

SUBJECT: Local mental health or mental retardation authority planning

COMMITTEE: Public Health — favorable, with amendment

VOTE: 5 ayes — Capelo, Dawson, McReynolds, Taylor, Zedler
0 nays
4 absent — Laubenberg, Truitt, Coleman, Naishtat

SENATE VOTE: On final passage, April 25 — 31-0 on Local and Uncontested Calendar

WITNESSES: *(On companion bill, HB 1801:)*
For — Joe Lovelace, NAMI Texas; Billy Ray Sayles, Nueces County MHMR; Bob Brown; Susan Rushing; Jamie Travis

Against — Mike Halligan, Texas Mental Health Consumers; Deborah Hyatt, Texas Federation of Families for Children's Mental Health; Patti Derr

On — Melanie Gantt, Mental Health Association in Texas; Gerry McKimmey, Texas Department of Mental Health and Mental Retardation

BACKGROUND: The Texas Department of Mental Health and Mental Retardation (MHMR) designates a local mental health authority in each service region, which is responsible for planning and delivery of mental health services in that area. The general appropriations act sets performance goals for state agencies, which MHMR allocates to each of the service areas.

DIGEST: SB 1182, as amended, would direct each local authority to develop a local service plan. The plan would have to maximize federal funding and use local, state, and federal funds in the most efficient manner. The plan would be the basis for contracts between MHMR and the local authorities. In developing the plan, the local authority would consider:

- community needs with input from the local community, consumers, and other stakeholders;
- criteria to ensure accountability for the value of services;

- goals to minimize the need for state and community hospital services;
- goals to ensure that a person with mental retardation would be placed in the least restrictive appropriate environment;
- jail diversion strategies; and
- other opportunities for innovation in services and delivery.

Contracts between MHMR and local authorities would include verifiable outcomes measures, developed with input from local stakeholders. Copies of the service reports about these outcome measures would be forwarded to MHMR at least once a year.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003. It would apply to contracts between MHMR and local authorities executed on or after January 1, 2004.

**SUPPORTERS
SAY:**

SB 1182 would give local authorities planning responsibilities to better serve their clients. The delivery of mental health and mental retardation services in Texas is moving toward a more decentralized model as local authorities have been delegated additional responsibilities and greater control over service delivery. The planning stages of service implementation has not migrated to the local authorities, however, and MHMR makes many of the decisions at a statewide level. Local authorities know the unique needs and strengths of their communities and should do the planning for their areas.

The bill would ensure that the local plans were consistent with the statewide goals by requiring certain elements and accountability. Because MHMR is ultimately responsible for service delivery to people with mental health and mental retardation, it is important that the department's goals be required in the local plans.

The requirement that the plan include goals to minimize the need for state and community hospital services and goals to ensure that a person with mental retardation would be placed in the least restrictive appropriate environment should be included in this bill. The U.S. Supreme Court's *Olmstead* decision and the state's Promoting Independence Plan have made great strides toward ensuring that people live in the least restrictive, most appropriate setting, and local plans should continue those efforts. For decades, people with mental

retardation were thought incapable of living in the community and many parents still feel that way, even if some people with mental retardation are capable of living rewarding and secure lives in the community.

**OPPONENTS
SAY:**

Local authorities should not be given more authority over planning and expenditure of funds. While the bill would seem to require input from stakeholders, some groups were not even approached about the bill. This inauspicious beginning to local planning highlights a pattern by local authorities of not including all groups in discussions about services or needs. MHMR can be more accessible because the agency is required to hold open meetings and has a long history of working with stakeholders. The planning process should remain centralized.

The state cannot be sure that local authorities would appropriately manage funds or services. A State Auditor's Office report in June 2002, Report Number 02-052, concluded that MHMR does not adequately monitor community contracts to ensure that client services result in appropriate outcomes and that funds are properly managed. It stated that MHMR might be unaware of providers that are providing substandard services and have weak fiscal operations. The state should not give local authorities greater latitude until it can be sure that they can manage their funds and services well.

This is the wrong time to hand the reins over to local authorities. If health and human services agencies undergo a complete reorganization, as envisioned in CSHB 2292 by Wohlgemuth, the outcomes from local authorities will be lost in the shuffle.

**OTHER
OPPONENTS
SAY:**

This bill would encourage local authorities to continue the depopulation of state schools and hasten their closure, forcing residents to live in the community even if they were unable. A number of forces have converged—the *Olmstead* decision, the Texas Promoting Independence Plan, and an extremely tight budget — to threaten the future of state schools. Mentally retarded people are some of the state's most vulnerable citizens, and Texas should ensure that they can receive the care they need.

The *Olmstead* decision and the Texas Promoting Independence Plan were supposed to ensure that people lived in the most appropriate setting, but they have had the opposite effect on state schools even though often they are the

most appropriate setting for residents. State schools are being depopulated by refusing to admit new residents. If residents leave, the state has forced the schools to take away that person's space from the overall census because their funding moves with them. As a result, there is insufficient room when a new person applies for admission.

NOTES:

The committee amendment would require contracts between MHMR and local authorities to include verifiable outcomes measures, developed with input from local stakeholders. Copies of the service reports about these outcome measures also would be forwarded to MHMR at least once a year.

The companion bill, HB 1801 by Farabee, was reported favorably as amended by the House Public Health Committee on April 25.