

By: Kolkhorst, et al.
(Jetton)

S.B. No. 26

Substitute the following for S.B. No. 26:

By: Klick

C.S.S.B. No. 26

A BILL TO BE ENTITLED

AN ACT

relating to local mental health authority and local behavioral health authority audits and mental and behavioral health reporting, services, and programs.

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

SECTION 1. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.09915 to read as follows:

Sec. 531.09915. INNOVATION MATCHING GRANT PROGRAM FOR MENTAL HEALTH EARLY INTERVENTION AND TREATMENT. (a) In this section:

(1) "Inpatient mental health facility" has the meaning assigned by Section 571.003, Health and Safety Code.

(2) "Program" means the grant program established under this section.

(3) "State hospital" has the meaning assigned by Section 552.0011, Health and Safety Code.

(b) To the extent money is appropriated to the commission for that purpose, the commission shall establish a matching grant program to provide support to eligible entities for community-based initiatives that promote identification of mental health issues and improve access to early intervention and treatment for children and families. The initiatives may:

(1) be evidence-based or otherwise demonstrate positive outcomes, including:

1 (A) improved relationship skills;

2 (B) improved self-esteem;

3 (C) reduced involvement in the juvenile justice
4 system;

5 (D) participation in the relinquishment
6 avoidance program under Subchapter E, Chapter 262, Family Code; and

7 (E) avoidance of emergency room use; and

8 (2) include:

9 (A) training; and

10 (B) services and supports for:

11 (i) community-based initiatives;

12 (ii) agencies that provide services to
13 children and families;

14 (iii) individuals who work with children or
15 caregivers of children showing atypical social or emotional
16 development or other challenging behaviors; and

17 (iv) children in or at risk of placement in
18 foster care or the juvenile justice system.

19 (c) The commission may award a grant under the program only
20 in accordance with a contract between the commission and a grant
21 recipient. The contract must include provisions under which the
22 commission is given sufficient control to ensure the public purpose
23 of providing mental health prevention services to children and
24 families is accomplished and the state receives the return benefit.

25 (d) The executive commissioner by rule shall establish
26 application and eligibility requirements for an entity to be
27 awarded a grant under the program.

1 (e) The following entities are eligible for a grant awarded
2 under the program:

3 (1) a hospital licensed under Chapter 241, Health and
4 Safety Code;

5 (2) a mental hospital licensed under Chapter 577,
6 Health and Safety Code;

7 (3) a hospital district;

8 (4) a local mental health authority;

9 (5) a child-care facility, as defined by Chapter 42,
10 Human Resources Code;

11 (6) a county or municipality; and

12 (7) a nonprofit organization that is exempt from
13 federal income taxation under Section 501(a), Internal Revenue Code
14 of 1986, by being listed as an exempt entity under Section 501(c)(3)
15 of that code.

16 (f) In awarding grants under the program, the commission
17 shall prioritize entities that work with children and family
18 members of children with a high risk of experiencing a crisis or
19 developing a mental health condition to reduce:

20 (1) the need for future intensive mental health
21 services;

22 (2) the number of children at risk of placement in
23 foster care or the juvenile justice system; or

24 (3) the demand for placement in state hospitals,
25 inpatient mental health facilities, and residential behavioral
26 health facilities.

27 (g) The commission shall condition each grant awarded under

1 the program on the grant recipient providing matching money in an
2 amount that is equal to at least 10 percent of the grant amount.

3 (h) A grant recipient may only use grant money awarded under
4 the program and matching money provided by the recipient to develop
5 innovative strategies that provide:

6 (1) resiliency;

7 (2) coping and social skills;

8 (3) healthy social and familial relationships; and

9 (4) parenting skills and behaviors.

10 (i) A grant recipient may not use grant money awarded under
11 the program or matching money provided by the recipient to:

12 (1) reimburse an expense or pay a cost that another
13 source, including the Medicaid program, is obligated to reimburse
14 or pay by law or under a contract; or

15 (2) supplant or be a substitute for money awarded to
16 the recipient from a non-Medicaid federal funding source, including
17 federal grant funding.

18 (j) A Medicaid provider's receipt of a grant under the
19 program does not affect any legal or contractual duty of the
20 provider to comply with requirements under the Medicaid program.

21 (k) The commission may use a reasonable amount of the money
22 appropriated by the legislature for the purposes of the program,
23 not to exceed five percent, to pay the administrative costs of
24 implementing and administering the program.

25 SECTION 2. Subchapter B, Chapter 531, Government Code, is
26 amended by adding Section 531.09991 to read as follows:

27 Sec. 531.09991. PLAN FOR THE TRANSITION OF CARE OF CERTAIN

1 INDIVIDUALS. (a) Not later than January 1, 2025, the commission
2 shall, in consultation with nursing facilities licensed under
3 Chapter 242, Health and Safety Code, develop a plan for
4 transitioning from a hospital that primarily provides behavioral
5 health services to a nursing facility individuals who require:

6 (1) a level of care provided by nursing facilities;
7 and

8 (2) a high level of behavioral health supports and
9 services.

10 (b) The plan must include:

11 (1) recommendations for providing incentives to
12 providers for the provision of services to individuals described by
13 Subsection (a), including an assessment of the feasibility of
14 including incentive payments under the Quality Incentive Payment
15 Program (QIPP) for those providers;

16 (2) recommendations for methods to create bed
17 capacity, including reserving specific beds; and

18 (3) a fiscal estimate, including estimated costs to
19 nursing facilities and savings to hospitals that will result from
20 transitioning individuals under Subsection (a).

21 (c) The commission may implement the plan, including
22 recommendations under the plan, only if the commission determines
23 that implementing the plan would increase the amount of available
24 state general revenue.

25 (d) This section expires September 1, 2025.

26 SECTION 3. Section 531.1025, Government Code, is amended by
27 adding Subsection (c) to read as follows:

1 (c) The commission's office of inspector general shall
2 conduct performance audits and require financial audits to be
3 conducted of each local behavioral health authority designated
4 under Section 533.0356, Health and Safety Code, and local mental
5 health authority, as defined by Section 531.002, Health and Safety
6 Code. The office shall:

7 (1) establish a performance audit schedule that
8 ensures the office audits each authority described by this
9 subsection at least once every five years;

10 (2) establish a financial audit schedule that ensures
11 each authority described by this subsection:

12 (A) undergoes a financial audit conducted by an
13 independent auditor at least once every three years; and

14 (B) submits to the office the results of the
15 financial audit; and

16 (3) require additional audits to be conducted as
17 necessary based on adverse findings in a previous audit or as
18 requested by the commission.

19 SECTION 4. Section 534.0535, Health and Safety Code, is
20 amended to read as follows:

21 Sec. 534.0535. JOINT DISCHARGE PLANNING. (a) The
22 executive commissioner shall adopt or amend, and the department
23 shall enforce, rules that require continuity of services and
24 planning for patient care between department facilities and local
25 mental health authorities.

26 (b) At a minimum, the rules must:

27 (1) specify the local mental health authority's

1 responsibility for ensuring the successful transition of patients
2 who are determined by the facility to be medically appropriate for
3 discharge; and

4 (2) require participation by a department facility in
5 joint discharge planning with [~~between a department facility and~~] a
6 local mental health authority before the [~~a~~] facility discharges a
7 patient or places the patient on an extended furlough with an intent
8 to discharge.

9 (c) The local mental health authority shall plan with the
10 department facility to [~~and~~] determine the appropriate community
11 services for the patient.

12 (d) The local mental health authority shall arrange for the
13 provision of the services upon discharge [~~if department funds are~~
14 ~~to be used and may subcontract with or make a referral to a local~~
15 ~~agency or entity~~].

16 (e) The commission shall require each facility to designate
17 at least one employee to provide transition support services for
18 patients who are determined medically appropriate for discharge
19 from the facility.

20 (f) Transition support services provided by the local
21 mental health authority must be designed to complement joint
22 discharge planning efforts and may include:

23 (1) enhanced services and supports for complex or
24 high-need patients, including services and supports necessary to
25 create viable discharge or outpatient management plans; and

26 (2) post-discharge monitoring for up to one year after
27 the discharge date to reduce the likelihood of readmission.

1 (g) The commission shall ensure that each department
2 facility concentrates the provision of transition support services
3 for patients who have been:

4 (1) admitted to and discharged from a facility
5 multiple times during a 30-day period; or

6 (2) in the facility for longer than 365 consecutive
7 days.

8 SECTION 5. Chapter 572, Health and Safety Code, is amended
9 by adding Section 572.0026 to read as follows:

10 Sec. 572.0026. VOLUNTARY ADMISSION RESTRICTIONS. The
11 facility administrator of an inpatient mental health facility or
12 the administrator's designee may only approve the admission of a
13 person for whom a proper request for voluntary inpatient services
14 is filed if, at the time the request is filed, there is available
15 space at the inpatient mental health facility.

16 SECTION 6. Section 1001.084, Health and Safety Code, as
17 redesignated by Chapter 1236 (S.B. 1296), Acts of the 84th
18 Legislature, Regular Session, 2015, is amended by amending
19 Subsections (a), (b), (c), and (d) and adding Subsections (d-1),
20 (d-2), and (g) to read as follows:

21 (a) The department, in collaboration with the commission,
22 shall establish and maintain a public reporting system of
23 performance and outcome measures relating to mental health and
24 substance use [~~abuse~~] services established by the [~~Legislative~~
25 ~~Budget Board, the department, and the~~] commission. The system must
26 allow external users to view and compare the performance[~~7~~
27 ~~outputs,~~] and outcomes of:

1 (1) local mental health authorities [~~community~~
2 ~~centers established under Subchapter A, Chapter 534, that provide~~
3 ~~mental health services~~];

4 (2) local behavioral health authorities [~~Medicaid~~
5 ~~managed care pilot programs that provide mental health services~~];
6 and

7 (3) local intellectual and developmental disability
8 authorities [~~agencies, organizations, and persons that contract~~
9 ~~with the state to provide substance abuse services~~].

10 (b) The public reporting system must allow external users to
11 view and compare the performance[~~, outputs,~~] and outcomes of the
12 Medicaid managed care programs that provide mental health services.

13 (c) The department shall post the performance[~~, output,~~]
14 and outcome measures on the department's Internet website so that
15 the information is accessible to the public. The department shall
16 post the measures monthly, or as frequently as possible [~~quarterly~~
17 ~~or semiannually in accordance with when the measures are reported~~
18 ~~to the department~~].

19 (d) The [~~department shall consider public input in~~
20 ~~determining the appropriate outcome measures to collect in the~~
21 public reporting system must[~~. To the extent possible, the~~
22 ~~department shall~~] include outcome measures that capture:

- 23 (1) inpatient psychiatric care diversion;
- 24 (2) [~~7~~] avoidance of emergency room use;
- 25 (3) [~~7~~] criminal justice diversion;
- 26 (4) [~~7 and~~] the numbers of people who are homeless
27 served;

1 (5) access to timely and adequate screening and rapid
2 crisis stabilization services;

3 (6) timely access to and appropriate treatment from
4 community-based crisis residential services and hospitalization;

5 (7) improved functioning as a result of
6 medication-related and psychosocial rehabilitation services;

7 (8) information related to the number of people
8 referred to a state hospital, state supported living center, or
9 community-based hospital, the length of time between referral and
10 admission, the length of stay, and the length of time between the
11 date a person is determined ready for discharge or transition and
12 the date of discharge or transition;

13 (9) the rate of denial of services or requests for
14 assistance from jails and other entities and the reason for denial;

15 (10) quality of care in community-based mental health
16 services and state facilities;

17 (11) the average number of hours of service provided
18 to individuals in a full level of care compared to the recommended
19 number of hours of service for each level of care; and

20 (12) any other relevant information to determine the
21 quality of services provided during the reporting period.

22 (d-1) A local intellectual and developmental disability
23 authority is only required to report information described by
24 Subsection (d)(8) that is related to a state supported living
25 center.

26 (d-2) This subsection and Subsections (d) and (d-1) expire
27 September 1, 2025.

1 (g) In this section:

2 (1) "Local behavioral health authority" means an
3 authority designated by the commission under Section 533.0356.

4 (2) "Local intellectual and developmental disability
5 authority" and "local mental health authority" have the meanings
6 assigned by Section 531.002.

7 (3) "State hospital" has the meaning assigned by
8 Section 552.0011.

9 (4) "State supported living center" has the meaning
10 assigned by Section 531.002.

11 SECTION 7. Section 1001.084(e), Health and Safety Code, as
12 redesignated by Chapter 1236 (S.B. 1296), Acts of the 84th
13 Legislature, Regular Session, 2015, is repealed.

14 SECTION 8. If before implementing any provision of this Act
15 a state agency determines that a waiver or authorization from a
16 federal agency is necessary for implementation of that provision,
17 the agency affected by the provision shall request the waiver or
18 authorization and may delay implementing that provision until the
19 waiver or authorization is granted.

20 SECTION 9. This Act takes effect September 1, 2023.