

## **BILL ANALYSIS**

Senate Research Center

S.B. 399  
By: Nelson  
Health & Human Services  
2-21-97  
As Filed

### **DIGEST**

Currently, the superintendent of a Texas Department of Mental Health and Mental Retardation (MHMR) facility is authorized to remove an officer, teacher, or employee for good cause only. Therefore, an employee found by the Texas Department of Protective and Regulatory Services (TDPRS) to have committed client abuse is entitled to procedural due process which includes the right to request an administrative hearing with regard to any employment action taken in response to the TDPRS finding. The average length of time that occurs between the date of an act of abuse and the grievance hearing is 63.5 days. It is not uncommon that by the time of the grievance hearing, the victim of and witness to the abuse are no longer available to provide testimony. This constitutes a clear conflict with the agency's duty to take prompt and effective action when MHMR employees abuse or neglect a person in the care of MHMR. S.B. 399 will enable MHMR to establish an "at will" employment standard by deleting the provision requiring the removal of an employee to be for good cause.

### **PURPOSE**

As proposed, S.B. 399 establishes the employment status of employees of the Texas Department of Mental Health and Mental Retardation.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 551.022(d), Health and Safety Code, to authorize the superintendent of a Texas Department of Mental Health and Mental Retardation facility, in accordance with Texas Board of Mental Health and Mental Retardation rules and departmental operating procedures, to remove an officer, teacher, or employee. Deletes the provision requiring the removal to be for good cause.

SECTION 2. Effective date: September 1, 1997.  
Makes application of this Act prospective

SECTION 3. Emergency clause.