

BILL ANALYSIS

C.S.H.B. 3282
By: Simmons
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties suggest that current state programs fail to meet demand for the treatment of Autism Spectrum Disorder (ASD) and that more needs to be done to serve the growing population of Texas children with ASD, especially considering the fact that children screened, diagnosed, and treated for ASD earlier in life need less treatment later in life and have a much better chance at being active, contributing members to society. Earlier diagnosis and treatment, and improved communication and coordination of services, also result in drastically decreasing long-term costs for service providers and, in turn, the state. C.S.H.B. 3282 seeks to enhance coordination of, communication of best practices concerning, and collection of information pertaining to the provision of evidence-based behavioral services for students with ASD in Texas.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 3282 amends the Education Code to require the Texas Higher Education Coordinating Board to ensure communication and coordination among the coordinating board, autism programs, school districts, the Department of Assistive and Rehabilitative Services (DARS), and other state agencies providing evidence-based behavioral services to children with autism spectrum disorder in Texas regarding best practices for delivering those services. The bill defines "autism program" as a public entity that provides evidence-based behavioral services, including applied behavior analysis services for children with autism spectrum disorder, and an autism research center at a public or private institution of higher education that provides evidence-based behavioral services, including applied behavior analysis services for children with autism spectrum disorder, under a grant contract with the coordinating board.

C.S.H.B. 3282 requires an autism program, a school district, DARS, or another state agency that provides evidence-based behavioral services to children with autism spectrum disorder in Texas to comply with a request for information concerning the provision of those services made by the coordinating board. The bill requires the coordinating board to maintain a statewide autism database of information regarding the number of children served through each autism program and through each state agency providing evidence-based behavioral services to children with autism spectrum disorder in Texas, the effectiveness of those programs and services, statewide best practices for the delivery of those programs and services, and the identification of

underserved regions of the state with regard to those programs and services. The bill requires the coordinating board to submit to the legislature an annual report on the information maintained in the database and prohibits the coordinating board from including in the database personal information of any kind pertaining to a child receiving services from an autism program or a state agency or pertaining to the child's family. The bill requires the coordinating board to make the database readily accessible online and to adopt rules as necessary for the administration of the bill's provisions relating to autism services.

C.S.H.B. 3282 requires the speaker of the house of representatives, not later than November 30, 2015, to appoint to a House Select Committee on Statewide Coordination of Autism Services seven members, with one member designated as chair, and requires the lieutenant governor by that same deadline to appoint to a Senate Select Committee on Statewide Coordination of Autism Services five members, with one member designated as chair. The bill authorizes the committees to meet separately at the call of the committee chair or jointly at the call of both chairs, with a joint meeting requiring the chairs to act as joint chairs. The bill requires the committees, meeting separately or jointly, to review, study, and evaluate autism service programs in other states, university programs in Texas that provide autism treatment and services, community agencies and organizations that provide applied behavioral analysis services, ways to improve communication and coordination among entities providing autism services across Texas, areas of Texas that are most underserved with regard to autism services, and ways to provide autism services to more children. The bill requires the committees, following consideration of those factors, to jointly adopt recommendations related to the reviewed topics and to provide a written report to the legislature of the committees' recommendations for legislative or other action not later than January 13, 2017. The bill's provisions relating to the select committees expire September 1, 2017.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3282 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 33, Education Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. AUTISM PROGRAM

Sec. 33.281. DEFINITIONS. In this subchapter:

(1) "Certified assistant behavior analyst" means an individual who is certified as a board certified assistant behavior analyst by the Behavior Analyst Certification Board, Inc., or has earned a similar credential from another entity that is approved by the commissioner and is accredited by the National Commission on Certifying Agencies or the American National Standards Institute to issue credentials in the professional practice of applied behavior

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 61, Education Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. AUTISM SERVICES

Sec. 61.781. DEFINITION.

analysis.

(2) "Certified behavior analyst" means an individual who is certified as a board certified behavior analyst or board certified behavior analyst-Doctoral by the Behavior Analyst Certification Board, Inc., or has earned a similar credential from another entity that is approved by the commissioner and accredited by the National Commission on Certifying Agencies or the American National Standards Institute to issue credentials in the professional practice of applied behavior analysis.

(3) "Participating entity" means a university, local community agency, or organization that has entered into a grant contract with a school district to provide applied behavior analysis services under the program to students of the district.

(4) "Program" means the autism program established under this subchapter.

(5) "Service provider" means one or more individuals employed by or under a contract with a participating entity to provide applied behavior analysis services under the program to students.

Sec. 33.282. ESTABLISHMENT; CONTRACT WITH HEALTH AND HUMAN SERVICES COMMISSION. (a) The commissioner shall establish and administer an autism program to provide applied behavior analysis services to students with autism spectrum disorder through grant contracts between school districts and participating universities, local community agencies, and other organizations that provide applied behavior analysis services in this state, to the extent funds are appropriated by the legislature for that purpose.

(b) The Health and Human Services Commission shall contract with the commissioner for the agency to assume all responsibilities of the Health and Human

In this subchapter, "autism program" means:

(1) a public entity that provides evidence-based behavioral services, including applied behavior analysis services for children with autism spectrum disorder; and

(2) an autism research center at a public or private institution of higher education that provides evidence-based behavioral services, including applied behavior analysis services for children with autism spectrum disorder, under a grant contract with the board.

No equivalent provision.

Services Commission and the Department of Assistive and Rehabilitative Services relating to the provision of autism services to students eligible for services under this subchapter who are recipients of assistance under the Medicaid program or the child health plan program.

Sec. 33.283. STUDENT ELIGIBILITY AND ENROLLMENT. (a) To be eligible for services under the program, a student must:

(1) apply to a participating entity on the form and in the manner prescribed by commissioner rule;

(2) be a resident of this state;

(3) be eight years of age or younger; and

(4) have a documented diagnosis on the autism spectrum made by a qualified professional.

(b) The application and enrollment process adopted by the commissioner must provide that if a participating entity receives more applications from eligible students for admission to a participating entity's program than available positions in the program, the eligible student who is not initially offered admission to the program may be placed on an interest list maintained by the participating entity and may be offered admission to the program upon the opening of available positions with the participating entity.

No equivalent provision.

Sec. 33.284. PROGRAM SERVICES. (a) A participating entity shall:

(1) ensure that services provided to a student with autism spectrum disorder under the program do not include physical aversive interventions that cause pain or discomfort;

(2) develop a treatment plan for each student served under the program;

(3) provide parent training as a component of services offered under the program;

(4) provide ongoing analysis and evaluation of the progress of each student under the program;

(5) document the services provided to each student under the program;

(6) administer pretreatment and posttreatment measures in accordance with contractual requirements between the participating entity and a school district; and

(7) create and maintain documented transition plans for each student determined

No equivalent provision.

to no longer require services under the program.

(b) A school district may contract with a university for the university to act as a participating entity only if the university has an autism center or program.

Sec. 33.285. DURATION OF TREATMENT. (a) The duration of each student's treatment under the program must be based on the student's needs, except that a student may not receive services under the program for more than a cumulative period of 24 months, which may be composed of nonconsecutive periods of treatment.

(b) The maximum period of a student's treatment prescribed by Subsection (a) applies regardless of any change in a contract between a school district and a participating entity or any change in service providers.

(c) A student who ceases receiving treatment under the program before receiving services for the maximum period of treatment prescribed by Subsection (a) may reenroll in the program not earlier than six months after the date the student ceases receiving services under the program, unless the student receives written approval for early reenrollment from the school district before withdrawing from the program.

(d) A parent or guardian of a student who has received treatment under the program for the maximum period prescribed by Subsection (a) may elect to pay the expense for the student to continue receiving services from the participating entity under a contract between the parent or guardian and the participating entity. A school district is not liable for any costs accrued in the provision of services to a student who has received treatment under the program for the maximum period prescribed by Subsection (a).

No equivalent provision.

Sec. 33.286. SERVICE PROVIDER REQUIREMENTS. (a) A service provider who provides assessment of or oversees treatment of students under the program or who trains and supervises paraprofessional personnel involved in direct delivery of program services must have:

(1) a master's degree or doctoral degree in psychology, behavior analysis, or a related field obtained from an accredited institution

No equivalent provision.

of higher education;

(2) documented graduate level coursework in behavioral assessment and intervention, selecting outcomes and strategies, behavior change procedures, experimental methods, and measuring and interpreting behavioral data;

(3) knowledge of typical childhood development of children in the age range of 3 years through 15 years; and

(4) a board certified behavior analyst accreditation issued by the Behavior Analyst Certification Board, Inc.

(b) A service provider must include at least one individual with the accreditation described by Subsection (a)(4) who has experience providing applied behavior analysis services for a child of each age in the age range of 3 years through 15 years.

(c) A service provider who provides any direct services to students under the program must:

(1) have been awarded a high school diploma or the equivalent;

(2) be 18 years of age or older;

(3) have completed at least 40 hours of training before working with students under the program;

(4) receive ongoing training; and

(5) be supervised by a certified behavior analyst.

(d) The training required under Subsection (c) must:

(1) be formalized training developed and supervised by a certified behavior analyst on methods for data collection, procedures for implementing discrete trial teaching, prompting procedures, behavior management strategies for addressing problem behavior, and other applied behavior analysis techniques and program-specific methods;

(2) be provided by a certified behavior analyst or a certified assistant behavior analyst through didactic instruction, workshops, readings, observation of modeling of techniques by supervisors, role-play with supervisors, and training in the natural environment in which supervisors provide specific feedback and additional training as needed;

(3) to ensure individual acquisition of the skills necessary to accurately implement applied behavior analysis treatments, be assessed for effectiveness through:

(A) written exams, with criteria to determine mastery; or

(B) direct observation by an individual who is a board certified behavior analyst supervisor of therapists working directly with students, with fidelity checklists to determine accurate use of procedures and criteria to determine mastery;

(4) provide instruction on all of the tasks in the Behavior Analyst Certification Board, Inc.'s, Registered Behavior Technician Task List; and

(5) include ethics and professional conduct training.

(e) The supervision required under Subsection (c)(5) must:

(1) occur at least once every two weeks;

(2) include direct observation of applied behavior analysis programming to assess if procedures are implemented accurately and to inform the supervisor of the potential need to adjust teaching procedures; and

(3) include ongoing review, no less than two times per week, of data from applied behavior analysis programs and data pertaining to problem behavior.

Sec. 33.287. COORDINATION OF SERVICES; COMMUNICATION ON BEST PRACTICES. In administering the program, the commissioner shall ensure communication and coordination among school districts, participating entities, service providers, and other state agencies or other entities providing applied behavior analysis services to children with autism spectrum disorder in this state regarding best practices for delivering those services.

Sec. 33.288. RESTRICTION ON GRANT USE. A grant awarded to a participating entity through the program may be used only to provide applied behavior analysis services to students under the program and may not be used for educational, research, or student loan repayment assistance

Sec. 61.782. COORDINATION OF SERVICES; COMMUNICATION ON BEST PRACTICES. (a) The board shall ensure communication and coordination among the board, autism programs, school districts, the Department of Assistive and Rehabilitative Services, and other state agencies providing evidence-based behavioral services to children with autism spectrum disorder in this state regarding best practices for delivering those services.

(b) An autism program, a school district, the Department of Assistive and Rehabilitative Services, or another state agency that provides evidence-based behavioral services to children with autism spectrum disorder in this state shall comply with a request for information concerning the provision of those services made by the board for the purpose of complying with this subchapter.

No equivalent provision.

purposes.

Sec. 33.289. STATEWIDE AUTISM DATABASE; REPORT. (a) The commissioner shall maintain a statewide autism database of information regarding the number of students served through the program, statewide best practices for the delivery of applied behavior analysis services to students with autism spectrum disorder, and the identification of underserved regions of the state with regard to those services.

(b) Annually, the commissioner shall submit to the legislature a report on the information maintained in the database.

(c) On request by the commissioner, a service provider shall submit any quarterly data the commissioner considers necessary to carry out the commissioner's duties under this section.

(d) The commissioner may not include in the database personal information of any kind pertaining to a student receiving services under the program or the student's family.

(e) The commissioner shall make the database readily accessible online for school districts, participating entities, service providers, and the public.

Sec. 33.290. RULES. The commissioner shall adopt rules as necessary for the administration of this subchapter.

SECTION 2. SELECT COMMITTEES ON AUTISM SERVICES. (a) Not later than November 30, 2015:

(1) the speaker of the house of representatives shall appoint to a House Select Committee on Statewide Coordination of Autism Services seven members with one member designated as chair; and

(2) the lieutenant governor shall appoint to a Senate Select Committee on Statewide Coordination of Autism Services five members with one member designated as chair.

(b) The committees established under this section may meet separately at the call of the chair of the committee or jointly at the

Sec. 61.783. STATEWIDE AUTISM DATABASE; REPORT. (a) The board shall maintain a statewide autism database of information regarding the number of children served through each autism program and through each state agency providing evidence-based behavioral services to children with autism spectrum disorder in this state, the effectiveness of those programs and services, statewide best practices for the delivery of those programs and services, and the identification of underserved regions of the state with regard to those programs and services.

(b) Annually, the board shall submit to the legislature a report on the information maintained in the database.

(c) The board may not include in the database personal information of any kind pertaining to a child receiving services from an autism program or a state agency or pertaining to the child's family.

(d) The board shall make the database readily accessible online.

Sec. 61.784. RULES. The board shall adopt rules as necessary for the administration of this subchapter.

SECTION 2. SELECT COMMITTEES ON AUTISM SERVICES. (a) Not later than November 30, 2015:

(1) the speaker of the house of representatives shall appoint to a House Select Committee on Statewide Coordination of Autism Services seven members with one member designated as chair; and

(2) the lieutenant governor shall appoint to a Senate Select Committee on Statewide Coordination of Autism Services five members with one member designated as chair.

(b) The committees established under this section may meet separately at the call of the chair of the committee or jointly at the

call of both chairs. In joint meetings, the chairs shall act as joint chairs.

(c) The committees established under this section, meeting separately or jointly, shall review, study, and evaluate:

- (1) autism service programs in other states;
- (2) university programs in this state that provide autism treatment and services;
- (3) community agencies and organizations that provide ABA services;

(4) ways to improve communication and coordination among entities providing autism services across the state;

(5) areas of the state that are most underserved with regard to autism services; and

(6) ways to provide autism services to more children.

(d) Following consideration of the factors described by Subsection (c) of this section, the committees established under this section shall jointly adopt recommendations related to the reviewed topics and shall provide a written report to the legislature of the committees' recommendations for legislative or other action not later than January 13, 2017.

(e) This section expires September 1, 2017.

SECTION 3. This Act takes effect September 1, 2015.

call of both chairs. In joint meetings, the chairs shall act as joint chairs.

(c) The committees established under this section, meeting separately or jointly, shall review, study, and evaluate:

- (1) autism service programs in other states;
- (2) university programs in this state that provide autism treatment and services;
- (3) community agencies and organizations that provide applied behavioral analysis (ABA) services;

(4) ways to improve communication and coordination among entities providing autism services across the state;

(5) areas of the state that are most underserved with regard to autism services; and

(6) ways to provide autism services to more children.

(d) Following consideration of the factors described by Subsection (c) of this section, the committees established under this section shall jointly adopt recommendations related to the reviewed topics and shall provide a written report to the legislature of the committees' recommendations for legislative or other action not later than January 13, 2017.

(e) This section expires September 1, 2017.

SECTION 3. Same as introduced version.