

**House Bill 965**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

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

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

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SECTION 1. Same as House version.

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- (A) physical disability;
- (B) intellectual or developmental disability [~~mental retardation~~];
- (C) emotional disturbance;
- (D) learning disability;
- (E) autism;
- (F) speech disability; or
- (G) traumatic brain injury.

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

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

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

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

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

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

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- (3) establish criteria for determining when a public school will provide educational services;
- (4) provide for appropriate educational space when education services will be provided at the residential facility;
- (5) establish measures designed to ensure the safety of students and teachers; and
- (6) provide for binding arbitration consistent with Chapter 2009, Government Code, and Section 154.027, Civil Practice and Remedies Code.

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

(b) If the commissioner of education and the commissioner of the Department of Aging and Disability Services are unable to bring the school district and forensic state supported living center to agreement, the commissioners shall jointly submit a written request to the attorney general to appoint a neutral third party knowledgeable in special education and intellectual and developmental disability [~~mental retardation~~] issues to resolve each issue on which the district and the center disagree. The decision of the neutral third party is final and may not be appealed. The district and the center shall implement the decision of the neutral third party. The commissioner of education or the commissioner of the Department of Aging and Disability Services shall ensure that the district and the center implement the decision of the neutral third party.

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- (3) establish criteria for determining when a public school will provide educational services;
- (4) provide for appropriate educational space when education services will be provided at the residential facility;
- (5) establish measures designed to ensure the safety of students and teachers; and
- (6) provide for binding arbitration consistent with Chapter 2009, Government Code, and Section 154.027, Civil Practice and Remedies Code.

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

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

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

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

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

(b) The agency by rule shall develop and annually disseminate standards for a school district's transfer of an assistive technology device to an entity listed in this subsection when a student with a disability using the device changes the school of attendance in the district or ceases to attend school in the district that purchased the device and the student's parents, or the student if the student has the legal capacity to enter into a contract, agrees to the transfer. The device may be transferred to:

- (1) the school or school district in which the student enrolls;
- (2) a state agency, including the Health and Human Services Commission [~~Texas Rehabilitation Commission and the Texas Department of Mental Health and Mental Retardation~~], that provides services to the student following the student's graduation from high school; or

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

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

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

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

Sec. 73.401. ESTABLISHMENT. The Harris County Psychiatric Center has been developed and built by Harris County, Texas, and a former state agency that provided services to persons with mental illness, persons with intellectual disabilities, and persons with developmental disabilities [~~the Texas Department of Mental Health and Mental Retardation~~]. The facilities of the Harris County Psychiatric Center to be operated by The University of Texas

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

(a) The board may cancel the repayment of a loan received by a student who earns a doctorate of psychology degree and who, prior to the date on which repayment of the loan is to commence, is employed by the [~~Department of Aging and Disability Services, the~~] Department of State Health Services<sup>[5]</sup> or the Health and Human Services Commission and performs duties formerly performed by employees of the Texas Department of Human Services [~~or Texas Department of Mental Health and Mental Retardation~~], the Texas Juvenile Justice Department, [~~or~~] the Texas Department of Criminal Justice, or a former state agency that provided services to persons with mental illness, persons with intellectual disabilities, or persons with developmental disabilities.

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System shall be operated consistent with the rules and regulations of the board of regents and with the provisions of this subchapter.

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

Sec. 73.403. OPERATION OF COMMITMENT CENTER. Harris County, the Harris Center for Mental Health and IDD, or both of those entities, ~~[and/or the Mental Health and Mental Retardation Authority (MHMRA) of Harris County]~~ may operate on the premises of the Harris County Psychiatric Center a commitment center, the functions of which may include patient screening, intake, and admissions (both voluntary and involuntary) to the Harris County Psychiatric Center as may be provided for in a lease ~~[and/or sublease]~~ and operating agreement or a sublease and operating agreement as authorized under Section 73.405 ~~[of this code]~~. The functions of the Harris County Psychiatric Commitment Center located on the premises of the Harris County Psychiatric Center both in terms of operation and in terms of funding shall not be the responsibility of the Health and Human Services Commission ~~[Texas Department of Mental Health and Mental Retardation]~~ or The University of Texas System. As may be provided for in a lease ~~[and/or sublease]~~ and operating agreement or a sublease and operating agreement, The University of Texas System may charge for any support services provided by the Harris County Psychiatric Center to the commitment center.

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

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

(b) Any funding, under a lease [~~and/or sublease~~] and operating agreement or sublease and operating agreement wherein The University of Texas System is the lessee, for [~~the county supported and/or MHMRA supported~~] facilities and operations of the Harris County Psychiatric Center supported by the county or the Health and Human Services Commission, which may be provided through county

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appropriations, including funds made available by the Harris Center for Mental Health and IDD [~~County Mental Health and Mental Retardation Authority~~], or from gifts and grants, shall be transferred in accordance with the lease [~~and/or sublease~~] and operating agreement or sublease and operating agreement provided for in Section 73.405 [~~of this code~~]. Such funds may be for any further construction at the Harris County Psychiatric Center; for equipment, both fixed and movable; for utilities, including data processing and communications; for maintenance, repairs, renovations, and additions; for any damage or destruction; and for Harris County Psychiatric Center operations which latter funding may be proportional to the total costs of The University of Texas System operating the entire Harris County Psychiatric Center, exclusive of any additional cost incurred by [~~of~~] Harris County or the Health and Human Services Commission for [~~and/or MHMRA~~] operating the commitment center, which costs shall remain the sole responsibility of the entity or entities that incurred those costs [~~Harris County and/or MHMRA~~].

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

(a) The state-supported facilities of the Harris County Psychiatric Center shall be leased to and operated and administered by The University of Texas System in accordance with a lease and operating agreement. The [~~county supported and/or MHMRA supported~~] facilities supported by the county or the Harris Center for Mental Health and IDD, exclusive of the commitment center, may be leased or [~~and/or~~] subleased by The University of Texas

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System in the same lease [~~and/or sublease~~] and operating agreement or sublease and operating agreement. Any lease [~~and/or sublease~~] and operating agreement or sublease and operating agreement shall provide for a lease payment by The University of Texas System of no more than \$1 per year plus other good and valuable consideration as provided for in Section 73.406 [~~of this code~~].

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

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

Sec. 73.406. REVENUES. That portion of any revenues related to the provision of patient services through the operation of the Harris County Psychiatric Center facilities that are leased or [and/or] subleased by and to The University of Texas System shall be accounted for and expended in accordance with the rules, regulations, and bylaws of The University of Texas System and in such manner that such

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revenues will reduce appropriated and funded requirements by both the state and county or the Harris Center for Mental Health and IDD [MHMRA] on a prorated basis, all as may be provided for in a lease ~~[and/or sublease]~~ and operating agreement or sublease and operating agreement.

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

Sec. 73.501. TRANSFER AND LEASE OF FACILITIES.

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

(b) All land, buildings, and improvements thereon and major fixed equipment comprising said institute leased by The University of Texas System shall be utilized only for purposes of patient care services, research, and education related to mental health, intellectual disability, and developmental disability ~~[mental retardation]~~. The Health and Human Services Commission or a former state agency

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that provided services to persons with mental illness, persons with intellectual disabilities, and persons with developmental disabilities [~~Texas Department of Mental Health and Mental Retardation~~] may sell or otherwise dispose of the land, buildings, improvements thereon, or major fixed equipment provided that the proceeds from the sale or other disposition shall be used for the same purposes in Harris County; and further provided, that the board of regents of The University of Texas System, prior to such sale or other disposition, has approved of such sale or disposition and the allocation of proceeds.

SECTION 14. Section 73.502, Education Code, is amended to read as follows:

Sec. 73.502. TRANSFER OF GIFTS, GRANTS, UNEXPENDED BALANCES, CONTRACTS, AND OBLIGATIONS. Any gifts, grants, unexpended balances of appropriated or unappropriated funds, and all movable equipment that was held by a former state agency that provided services to persons with mental illness, persons with intellectual disabilities, and persons with developmental disabilities or that was transferred to the Health and Human Services Commission on dissolution of that former agency and was held [~~the Texas Department of Mental Health and Mental Retardation~~] for, on behalf of, or for the use and benefit of the Texas Research Institute of Mental Sciences are hereby transferred to The University of Texas System; provided, however, that all previously appropriated funds for statewide training of [~~department~~] personnel and program evaluation by the institute shall be retained by the Health and Human Services Commission

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SECTION 14. Section 73.502, Education Code, is amended to read as follows:

Sec. 73.502. TRANSFER OF GIFTS, GRANTS, UNEXPENDED BALANCES, CONTRACTS, AND OBLIGATIONS. Any gifts, grants, unexpended balances of appropriated or unappropriated funds, and all movable equipment that was held by a former state agency that provided services to persons with mental illness, persons with intellectual disabilities, and persons with developmental disabilities or that was transferred to the Health and Human Services Commission on dissolution of that former agency and was held [~~the Texas Department of Mental Health and Mental Retardation~~] for, on behalf of, or for the use and benefit of the Texas Research Institute of Mental Sciences are hereby transferred to The University of Texas System; provided, however, that all previously appropriated funds for statewide training of [~~department~~] personnel and program evaluation by the institute shall be retained by the Health and Human Services Commission

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[department]. All contracts and written obligations of every kind and character entered into by a former state agency that provided services to persons with mental illness, persons with intellectual disabilities, and persons with developmental disabilities [~~the Texas Department of Mental Health and Mental Retardation~~] for and on behalf of the Texas Research Institute of Mental Sciences are ratified, confirmed, and validated, and in all such contracts and written obligations, the board of regents of The University of Texas System is substituted in lieu and shall stand and act in place and stead of the former state agency that provided services to persons with mental illness, persons with intellectual disabilities, and persons with developmental disabilities [~~Texas Department of Mental Health and Mental Retardation~~]; provided, however, that an advisory committee shall be established with regard to research protocols and the executive commissioner of the Health and Human Services Commission [department] shall be a member; provided further, that The University of Texas System may contract with the commission [department] for continued extramural and other laboratory consultative services. The Health and Human Services Commission [~~Texas Department of Mental Health and Mental Retardation~~], Harris County, and the [~~Mental Health and Mental Retardation Authority of~~] Harris Center for Mental Health and IDD [County] shall provide for the continuity of inpatient and outpatient care of the patients and programs operated at the Texas Research Institute of Mental Sciences and may contract for the provision of such services in accordance with the provisions of and appropriations provided in the General Appropriations Act.

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[department]. All contracts and written obligations of every kind and character entered into by a former state agency that provided services to persons with mental illness, persons with intellectual disabilities, and persons with developmental disabilities [~~the Texas Department of Mental Health and Mental Retardation~~] for and on behalf of the Texas Research Institute of Mental Sciences are ratified, confirmed, and validated, and in all such contracts and written obligations, the board of regents of The University of Texas System is substituted in lieu and shall stand and act in place and stead of the former state agency that provided services to persons with mental illness, persons with intellectual disabilities, and persons with developmental disabilities [~~Texas Department of Mental Health and Mental Retardation~~]; provided, however, that an advisory committee shall be established with regard to research protocols and the executive commissioner of the Health and Human Services Commission [department] shall be a member; provided further, that The University of Texas System may contract with the Department of State Health Services [department] for continued extramural and other laboratory consultative services. The Health and Human Services Commission [~~Texas Department of Mental Health and Mental Retardation~~], Harris County, and the [~~Mental Health and Mental Retardation Authority of~~] Harris Center for Mental Health and IDD [County] shall provide for the continuity of inpatient and outpatient care of the patients and programs operated at the Texas Research Institute of Mental Sciences and may contract for the provision of such services in accordance with the provisions of and appropriations provided in the General Appropriations Act.

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

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

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

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

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SECTION 15. Same as House version.

SECTION 16. Same as House version.

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