

- SUBJECT:** Requiring a statewide plan to reallocate mental health services
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 9 ayes — Kolkhorst, Naishtat, Coleman, S. Davis, Guerra, S. King, Laubenberg, J.D. Sheffield, Zedler
- 0 nays
- 2 absent — Collier, Cortez
- WITNESSES:** For — Jim Allison, County Judges and Commissioners Association of Texas; Daniel Burkeen, Limestone County; Leon Evans, The Center for Health Care Services; Donna Klaeger, Burnet County; Kathryn Lewis, Disability Rights Texas; A.J. Louderback, Jackson County and the Sheriffs Association of Texas; Dennis Wilson, Limestone County, Sheriff’s Assoc. of Texas; (*Registered, but did not testify:* Sherry Bailey, The Center for Health Care Services; Joe Garcia, University Health System – Bexar County; Marilyn Hartman; Harry Holmes, Harris County Healthcare Alliance; Greg Jensen, Lone Star Circle of Care; Patti Jones, Lubbock County; Gregg Knaupe, Seton Healthcare Family; Katharine Ligon, Center for Public Policy Priorities; Diane Lowrance, Behavioral Health Center of Nueces County; Mark Mendez, Tarrant County; Seth Mitchell, Bexar County; Laura Nicholes, Texas Association of Counties; John Smith, The Center for Health Care Services; Stacy Wilson, Texas Hospital Association; Eric Woomer, Federation of Texas Psychiatry; Geral Yezak, Robertston County)
- Against — None
- On — Nancy Hohengarten; Lee Johnson, Texas Council of Community Centers; Mike Maples, DSHS; Pete McGraw, Hogg Foundation for Mental Health; Lee Spiller, Citizens Commission on Human Rights; Gyl Switzer, Mental Health America of Texas
- BACKGROUND:** Health and Safety Code, sec. 533.034, allows the Department of State Health Services to coordinate and contract with local agencies, community centers, and other entities to provide community-based mental health and

mental retardation services.

DIGEST:

CSHB 205 would require the Department of State Health Services (department) to develop a plan to reallocate state mental health services.

Allocation plan. The department, in conjunction with the Health and Human Services Commission (HHSC), would have to develop a plan to ensure the appropriate and timely provision of mental health services to individuals voluntarily or by a civil or criminal court order receiving those services. The plan would apply to secure and non-secure outpatient or community-based facilities providing residential care options and mental health services (outpatient) and state hospitals (inpatient). The department would have to plan for the proper and separate allocation of outpatient and inpatient services for two groups of patients:

- patients who were voluntarily or by civil court order receiving outpatient or inpatient treatment or who were admitted to a state hospital for an emergency detention; and
- patients who were ordered by a criminal court to obtain outpatient or inpatient treatment to attain competency to stand trial or who were acquitted by reason of insanity and ordered to receive inpatient treatment.

The department's plan would have to determine:

- the different needs of the two groups of patients;
- the minimum number of state hospital beds needed to adequately to serve the two groups of patients;
- a statewide plan for the allocation of funds; and
- how to develop the accessibility and availability of outpatient and inpatient services based on the success of local contracts, without adversely impacting local service areas.

The department would have to make every effort to coordinate and contract with local outpatient and inpatient providers to ensure sufficient and appropriately located mental health services to the two groups of patients. While the plan is being developed and implemented, the department could not penalize a local mental health authority for noncompliance.

The department would have to develop and implement a procedure to

inform certain criminal courts of the various commitment options, including jail diversion and community-based options.

Advisory panel. The department would have to establish a 15-member advisory panel to assist with the development of the plan and meet at least monthly with the panel. The bill would specify the various agencies and organizations to be represented on the advisory panel. The department and advisory panel would need to consider, among other things, how frequently services are used, local needs and demands for inpatient and outpatient services, public input, and the differences between the two groups of patients with regard to various factors.

Time line. The department would have to update the plan biennially. The department, with the advisory panel, would need to develop an initial version of the plan by December 31, 2013. By August 31, 2014, the department would have to identify standards and methodologies and begin implementing the plan. By December 1, 2014 the department would have to submit a report to the Legislature and governor that includes the initial version of the plan, implementation status, and impact on services. By May 1, 2014 the HHSC executive commissioner would need to adopt any rules needed to implement the department's plan or inform courts of commitment options.

This 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, 2013.

**SUPPORTERS
SAY:**

CSHB 205 would provide the state with a much-needed strategic plan for inpatient and outpatient mental health services. The current allocation of services is inefficient and unbalanced. In particular, the state hospitals do not have enough beds for the increasing number of defendants who are criminally committed for competency restoration. This influx of patients delays treatment for other individuals with mental health issues, resulting in more arrests and hospitalizations. A statewide plan that provided adequate access to state hospital beds and more outpatient options would streamline the treatment process and help keep patients out of courts, jails, and emergency rooms.

The short time line would reflect the urgency of the situation. The misallocation of services, especially the state hospital bed shortage, needs to be quickly addressed. Moreover, the state needs an immediate plan for

federal and state funds. Texas already is receiving federal funds from the Medicaid 1115 waiver and the state will likely appropriate a significant amount of general revenue funds for mental health services in the next biennium. While the department likely will be developing a long-term plan for these funds, it is critical that the state quickly develop and implement a short-range plan to use these funds efficiently.

**OPPONENTS
SAY:**

CSHB 205 would not allow enough time to develop or oversee a statewide plan. This would be a large, complex project involving a substantial amount of state and federal funds. It is a concern that the department would have the authority implement a statewide plan before the Legislature reconvenes next session, especially when the department also likely would be developing a 10-year plan for mental health services. By requiring implementation to begin in 2014, this bill would not allow for adequate legislative oversight.

**OTHER
OPPONENTS
SAY:**

The statewide plan also should include an in-depth examination of how courts are committing defendants for competency restoration and the collateral consequences of recurring commitments.

NOTES:

The bill could have a negative fiscal impact if the allocation plan required additional state hospital beds or outpatient mental health services, according to the Legislative Budget Board. For example, if the department recommended increasing the number of state hospital beds to the national average, it could cost the state about \$137.5 million per year in general revenue. By reducing incarceration, the bill could produce cost savings of about \$4.5 million per year, according to one estimate.