

- SUBJECT:** Allowing state schools to offer services to individuals in the community
- COMMITTEE:** Human Services — favorable, without amendment
- VOTE:** 9 ayes — Rose, Herrero, Darby, Elkins, Hernandez, Hughes, Legler, Naishtat, Walle
- 0 nays
- WITNESSES:** For — Denise Bloomquist, Project Janus, Inc.; Susan Payne; (*Registered, but did not testify:* Derrick Osobase, Texas State Employees Union, Denise Rose, Texas Hospital Association; Elizabeth Whitlow)
- Against — Norine Jaloway-Gill, The Arc of Texas; Susan Murphree, Advocacy, Incorporated; (*Registered, but did not testify:* Nagla Moussa, The Arc of Texas)
- On — (*Registered, but did not testify:* Noelita Lugo, Texans Care for Children)
- BACKGROUND:** The Department of Aging and Disability Services (DADS) operates 11 state schools and two state centers providing direct services and supports to individuals with mental retardation.
- Health and Safety Code, ch. 531, defines a state school as a state residential facility to provide services to clients with mental retardation, including medical treatment, specialized therapy, and training in the acquisition of personal, social, and vocational skills.
- Government Code, ch. 771 and ch. 791 authorize DADS to contract with other governmental entities for the provision of services to individuals with mental retardation or developmental disabilities.
- DIGEST:** HB 748 would amend Human Resources Code, ch. 161 to allow providers of disability services to contract with a state school or state center to provide services and resources to individuals with developmental disabilities or dual diagnosis disorders living in the community.

If a state agency determined that, before implementing a provision of the bill, it first needed to obtain a waiver or authorization from a federal agency, the state agency could delay implementation until the waiver or authorization was granted.

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, 2009.

SUPPORTERS
SAY:

HB 748 would make it possible for individuals with intellectual, developmental, or cognitive disabilities or with a dual diagnosis (intellectual disability and mental illness) to receive services and treatment from professionals employed by a state school or state center by allowing community-based service provider to contract for services with state facilities.

Currently, individuals with intellectual disabilities or dual diagnosis who live in a community with a state school or center are unable to receive treatment from the uniquely qualified professionals employed by the state facilities. The expertise and services provided by these professionals are unavailable to community service providers because DADS lacks the authority under current law to enter into such contracts.

Due to these limitations, a state school resident may successfully transition to community placement, only to be forced to return to the state school for specialized services if he or she experiences a crisis. Often, this results in the individual's loss of a "slot" in the community. Thus, when the individual is stabilized and ready to return, the slot has been filled by someone else, and the individual must remain in the state school. It makes no sense to make someone go back into a state school for services and lose a place in the community system.

The goal of HB 748 is to reduce admissions to state schools and centers by allowing individuals to live in the community despite the unique services they require. It is not fair and benefits no one to deny these individuals access to the professionals they need. The bill is based on a proven model (Iowa, Ohio, and Kansas all use a similar method) that would result in cooperative efforts between public and private providers to offer a more seamless system of access to services for those who need them.

Nothing in the bill is mandatory. Should a community-based provider want to contract with a state school for services, it could. Should the state school feel it is not capable of providing the services, it could decline.

HB 748 would allow state schools to provide services to individuals living in the community on an “as needed” basis, thereby allowing them to remain in the community and not be forced to return to the state schools. This would be especially beneficial given the emergency status of the state school system today. The Department of Justice (DOJ) recently found multiple problems relating to abuse and neglect of state school residents, so receiving treatment from professional clinicians employed in the facility yet not being required to live in the facility would be ideal for many at this time.

The only alternative would be to provide funding for more professionals specializing in intellectual disabilities and dual diagnosis to be recruited and employed in communities. However, at a time when fiscal resources are limited, the state should make the most of the resources it has, rather than try to duplicate them in the community. The system provided by HB 748 would be cost-effective for both private and public providers, as resources of both would be used more efficiently.

**OPPONENTS
SAY:**

HB 748 would expand services provided by state schools and centers at a time when it is not appropriate. State schools lack the capacity to serve more individuals, and the current emergency status of the state school system raises doubts as to the quality of services that would be provided.

Recently, a DOJ investigation into the state school system identified problems relating to the quality of assessments and provision of health and behavioral health services, including the inappropriate use of psychotropic medications and overuse of restraints in violation of the constitutional rights of residents. According to the report, many state school issues stem from high staff turnover rates and vacancies, especially in direct care staff and clinicians. Therefore, increasing staff caseloads by allowing the treatment of community-based clients would be problematic at this time.

Using state schools to provide services to community-based individuals could unintentionally perpetuate an over-reliance on state schools for services that could be provided in the community if more professional resources were available there. As a result, the bill could limit the focus on building capacity in the community.

Other ways to improve community-based access to professional, clinical services for individuals with developmental disabilities should be examined. For example, incentives for the recruitment and retention of community-based clinical providers with expertise in treating those with developmental disabilities and dual diagnosis could provide needed aid, while encouraging the continued shift of services from institutions to the community.

NOTES:

In the fiscal note, the LBB indicates that, depending on contract terms and the number of community-based clients receiving services, HB 748 could result in a slight revenue gain to DADS, provided that excess staff capacity were used to supply services. Should demand surpass existing capacity, DADS could incur added staffing expenses, which would be offset by the new revenue.