

BILL ANALYSIS

Senate Research Center

S.B. 748
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Education
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Supported decision-making agreements (SDMAs) are recognized in courts as a viable alternative for guardianship. They are not, however, recognized in the Texas Education Code as a means for parents of students in special education to be involved in decisions relating to their child's education plan after the child becomes an adult (e.g., turns 18). Because Texas law only lists guardianship explicitly as a tool for parents of children with disabilities to maintain a decision-making role in their child's education after the child becomes an adult, schools may default to advising parents of children with disabilities to become their child's guardian when an SDMA might be more appropriate.

S.B. 748 modernizes the Education Code to recognize SDMAs as an alternative to guardianship and maximizes the autonomy of persons with disabilities. What's more, it requires a more comprehensive guide for school districts relating to transition planning. (Original Author's / Sponsor's Statement of Intent)

S.B. 748 amends current law relating to transition planning for a public school student enrolled in a special education program.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 1 (Section 29.011, Education Code) and SECTION 3 (Section 29.017, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 29.011, Education Code, as follows:

Sec. 29.011. TRANSITION PLANNING. (a) Requires the commissioner of education (commissioner), by rule, to adopt procedures for compliance with federal requirements relating to transition services for students who are enrolled in special education programs. Requires that the procedures specify the manner in which a student's admission, review, and dismissal committee are required to consider, and if appropriate, address the following issues in the student's individualized education program:

- (1) makes no changes to this subdivision;
- (2) if the student is younger than 18 years of age, appropriate involvement, rather than appropriate parental involvement, in the student's transition by the student's parents and other persons invited to participate by:
 - (A) the student's parents; or
 - (B) the school district in which the student is enrolled;
- (3) if the student is at least 18 years of age, involvement, rather than appropriate parental involvement, in the student's transition and future by the student's parents and other persons, if the parent or other person:

(A) creates this paragraph from existing text and makes nonsubstantive changes to this paragraph; or

(B) has the student's consent to participate pursuant to a supported decision-making agreement under Chapter 1357 (Supported Decision-Making Agreement Act), Estates Code;

(4) appropriate postsecondary education options, rather than any postsecondary education options, including preparation for postsecondary-level coursework;

(5) an appropriate functional vocational evaluation;

(6) appropriate employment goals and objectives;

(7) if the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives;

(8) appropriate independent living goals and objectives;

(9) appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits, including referral to a governmental agency to place the student on a waiting list for public benefits available to the student, such as a waiver program established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)); and

(10) the use and availability of appropriate supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills and supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Chapter 1357, Estates Code.

(a-1) Requires a student's admission, review, and dismissal committee to annually review the issues described by Subsection (a) and, if necessary, update the portions of the student's individualized education program that address those issues.

(a-2) Requires the commissioner to develop and post on the Texas Education Agency's (TEA's) Internet website a list of the services and public benefits for which referral may be appropriate under Subsection (a)(9).

(b) Requires an individual designated under this subsection to provide information and resources about effective transition planning and services, including each issue described by Subsection (a), and interagency coordination to ensure that local school staff communicate and collaborate with:

(1) makes no changes to this subdivision; and

(2) as appropriate, local and regional staff of the Health and Human Services Commission (HHSC), Texas Workforce Commission, Department of State Health Services (DSHS), and Department of Family and Protective Services (DFPS), rather than HHSC, Department of Aging and Disability Services, Department of Assistive and Rehabilitative Services, DSHS, and DFPS. Makes conforming changes.

(c) Requires the commissioner to review and, if necessary, update the minimum training guidelines developed under Subsection (b) at least once every four years. Requires the commissioner, in reviewing and updating the guidelines, to solicit input from stakeholders.

SECTION 2. Amends Sections 29.0112(b) and (e), Education Code, as follows:

(b) Requires that the transition and employment guide be written in plain language and contain information specific to this state regarding:

(1) through (3) makes no changes to these subdivisions;

(4) community and long-term services and support, including the option to place the student on a waiting list with a governmental agency for public benefits available to the student, such as a waiver program established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c));

(5) and (6) makes no changes to these subdivisions;

(7) guardianship and alternatives to guardianship, including a supported decision-making agreement under Chapter 1357, Estates Code;

(8) and (9) makes no changes to these subdivisions.

(e) Requires a school district to:

(1) makes a nonsubstantive change to this subdivision;

(2) provide written information and, if necessary, assistance to a student or parent, rather than to a parent, regarding how to access the electronic version of the guide at:

(A) makes a nonsubstantive change to this paragraph; and

(B) the first committee meeting at which transition is discussed that occurs after the date on which the guide is updated; and

(3) on request, provide a printed copy of the guide to a student or parent, rather than the date the guide becomes available, if a student has already had an admission, review, and dismissal committee meeting discussing transition.

SECTION 3. Amends Section 29.017, Education Code, by amending Subsections (c) and (d) and adding Subsections (c-1), (c-2), (c-3), (e), and (f), as follows:

(c) Requires the school district at which the student is enrolled, not later than one year before the 18th birthday of a student with a disability, to:

(1) provide to the student and the student's parents:

(A) written notice regarding the transfer of rights under this section; and

(B) information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement under Chapter 1357, Estates Code, and other supports and services that may enable the student to live independently; and

(2) ensure that the student's individualized education program includes a statement that the district provided the notice, information, and resources required under Subdivision (1).

(c-1) Requires the school district, in accordance with 34 C.F.R. Section 300.520, rather than Section 300.517, to provide written notice to the student and the student's parents of the transfer of rights under this section. Requires that the notice include the information and resources described by Subsection (c)(1)(B). Creates this subsection from existing text.

(c-2) Requires the school district, if a student with a disability or the student's parent requests information regarding guardianship or alternatives to guardianship from the school district at which the student is enrolled, to provide to the student or parent information and resources on supported decision-making agreements under Chapter 1357, Estates Code.

(c-3) Requires the commissioner to develop and post on TEA's Internet website a model form for use by school districts in notifying students and parents as required by Subsections (c) and (c-1). Requires that the form include the information and resources described by Subsection (c). Requires the commissioner to review and update the form, including the information and resources, as necessary.

(d) Requires the commissioner to develop and post on TEA's Internet website the information and resources described by Subsections (c), (c-1), and (c-2).

(e) Provides that nothing in this section prohibits a student from entering into a supported decision-making agreement under Chapter 1357, Estates Code, after the transfer of rights under this section.

(f) Creates this subsection from existing text. Requires the commissioner to adopt rules to implement the provisions of 34 C.F.R. Section 300.520(b), rather than 300.517(b).

SECTION 4. Provides that this Act applies beginning with the 2018-2019 school year.

SECTION 5. Effective date: upon passage or September 1, 2017.