

1-1 By: Kolkhorst, et al. S.B. No. 26  
1-2 (In the Senate - Filed March 9, 2023; March 9, 2023, read  
1-3 first time and referred to Committee on Health & Human Services;  
1-4 April 3, 2023, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 3, 2023,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
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 COMMITTEE SUBSTITUTE FOR S.B. No. 26 By: Kolkhorst

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to local mental health authority and local behavioral  
1-22 health authority audits and mental and behavioral health reporting,  
1-23 services, and programs.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subchapter B, Chapter 531, Government Code, is  
1-26 amended by adding Section 531.09915 to read as follows:

1-27 Sec. 531.09915. INNOVATION MATCHING GRANT PROGRAM FOR  
1-28 MENTAL HEALTH EARLY INTERVENTION AND TREATMENT. (a) In this  
1-29 section:

1-30 (1) "Inpatient mental health facility" has the meaning  
1-31 assigned by Section 571.003, Health and Safety Code.

1-32 (2) "Program" means the grant program established  
1-33 under this section.

1-34 (3) "State hospital" has the meaning assigned by  
1-35 Section 552.0011, Health and Safety Code.

1-36 (b) To the extent money is appropriated to the commission  
1-37 for that purpose, the commission shall establish a matching grant  
1-38 program to provide support to eligible entities for community-based  
1-39 initiatives that promote identification of mental health issues and  
1-40 improve access to early intervention and treatment for children and  
1-41 families. The initiatives may:

1-42 (1) be evidence-based or otherwise demonstrate  
1-43 positive outcomes, including:

1-44 (A) improved relationship skills;

1-45 (B) improved self-esteem;

1-46 (C) reduced involvement in the juvenile justice  
1-47 system;

1-48 (D) participation in the relinquishment  
1-49 avoidance program under Subchapter E, Chapter 262, Family Code; and

1-50 (E) avoidance of emergency room use; and

1-51 (2) include:

1-52 (A) training; and

1-53 (B) services and supports for:

1-54 (i) community-based initiatives;

1-55 (ii) agencies that provide services to  
1-56 children and families;

1-57 (iii) individuals who work with children or  
1-58 caregivers of children showing atypical social or emotional  
1-59 development or other challenging behaviors; and

1-60 (iv) children in or at risk of placement in

2-1 foster care or the juvenile justice system.

2-2 (c) The commission may award a grant under the program only  
 2-3 in accordance with a contract between the commission and a grant  
 2-4 recipient. The contract must include provisions under which the  
 2-5 commission is given sufficient control to ensure the public purpose  
 2-6 of providing mental health prevention services to children and  
 2-7 families is accomplished and the state receives the return benefit.

2-8 (d) The executive commissioner by rule shall establish  
 2-9 application and eligibility requirements for an entity to be  
 2-10 awarded a grant under the program.

2-11 (e) The following entities are eligible for a grant awarded  
 2-12 under the program:

2-13 (1) a hospital licensed under Chapter 241, Health and  
 2-14 Safety Code;

2-15 (2) a mental hospital licensed under Chapter 577,  
 2-16 Health and Safety Code;

2-17 (3) a hospital district;

2-18 (4) a local mental health authority;

2-19 (5) a child-care facility, as defined by Chapter 42,  
 2-20 Human Resources Code;

2-21 (6) a county or municipality; and

2-22 (7) a nonprofit organization that is exempt from  
 2-23 federal income taxation under Section 501(a), Internal Revenue Code  
 2-24 of 1986, by being listed as an exempt entity under Section 501(c)(3)  
 2-25 of that code.

2-26 (f) In awarding grants under the program, the commission  
 2-27 shall prioritize entities that work with children and family  
 2-28 members of children with a high risk of experiencing a crisis or  
 2-29 developing a mental health condition to reduce:

2-30 (1) need for future intensive mental health services;

2-31 (2) the number of children at risk of placement in  
 2-32 foster care or the juvenile justice system; or

2-33 (3) the demand for placement in state hospitals,  
 2-34 inpatient mental health facilities, and residential behavioral  
 2-35 health facilities.

2-36 (g) The commission shall condition each grant awarded under  
 2-37 the program on the grant recipient providing matching money in an  
 2-38 amount that is equal to at least 10 percent of the grant amount.

2-39 (h) A grant recipient may only use grant money awarded under  
 2-40 the program and matching money provided by the recipient to develop  
 2-41 innovative strategies that provide:

2-42 (1) resiliency;

2-43 (2) coping and social skills;

2-44 (3) healthy social and familial relationships; and

2-45 (4) parenting skills and behaviors.

2-46 (i) A grant recipient may not use grant money awarded under  
 2-47 the program or matching money provided by the recipient to:

2-48 (1) reimburse an expense or pay a cost that another  
 2-49 source, including the Medicaid program, is obligated to reimburse  
 2-50 or pay by law or under a contract; or

2-51 (2) supplant or be a substitute for money awarded to  
 2-52 the recipient from a non-Medicaid federal funding source, including  
 2-53 federal grant funding.

2-54 (j) A Medicaid provider's receipt of a grant under the  
 2-55 program does not affect any legal or contractual duty of the  
 2-56 provider to comply with requirements under the Medicaid program.

2-57 (k) The commission may use a reasonable amount of the money  
 2-58 appropriated by the legislature for the purposes of the program,  
 2-59 not to exceed five percent, to pay the administrative costs of  
 2-60 implementing and administering the program.

2-61 SECTION 2. Subchapter B, Chapter 531, Government Code, is  
 2-62 amended by adding Section 531.09991 to read as follows:

2-63 Sec. 531.09991. PLAN FOR THE TRANSITION OF CARE OF CERTAIN  
 2-64 INDIVIDUALS. (a) Not later than January 1, 2025, the commission  
 2-65 shall, in consultation with nursing facilities licensed under  
 2-66 Chapter 242, Health and Safety Code, develop a plan for  
 2-67 transitioning from a hospital that primarily provides behavioral  
 2-68 health services to a nursing facility individuals who require:

2-69 (1) a level of care provided by nursing facilities;

3-1 and  
 3-2 (2) a high level of behavioral health supports and  
 3-3 services.

3-4 (b) The plan must include:

3-5 (1) recommendations for providing incentives to  
 3-6 providers for the provision of services to individuals described by  
 3-7 Subsection (a), including an assessment of the feasibility of  
 3-8 including incentive payments under the Quality Incentive Payment  
 3-9 Program (QIPP) for those providers;

3-10 (2) recommendations for methods to create bed  
 3-11 capacity, including reserving specific beds; and

3-12 (3) a fiscal estimate, including estimated costs to  
 3-13 nursing facilities and savings to hospitals that will result from  
 3-14 transitioning individuals under Subsection (a).

3-15 (c) The commission may implement the plan, including  
 3-16 recommendations under the plan, only if the commission determines  
 3-17 that implementing the plan would increase the amount of available  
 3-18 state general revenue.

3-19 (d) This section expires September 1, 2025.

3-20 SECTION 3. Section 531.1025, Government Code, is amended by  
 3-21 adding Subsection (c) to read as follows:

3-22 (c) The commission's office of inspector general shall  
 3-23 conduct performance audits of each local behavioral health  
 3-24 authority designated under Section 533.0356, Health and Safety  
 3-25 Code, and local mental health authority, as defined by Section  
 3-26 531.002, Health and Safety Code. The office shall:

3-27 (1) establish an audit schedule that ensures each  
 3-28 authority described by this subsection is audited at least once  
 3-29 every 10 years; and

3-30 (2) conduct additional audits as necessary based on  
 3-31 adverse findings in a previous audit.

3-32 SECTION 4. Section 534.0535, Health and Safety Code, is  
 3-33 amended to read as follows:

3-34 Sec. 534.0535. JOINT DISCHARGE PLANNING. (a) The  
 3-35 executive commissioner shall adopt or amend, and the department  
 3-36 shall enforce, rules that require continuity of services and  
 3-37 planning for patient care between department facilities and local  
 3-38 mental health authorities.

3-39 (b) At a minimum, the rules must:

3-40 (1) specify the local mental health authority's  
 3-41 responsibility for ensuring the successful transition of patients  
 3-42 who are determined by the facility to be medically appropriate for  
 3-43 discharge; and

3-44 (2) require participation by a department facility in  
 3-45 joint discharge planning with ~~between a department facility and~~ a  
 3-46 local mental health authority before the ~~a~~ facility discharges a  
 3-47 patient or places the patient on an extended furlough with an intent  
 3-48 to discharge.

3-49 (c) The local mental health authority shall plan with the  
 3-50 department facility to ~~and~~ determine the appropriate community  
 3-51 services for the patient.

3-52 (d) The local mental health authority shall arrange for the  
 3-53 provision of the services upon discharge ~~if department funds are~~  
 3-54 ~~to be used and may subcontract with or make a referral to a local~~  
 3-55 ~~agency or entity~~.

3-56 (e) The commission shall require each facility to designate  
 3-57 at least one employee to provide transition support services for  
 3-58 patients who are determined medically appropriate for discharge  
 3-59 from the facility.

3-60 (f) Transition support services provided by the local  
 3-61 mental health authority must be designed to complement joint  
 3-62 discharge planning efforts and may include:

3-63 (1) enhanced services and supports for complex or  
 3-64 high-need patients, including services and supports necessary to  
 3-65 create viable discharge or outpatient management plans; and

3-66 (2) post-discharge monitoring for up to one year after  
 3-67 the discharge date to reduce the likelihood of readmission.

3-68 (g) The commission shall ensure that each department  
 3-69 facility concentrates the provision of transition support services

4-1 for patients who have been:

4-2 (1) admitted to and discharged from a facility  
 4-3 multiple times during a 30-day period; or

4-4 (2) in the facility for longer than 365 consecutive  
 4-5 days.

4-6 SECTION 5. Chapter 572, Health and Safety Code, is amended  
 4-7 by adding Section 572.0026 to read as follows:

4-8 Sec. 572.0026. VOLUNTARY ADMISSION RESTRICTIONS. The  
 4-9 facility administrator of an inpatient mental health facility or  
 4-10 the administrator's designee may only approve the admission of a  
 4-11 person for whom a proper request for voluntary inpatient services  
 4-12 is filed if, at the time the request is filed, there is available  
 4-13 space at the inpatient mental health facility.

4-14 SECTION 6. Section 1001.084, Health and Safety Code, as  
 4-15 redesignated by Chapter 1236 (S.B. 1296), Acts of the 84th  
 4-16 Legislature, Regular Session, 2015, is amended by amending  
 4-17 Subsections (a), (b), (c), and (d) and adding Subsections (d-1),  
 4-18 (d-2), and (g) to read as follows:

4-19 (a) The department, in collaboration with the commission,  
 4-20 shall establish and maintain a public reporting system of  
 4-21 performance and outcome measures relating to mental health and  
 4-22 substance use ~~[abuse]~~ services established by the ~~[Legislative~~  
 4-23 ~~Budget Board, the department, and the]~~ commission. The system must  
 4-24 allow external users to view and compare the performance~~[~~  
 4-25 ~~outputs,~~] and outcomes of:

4-26 (1) local mental health authorities ~~[community~~  
 4-27 ~~centers established under Subchapter A, Chapter 534, that provide~~  
 4-28 ~~mental health services];~~

4-29 (2) local behavioral health authorities ~~[Medicaid~~  
 4-30 ~~managed care pilot programs that provide mental health services];~~  
 4-31 and

4-32 (3) local intellectual and developmental disability  
 4-33 authorities ~~[agencies, organizations, and persons that contract~~  
 4-34 ~~with the state to provide substance abuse services].~~

4-35 (b) The public reporting system must allow external users to  
 4-36 view and compare the performance~~[~~  
 4-37 ~~outputs,~~] and outcomes of the  
 4-38 Medicaid managed care programs that provide mental health services.

4-39 (c) The department shall post the performance~~[~~  
 4-40 ~~output,~~] and outcome measures on the department's Internet website so that  
 4-41 the information is accessible to the public. The department shall  
 4-42 post the measures monthly, or as frequently as possible ~~[quarterly~~  
 4-43 ~~or semiannually in accordance with when the measures are reported~~  
 4-44 ~~to the department].~~

4-45 (d) The ~~[department shall consider public input in~~  
 4-46 ~~determining the appropriate outcome measures to collect in the]~~  
 4-47 public reporting system must ~~[. To the extent possible, the~~  
 4-48 ~~department shall]~~ include outcome measures that capture:

4-49 (1) inpatient psychiatric care diversion;

4-50 (2) [ avoidance of emergency room use;

4-51 (3) [ criminal justice diversion;

4-52 (4) [ ~~and]~~ the numbers of people who are homeless  
 4-53 served;

4-54 (5) access to timely and adequate screening and rapid  
 4-55 crisis stabilization services;

4-56 (6) timely access to and appropriate treatment from  
 4-57 community-based crisis residential services and hospitalization;

4-58 (7) improved functioning as a result of  
 4-59 medication-related and psychosocial rehabilitation services;

4-60 (8) subject to Subsection (d-1), information related  
 4-61 to the number of people referred to a state hospital, state  
 4-62 supported living center, or community-based hospital, the length of  
 4-63 time between referral and admission, the length of stay, and the  
 4-64 length of time between the date a person is determined ready for  
 4-65 discharge or transition and the date of discharge or transition;

4-66 (9) the rate of denial of services or requests for  
 4-67 assistance from jails and other entities and the reason for denial;

4-68 (10) quality of care in community-based mental health  
 4-69 services and state facilities;

4-69 (11) the average number of hours of service provided



5-1 to individuals in a full level of care compared to the recommended  
5-2 number of hours of service for each level of care; and

5-3 (12) any other relevant information to determine the  
5-4 quality of services provided during the reporting period.

5-5 (d-1) The information described by Subsection (d)(8) is  
5-6 only required to be reported by local intellectual and  
5-7 developmental disability authorities.

5-8 (d-2) This subsection and Subsections (d) and (d-1) expire  
5-9 September 1, 2025.

5-10 (g) In this section:

5-11 (1) "Local behavioral health authority" means an  
5-12 authority designated by the commission under Section 533.0356.

5-13 (2) "Local intellectual and developmental disability  
5-14 authority" and "local mental health authority" have the meanings  
5-15 assigned by Section 531.002.

5-16 (3) "State hospital" has the meaning assigned by  
5-17 Section 552.0011.

5-18 (4) "State supported living center" has the meaning  
5-19 assigned by Section 531.002.

5-20 SECTION 7. Section 1001.084(e), Health and Safety Code, as  
5-21 redesignated by Chapter 1236 (S.B. 1296), Acts of the 84th  
5-22 Legislature, Regular Session, 2015, is repealed.

5-23 SECTION 8. If before implementing any provision of this Act  
5-24 a state agency determines that a waiver or authorization from a  
5-25 federal agency is necessary for implementation of that provision,  
5-26 the agency affected by the provision shall request the waiver or  
5-27 authorization and may delay implementing that provision until the  
5-28 waiver or authorization is granted.

5-29 SECTION 9. This Act takes effect September 1, 2023.

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