the proceeds from the sale or other disposition shall be used
14 for the same purposes in Harris County; and further provided, that
15 the board of regents of The University of Texas System, prior to
16 such sale or other disposition, has approved of such sale or
17 disposition and the allocation of proceeds.

18 SECTION 14. Section [73.502](#), Education Code, is amended to
19 read as follows:

20 Sec. 73.502. TRANSFER OF GIFTS, GRANTS, UNEXPENDED
21 BALANCES, CONTRACTS, AND OBLIGATIONS. Any gifts, grants,
22 unexpended balances of appropriated or unappropriated funds, and
23 all movable equipment that was held by a former state agency that
24 provided services to persons with mental illness, persons with
25 intellectual disabilities, and persons with developmental
26 disabilities or that was transferred to the Health and Human
27 Services Commission on dissolution of that former agency and was

1 held [~~the Texas Department of Mental Health and Mental Retardation~~]
2 for, on behalf of, or for the use and benefit of the Texas Research
3 Institute of Mental Sciences are hereby transferred to The
4 University of Texas System; provided, however, that all previously
5 appropriated funds for statewide training of [~~department~~]
6 personnel and program evaluation by the institute shall be retained
7 by the Health and Human Services Commission [~~department~~]. All
8 contracts and written obligations of every kind and character
9 entered into by a former state agency that provided services to
10 persons with mental illness, persons with intellectual
11 disabilities, and persons with developmental disabilities [~~the~~
12 ~~Texas Department of Mental Health and Mental Retardation~~] for and
13 on behalf of the Texas Research Institute of Mental Sciences are
14 ratified, confirmed, and validated, and in all such contracts and
15 written obligations, the board of regents of The University of
16 Texas System is substituted in lieu and shall stand and act in place
17 and stead of the former state agency that provided services to
18 persons with mental illness, persons with intellectual
19 disabilities, and persons with developmental disabilities [~~Texas~~
20 ~~Department of Mental Health and Mental Retardation~~]; provided,
21 however, that an advisory committee shall be established with
22 regard to research protocols and the executive commissioner of the
23 Health and Human Services Commission [~~department~~] shall be a
24 member; provided further, that The University of Texas System may
25 contract with the commission [~~department~~] for continued extramural
26 and other laboratory consultative services. The Health and Human
27 Services Commission [~~Texas Department of Mental Health and Mental~~

1 ~~Retardation~~], Harris County, and the [~~Mental Health and Mental~~
2 ~~Retardation Authority of~~] Harris Center for Mental Health and IDD
3 [~~County~~] shall provide for the continuity of inpatient and
4 outpatient care of the patients and programs operated at the Texas
5 Research Institute of Mental Sciences and may contract for the
6 provision of such services in accordance with the provisions of and
7 appropriations provided in the General Appropriations Act.

8 SECTION 15. Sections 73.503(a) and (h), Education Code, are
9 amended to read as follows:

10 (a) Present institute personnel shall be allowed to apply
11 for employment with The University of Texas System, Harris County,
12 or the Harris Center for Mental Health and IDD [~~Mental Health and~~
13 ~~Mental Retardation Authority of Harris County~~] and be given
14 priority consideration for such employment.

15 (h) The Employees Retirement System, the Health and Human
16 Services Commission [~~Texas Department of Mental Health and Mental~~
17 ~~Retardation~~], and The University of Texas System shall provide the
18 Teacher Retirement System with information necessary to establish
19 employees' rights to credit under this section. The Employees
20 Retirement System and the Teacher Retirement System shall establish
21 procedures to prevent duplication of retirement credit for the same
22 service.

23 SECTION 16. This Act takes effect September 1, 2019.