

1-1 By: González of El Paso, Moody H.B. No. 965
 1-2 (Senate Sponsor - Zaffirini)
 1-3 (In the Senate - Received from the House April 15, 2019;
 1-4 April 16, 2019, read first time and referred to Committee on Health
 1-5 & Human Services; May 20, 2019, reported adversely, with favorable
 1-6 Committee Substitute by the following vote: Yeas 9, Nays 0;
 1-7 May 20, 2019, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 965 By: Johnson

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to updating references to certain former health services
 1-23 state agencies and certain terms used to describe persons with
 1-24 intellectual or developmental disabilities in the Education Code.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 25.041, Education Code, is amended to
 1-27 read as follows:

1-28 Sec. 25.041. TRANSFER OF CHILDREN OR WARDS OF EMPLOYEES OF
 1-29 STATE SUPPORTED LIVING CENTERS [~~SCHOOLS~~]. A school-age child or
 1-30 ward of an employee of a state supported living center [~~school~~] for
 1-31 persons with intellectual disabilities [~~the mentally retarded~~]
 1-32 constituted as a school district who resides in the boundaries of
 1-33 center [~~the state school~~] property but who is not a student at the
 1-34 center [~~state school~~] is entitled to attend school in a district
 1-35 adjacent to the center [~~state school~~] free of any charge to the
 1-36 child's or ward's parent or guardian provided the parent or guardian
 1-37 is required by the superintendent of the center [~~state school~~] to
 1-38 live on the grounds of the center [~~state school~~] for the convenience
 1-39 of this state. A tuition charge required by the admitting district
 1-40 shall be paid by the district constituting the state supported
 1-41 living center [~~school~~] out of funds allotted to it by the agency.

1-42 SECTION 2. Section 29.003(b), Education Code, is amended to
 1-43 read as follows:

1-44 (b) A student is eligible to participate in a school
 1-45 district's special education program if the student:

1-46 (1) is not more than 21 years of age and has a visual or
 1-47 auditory impairment that prevents the student from being adequately
 1-48 or safely educated in public school without the provision of
 1-49 special services; or

1-50 (2) is at least three but not more than 21 years of age
 1-51 and has one or more of the following disabilities that prevents the
 1-52 student from being adequately or safely educated in public school
 1-53 without the provision of special services:

1-54 (A) physical disability;

1-55 (B) intellectual or developmental disability
 1-56 [~~mental retardation~~];

1-57 (C) emotional disturbance;

1-58 (D) learning disability;

1-59 (E) autism;

1-60 (F) speech disability; or

2-1 (G) traumatic brain injury.

2-2 SECTION 3. Section 29.012(d), Education Code, is amended to
2-3 read as follows:

2-4 (d) The Texas Education Agency, the Health and Human
2-5 Services Commission, the Department of Family and Protective
2-6 Services [~~the Texas Department of Mental Health and Mental~~
2-7 ~~Retardation, the Texas Department of Human Services, the Texas~~
2-8 ~~Department of Health, the Department of Protective and Regulatory~~
2-9 ~~Services, the Interagency Council on Early Childhood Intervention,~~
2-10 ~~the Texas Commission on Alcohol and Drug Abuse], and the Texas
2-11 Juvenile Justice Department by a cooperative effort shall develop
2-12 and by rule adopt a memorandum of understanding. The memorandum
2-13 must:~~

2-14 (1) establish the respective responsibilities of
2-15 school districts and of residential facilities for the provision of
2-16 a free, appropriate public education, as required by the
2-17 Individuals with Disabilities Education Act (20 U.S.C. Section 1400
2-18 et seq.) and its subsequent amendments, including each requirement
2-19 for children with disabilities who reside in those facilities;

2-20 (2) coordinate regulatory and planning functions of
2-21 the parties to the memorandum;

2-22 (3) establish criteria for determining when a public
2-23 school will provide educational services;

2-24 (4) provide for appropriate educational space when
2-25 education services will be provided at the residential facility;

2-26 (5) establish measures designed to ensure the safety
2-27 of students and teachers; and

2-28 (6) provide for binding arbitration consistent with
2-29 Chapter 2009, Government Code, and Section 154.027, Civil Practice
2-30 and Remedies Code.

2-31 SECTION 4. Section 29.456(b), Education Code, is amended to
2-32 read as follows:

2-33 (b) If the commissioner of education and the executive
2-34 commissioner of the Health and Human Services Commission
2-35 [~~Department of Aging and Disability Services~~] are unable to bring
2-36 the school district and forensic state supported living center to
2-37 agreement, the commissioners shall jointly submit a written request
2-38 to the attorney general to appoint a neutral third party
2-39 knowledgeable in special education and intellectual and
2-40 developmental disability [~~mental retardation~~] issues to resolve
2-41 each issue on which the district and the center disagree. The
2-42 decision of the neutral third party is final and may not be
2-43 appealed. The district and the center shall implement the decision
2-44 of the neutral third party. The commissioner of education or the
2-45 executive commissioner of the Health and Human Services Commission
2-46 [~~Department of Aging and Disability Services~~] shall ensure that the
2-47 district and the center implement the decision of the neutral third
2-48 party.

2-49 SECTION 5. Section 29.457(b), Education Code, is amended to
2-50 read as follows:

2-51 (b) Not later than December 1 of each year, a school
2-52 district that receives an allotment under this section shall submit
2-53 a report accounting for the expenditure of funds received under
2-54 this section to the governor, the lieutenant governor, the speaker
2-55 of the house of representatives, the chairs of the standing
2-56 committees of the senate and house of representatives with primary
2-57 jurisdiction regarding persons with intellectual and developmental
2-58 disabilities [~~mental retardation~~] and public education, and each
2-59 member of the legislature whose district contains any portion of
2-60 the territory included in the school.

2-61 SECTION 6. Section 30.0015(b), Education Code, is amended
2-62 to read as follows:

2-63 (b) The agency by rule shall develop and annually
2-64 disseminate standards for a school district's transfer of an
2-65 assistive technology device to an entity listed in this subsection
2-66 when a student with a disability using the device changes the school
2-67 of attendance in the district or ceases to attend school in the
2-68 district that purchased the device and the student's parents, or
2-69 the student if the student has the legal capacity to enter into a

3-1 contract, agrees to the transfer. The device may be transferred to:
3-2 (1) the school or school district in which the student
3-3 enrolls;
3-4 (2) a state agency, including the Health and Human
3-5 Services Commission [~~Texas Rehabilitation Commission and the Texas~~
3-6 ~~Department of Mental Health and Mental Retardation~~], that provides
3-7 services to the student following the student's graduation from
3-8 high school; or
3-9 (3) the student's parents, or the student if the
3-10 student has the legal capacity to enter into a contract.

3-11 SECTION 7. Section 52.40(a), Education Code, is amended to
3-12 read as follows:

3-13 (a) The board may cancel the repayment of a loan received by
3-14 a student who earns a doctorate of psychology degree and who, prior
3-15 to the date on which repayment of the loan is to commence, is
3-16 employed by the [~~Department of Aging and Disability Services, the~~
3-17 ~~Department of State Health Services~~] or the Health and Human
3-18 Services Commission and performs duties formerly performed by
3-19 employees of the Texas Department of Human Services [~~or Texas~~
3-20 ~~Department of Mental Health and Mental Retardation~~], the Texas
3-21 Juvenile Justice Department, [~~or~~] the Texas Department of Criminal
3-22 Justice, or a former state agency that provided services to persons
3-23 with mental illness, persons with intellectual disabilities, or
3-24 persons with developmental disabilities.

3-25 SECTION 8. Section 73.401, Education Code, is amended to
3-26 read as follows:

3-27 Sec. 73.401. ESTABLISHMENT. The Harris County Psychiatric
3-28 Center has been developed and built by Harris County, Texas, and a
3-29 former state agency that provided services to persons with mental
3-30 illness, persons with intellectual disabilities, and persons with
3-31 developmental disabilities [~~the Texas Department of Mental Health~~
3-32 ~~and Mental Retardation~~]. The facilities of the Harris County
3-33 Psychiatric Center to be operated by The University of Texas System
3-34 shall be operated consistent with the rules and regulations of the
3-35 board of regents and with the provisions of this subchapter.

3-36 SECTION 9. Section 73.403, Education Code, is amended to
3-37 read as follows:

3-38 Sec. 73.403. OPERATION OF COMMITMENT CENTER. Harris
3-39 County, the Harris Center for Mental Health and IDD, or both of
3-40 those entities, [and/or the Mental Health and Mental Retardation
3-41 Authority (MHMRA) of Harris County] may operate on the premises of
3-42 the Harris County Psychiatric Center a commitment center, the
3-43 functions of which may include patient screening, intake, and
3-44 admissions (both voluntary and involuntary) to the Harris County
3-45 Psychiatric Center as may be provided for in a lease [~~and/or~~
3-46 ~~sublease~~] and operating agreement or a sublease and operating
3-47 agreement as authorized under Section 73.405 [~~of this code~~]. The
3-48 functions of the Harris County Psychiatric Commitment Center
3-49 located on the premises of the Harris County Psychiatric Center
3-50 both in terms of operation and in terms of funding shall not be the
3-51 responsibility of the Health and Human Services Commission [~~Texas~~
3-52 ~~Department of Mental Health and Mental Retardation~~] or The
3-53 University of Texas System. As may be provided for in a lease
3-54 [~~and/or sublease~~] and operating agreement or a sublease and
3-55 operating agreement, The University of Texas System may charge for
3-56 any support services provided by the Harris County Psychiatric
3-57 Center to the commitment center.

3-58 SECTION 10. Section 73.404, Education Code, is amended to
3-59 read as follows:

3-60 Sec. 73.404. FUNDING. (a) Funding for the state-supported
3-61 facilities and operations of the Harris County Psychiatric Center
3-62 shall be provided through legislative appropriations to the Health
3-63 and Human Services Commission [~~Texas Department of Mental Health~~
3-64 ~~and Mental Retardation~~] and to The University of Texas System, and
3-65 any appropriations to the commission [~~department~~] for the Harris
3-66 County Psychiatric Center shall be transferred to The University of
3-67 Texas System in accordance with the General Appropriations Act and
3-68 the lease [~~and/or sublease~~] and operating agreement or sublease and
3-69 operating agreement provided for in Section 73.405 [~~of this code~~].

4-1 Legislative appropriations may be for any further construction at
 4-2 the Harris County Psychiatric Center; for equipment, both fixed
 4-3 and movable; for utilities, including data processing and
 4-4 communications; for maintenance, repairs, renovations, and
 4-5 additions; for any damage or destruction; and for operations of
 4-6 the Harris County Psychiatric Center; provided, however, that as
 4-7 to funding for Harris County Psychiatric Center operations,
 4-8 legislative appropriations shall not exceed 85 percent of the total
 4-9 operating costs of the entire Harris County Psychiatric Center,
 4-10 exclusive of any costs of the commitment center.

4-11 (b) Any funding, under a lease [~~and/or sublease~~] and
 4-12 operating agreement or sublease and operating agreement wherein The
 4-13 University of Texas System is the lessee, for [~~the county-supported~~
 4-14 ~~and/or MHMRA-supported~~] facilities and operations of the Harris
 4-15 County Psychiatric Center supported by the county or the Health and
 4-16 Human Services Commission, which may be provided through county
 4-17 appropriations, including funds made available by the Harris Center
 4-18 for Mental Health and IDD [~~County Mental Health and Mental~~
 4-19 ~~Retardation Authority~~], or from gifts and grants, shall be
 4-20 transferred in accordance with the lease [~~and/or sublease~~] and
 4-21 operating agreement or sublease and operating agreement provided
 4-22 for in Section 73.405 [~~of this code~~]. Such funds may be for any
 4-23 further construction at the Harris County Psychiatric Center; for
 4-24 equipment, both fixed and movable; for utilities, including data
 4-25 processing and communications; for maintenance, repairs,
 4-26 renovations, and additions; for any damage or destruction; and for
 4-27 Harris County Psychiatric Center operations which latter funding
 4-28 may be proportional to the total costs of The University of Texas
 4-29 System operating the entire Harris County Psychiatric Center,
 4-30 exclusive of any additional cost incurred by [~~of~~] Harris County or
 4-31 the Health and Human Services Commission for [~~and/or MHMRA~~]
 4-32 operating the commitment center, which costs shall remain the sole
 4-33 responsibility of the entity or entities that incurred those costs
 4-34 [~~Harris County and/or MHMRA~~].

4-35 SECTION 11. Sections 73.405(a) and (d), Education Code, are
 4-36 amended to read as follows:

4-37 (a) The state-supported facilities of the Harris County
 4-38 Psychiatric Center shall be leased to and operated and administered
 4-39 by The University of Texas System in accordance with a lease and
 4-40 operating agreement. The [~~county-supported and/or~~
 4-41 ~~MHMRA-supported~~] facilities supported by the county or the Harris
 4-42 Center for Mental Health and IDD, exclusive of the commitment
 4-43 center, may be leased or [~~and/or~~] subleased by The University of
 4-44 Texas System in the same lease [~~and/or sublease~~] and operating
 4-45 agreement or sublease and operating agreement. Any lease [~~and/or~~
 4-46 ~~sublease~~] and operating agreement or sublease and operating
 4-47 agreement shall provide for a lease payment by The University of
 4-48 Texas System of no more than \$1 per year plus other good and
 4-49 valuable consideration as provided for in Section 73.406 [~~of this~~
 4-50 ~~code~~].

4-51 (d) Any lease [~~and/or sublease~~] and operating agreement or
 4-52 sublease and operating agreement shall provide that The University
 4-53 of Texas System shall cause the Harris County Psychiatric Center to
 4-54 be operated in accordance with the standards for accreditation of
 4-55 The [~~the~~] Joint Commission [~~on Accreditation of Hospitals~~]; that
 4-56 all financial transactions and performance programs may be
 4-57 appropriately audited; that an admission, discharge, and transfer
 4-58 coordination policy be established; that appropriate patient data
 4-59 be made available to the Health and Human Services Commission, the
 4-60 Harris Center for Mental Health and IDD [~~department, MHMRA~~], and
 4-61 the county, including but not limited to diagnosis and lengths of
 4-62 stay; and that a priority of patient treatment policy be
 4-63 established.

4-64 SECTION 12. Section 73.406, Education Code, is amended to
 4-65 read as follows:

4-66 Sec. 73.406. REVENUES. That portion of any revenues
 4-67 related to the provision of patient services through the operation
 4-68 of the Harris County Psychiatric Center facilities that are leased
 4-69 or [~~and/or~~] subleased by and to The University of Texas System shall

5-1 be accounted for and expended in accordance with the rules,
 5-2 regulations, and bylaws of The University of Texas System and in
 5-3 such manner that such revenues will reduce appropriated and funded
 5-4 requirements by both the state and county or the Harris Center for
 5-5 Mental Health and IDD [MHMRA] on a prorated basis, all as may be
 5-6 provided for in a lease [and/or sublease] and operating agreement
 5-7 or sublease and operating agreement.

5-8 SECTION 13. Section 73.501, Education Code, is amended to
 5-9 read as follows:

5-10 Sec. 73.501. TRANSFER AND LEASE OF FACILITIES. (a) The
 5-11 governance, operation, management, and control of the Texas
 5-12 Research Institute of Mental Sciences [~~created by Chapter 427, Acts~~
 5-13 ~~of the 55th Legislature, Regular Session, 1957, as amended (Article~~
 5-14 ~~3174b-4, Vernon's Texas Civil Statutes),] and all land, buildings,
 5-15 improvements thereon, and major fixed equipment comprising said
 5-16 institute shall be leased from the Health and Human Services
 5-17 Commission or a former state agency that provided services to
 5-18 persons with mental illness, persons with intellectual
 5-19 disabilities, and persons with developmental disabilities [Texas
 5-20 Department of Mental Health and Mental Retardation] and transferred
 5-21 to the board of regents of The University of Texas System for \$1 a
 5-22 year and shall be subject to the provisions of [~~Subdivision (9) of~~
 5-23 ~~Subsection (a) of]~~ Section 65.02(a)(9) [~~65.02 of the Education~~
 5-24 ~~Code].~~~~

5-25 (b) All land, buildings, and improvements thereon and major
 5-26 fixed equipment comprising said institute leased by The University
 5-27 of Texas System shall be utilized only for purposes of patient care
 5-28 services, research, and education related to mental health,
 5-29 intellectual disability, and developmental disability [mental
 5-30 retardation]. The Health and Human Services Commission or a former
 5-31 state agency that provided services to persons with mental illness,
 5-32 persons with intellectual disabilities, and persons with
 5-33 developmental disabilities [Texas Department of Mental Health and
 5-34 Mental Retardation] may sell or otherwise dispose of the land,
 5-35 buildings, improvements thereon, or major fixed equipment provided
 5-36 that the proceeds from the sale or other disposition shall be used
 5-37 for the same purposes in Harris County; and further provided, that
 5-38 the board of regents of The University of Texas System, prior to
 5-39 such sale or other disposition, has approved of such sale or
 5-40 disposition and the allocation of proceeds.

5-41 SECTION 14. Section 73.502, Education Code, is amended to
 5-42 read as follows:

5-43 Sec. 73.502. TRANSFER OF GIFTS, GRANTS, UNEXPENDED
 5-44 BALANCES, CONTRACTS, AND OBLIGATIONS. Any gifts, grants,
 5-45 unexpended balances of appropriated or unappropriated funds, and
 5-46 all movable equipment that was held by a former state agency that
 5-47 provided services to persons with mental illness, persons with
 5-48 intellectual disabilities, and persons with developmental
 5-49 disabilities or that was transferred to the Health and Human
 5-50 Services Commission on dissolution of that former agency and was
 5-51 held [the Texas Department of Mental Health and Mental Retardation]
 5-52 for, on behalf of, or for the use and benefit of the Texas Research
 5-53 Institute of Mental Sciences are hereby transferred to The
 5-54 University of Texas System; provided, however, that all previously
 5-55 appropriated funds for statewide training of [department]
 5-56 personnel and program evaluation by the institute shall be retained
 5-57 by the Health and Human Services Commission [department]. All
 5-58 contracts and written obligations of every kind and character
 5-59 entered into by a former state agency that provided services to
 5-60 persons with mental illness, persons with intellectual
 5-61 disabilities, and persons with developmental disabilities [the
 5-62 Texas Department of Mental Health and Mental Retardation] for and
 5-63 on behalf of the Texas Research Institute of Mental Sciences are
 5-64 ratified, confirmed, and validated, and in all such contracts and
 5-65 written obligations, the board of regents of The University of
 5-66 Texas System is substituted in lieu and shall stand and act in place
 5-67 and stead of the former state agency that provided services to
 5-68 persons with mental illness, persons with intellectual
 5-69 disabilities, and persons with developmental disabilities [Texas

6-1 ~~Department of Mental Health and Mental Retardation~~; provided,
6-2 however, that an advisory committee shall be established with
6-3 regard to research protocols and the executive commissioner of the
6-4 Health and Human Services Commission [~~department~~] shall be a
6-5 member; provided further, that The University of Texas System may
6-6 contract with the Department of State Health Services [~~department~~]
6-7 for continued extramural and other laboratory consultative
6-8 services. The Health and Human Services Commission [~~Texas~~
6-9 ~~Department of Mental Health and Mental Retardation~~], Harris County,
6-10 and the [~~Mental Health and Mental Retardation Authority of~~] Harris
6-11 Center for Mental Health and IDD [~~County~~] shall provide for the
6-12 continuity of inpatient and outpatient care of the patients and
6-13 programs operated at the Texas Research Institute of Mental
6-14 Sciences and may contract for the provision of such services in
6-15 accordance with the provisions of and appropriations provided in
6-16 the General Appropriations Act.

6-17 SECTION 15. Sections 73.503(a) and (h), Education Code, are
6-18 amended to read as follows:

6-19 (a) Present institute personnel shall be allowed to apply
6-20 for employment with The University of Texas System, Harris County,
6-21 or the Harris Center for Mental Health and IDD [~~Mental Health and~~
6-22 ~~Mental Retardation Authority of Harris County~~] and be given
6-23 priority consideration for such employment.

6-24 (h) The Employees Retirement System, the Health and Human
6-25 Services Commission [~~Texas Department of Mental Health and Mental~~
6-26 ~~Retardation~~], and The University of Texas System shall provide the
6-27 Teacher Retirement System with information necessary to establish
6-28 employees' rights to credit under this section. The Employees
6-29 Retirement System and the Teacher Retirement System shall establish
6-30 procedures to prevent duplication of retirement credit for the same
6-31 service.

6-32 SECTION 16. This Act takes effect September 1, 2019.

6-33 * * * * *