

BILL ANALYSIS

Senate Research Center
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S.B. 2360
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In the 1999 *Olmstead v. L.C.* decision, the United States Supreme Court affirmed the right of individuals with disabilities to receive public benefits and services in the most integrated setting appropriate to their needs. Individuals who choose to be in home or community-based settings need case management services to ensure that their needs are being met.

As proposed, S.B. 2360 directs the executive commissioner of the Texas Health and Human Services Commission (HHSC) to add case management services for individuals receiving benefits under the Home and Community-based Services waiver program to the local mental retardation authority duties and responsibilities. This bill requires that the total number of residents at state schools and centers not exceed 3,000 residents in total and no more than 350 residents at any one state school or center by September 1, 2013. The bill requires the Department of Aging and Disability Services to reduce the total state school census by at least 500 residents on or before September 1, 2011, and identify at least 1,500 residents who can transition to receiving services in the community by 2013.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 1 (Section 533.0355, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 533.0355(b), Health and Safety Code, as follows:

(b) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner), in adopting rules under this section, to include rules regarding the following local mental retardation authority responsibilities such as case management services for individuals receiving services under a Home and Community-based Services (HCS) waiver program. Makes nonsubstantive changes.

SECTION 2. Amends Subchapter A, Chapter 553, Health and Safety Code, by adding Section 553.002, as follows:

Sec. 553.002. STATE SCHOOL CENSUS REQUIREMENTS. (a) Defines "alleged offender resident," "department," and "resident."

(b) Provides that on or before September 1, 2013, the total census of residents in state schools and the ICF-MR component of the Rio Grande State Center may not exceed 3,000 residents, excluding alleged offender residents, and the census of each state school may not exceed 350 residents, excluding alleged offender residents.

(c) Requires the Department of Aging and Disability Services (DADS), to achieve the census requirement under Subsection (b), to reduce the total state school census by at least 500 residents on or before September 1, 2011, and identify at least 1,500 residents who can transition to receiving services in the community through a Section 1915(c) waiver program and transition those residents not later than September 1, 2013.

SECTION 3. (a) Requires the Health and Human Services Commission (HHSC) and DADS to jointly conduct a study regarding the feasibility of providing medical assistance for long-term services and supports through the Medicaid managed care program under Chapter 533 (Implementation of Medicaid Managed Care Program), Government Code, to persons with mental retardation who are eligible for that assistance.

(b) Requires HHSC and DADS, not later than December 1, 2010, to submit a report regarding the results of the study to the governor, the Legislative Budget Board, the lieutenant governor, the speaker of the house of representatives, the Senate Finance Committee, the Senate Health and Human Services Committee, the House Appropriations Committee, and the House Human Services Committee. Requires the report to include a cost benefit analysis of providing medical assistance to persons with mental retardation in the manner described by Subsection (a) of this section; a proposal for the implementation of the provision of that medical assistance if implementation is feasible; and a description of any legislative action necessary to provide that medical assistance if implementation is feasible.

SECTION 4. Requires the executive commissioner to adopt rules relating to the provision of case management services for individuals receiving services under an HCS waiver and to ensure that this function is transferred to local mental retardation authorities as quickly as possible without disrupting the provision of services.

SECTION 5. Effective date: September 1, 2009.