

BILL ANALYSIS

S.B. 219
By: Schwertner
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2003, H.B. 2292 reorganized the health and human services system in Texas, consolidating 12 health and human services agencies into the five agencies currently in operation today: the Health and Human Services Commission (HHSC), the Department of Aging and Disability Services, Department of Assistive and Rehabilitative Services, Department of Family and Protective Services, and Department of State Health Services.

The legislation required HHSC to develop a specific work plan to accomplish the transition that included a planning phase, an integration phase, an optimization phase, and a transformation phase. The phases of the plan were meant to allow the new agencies to continue adjusting systems and organizational arrangements while working toward the ultimate goal of a single system of integrated services working as a unified whole. To guide this massive transition, the bill provided for a seven-member oversight committee charged with approving HHSC's transition plan, which was required to be developed by December 1, 2003. As a result, the newly formed health and human services system was in place a little over one year after enactment of H.B. 2292.

Currently, many Texas statutes relating to the provision and administration of health and human services are out of date. Across the codes, portions of law exist that do not reflect the rulemaking authority of the executive commissioner of the Health and Human Services Commission. Other provisions contain references to outdated or expired entities or fail to reflect the transfer of duties and responsibilities to the appropriate legacy agency. Some sections contain terminology that has been recognized as offensive or insensitive. Finally, several sections have become obsolete due to subsequently enacted laws or incorrectly reflect current practices with regard to the imposition, collection, and disposition of certain fees and interest.

It has been noted that, since the 1990s, the laws governing the health and human services agencies have been increasingly difficult for the people of Texas to understand. Lawmakers have also faced difficulty in attempting to write new laws based on existing statutes relating to health and human services because of this outdated language. Legislative drafters have tried to write around these issues by using passive language, adding definitions, and referring to portions of existing law that should have been located in the code but are instead available only through the state's online statute database. There is concern that these laws will become incomprehensible without prompt action from state legislators.

S.B. 219 seeks to clarify and update the health and human services statutes to accurately reflect the mandates of H.B. 2292, to make the law more understandable and accessible for everyone, including stakeholders and the public, and to allow lawmakers to focus on making the vital policy changes that are needed to improve the provision of health and human services in Texas.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase

the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution. However, the bill amends statute in three ways to reflect the rulemaking authority granted to the executive commissioner of the Health and Human Services Commission in Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003. First, incorrect references to former boards or departments having rulemaking authority are conformed to the rulemaking provision in 531.0055, Government Code, as added by H.B. 2292, by replacing a reference to such an entity with a reference to the executive commissioner. Second, new language is added to the enabling statutes of the health and human services agencies to reflect the relationship between the executive commissioner and those agencies. Third, reference to fees and statutory directives being adopted in rule are added to statute to reflect the Administrative Procedure Act requirement that such agency policies be adopted by rule. It is the committee's opinion that these amendments do not confer additional rulemaking authority.

ANALYSIS

S.B. 219 amends provisions of the Family Code, Government Code, Health and Safety Code, Human Resources Code, and Occupations Code relating to the provision of health and human services. The bill provides statutory language to reflect current health and human services agency functions and practices and repeals obsolete, duplicative, or superseded provisions of law. The bill replaces references to an abolished or obsolete state agency, program, or officer with references to the appropriate legacy agency, program, or officer. The bill conforms statutory language to person-first respectful language requirements, including replacing references to an intermediate care facility for the mentally retarded (ICF-MR) with references to an intermediate care facility for individuals with an intellectual or developmental disability (ICF-IID). The bill sets out the rulemaking process for the state's health and human services agencies, amends statutory language to reflect the rulemaking authority granted to the executive commissioner of the Health and Human Services Commission in Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, and conforms statutory provisions to reflect the rulemaking requirements of the Administrative Procedure Act. The bill conforms statutory language, including language relating to certain administrative duties of the executive commissioner and of a health and human services agency or officer to previously enacted legislation and certain bill drafting conventions.

Article 1. Family Code

S.B. 219 amends Family Code provisions relating to juvenile justice proceedings concerning children with mental illness or intellectual disability to reflect the transfer of the powers and duties of the former Texas Department of Mental Health and Mental Retardation to the Department of State Health Services and the Department of Aging and Disability Services. The bill provides rulemaking procedures for the executive commissioner of the Health and Human Services Commission and the Department of Family and Protective Services and amends statutory provisions relating to the investigation of reports of child abuse or neglect and procedures in certain suits to protect the health and safety of a child to conform to certain bill drafting conventions and to more accurately reflect current agency practices as directed by previously enacted legislation.

Article 2. Government Code

S.B. 219 amends the Government Code to outline the responsibility of the executive commissioner of the Health and Human Services Commission to develop procedures for

adopting rules for the health and human services agencies that specify the manner in which those agencies participate in the rulemaking process. The bill describes the duties of the executive commissioner and of a health and human services agency in developing policies and guidelines needed for the administration of the agency's functions and provides for the implementation of a proposed policy or guideline by an agency.

S.B. 219 amends statutory provisions relating to eligibility for appointment as the executive commissioner to reflect the transfer of the powers and duties of the former Texas Department of Mental Health and Mental Retardation to the Department of State Health Services and the Department of Aging and Disability Services. The bill amends provisions regarding administrative responsibilities, powers, and duties relating to the organization of the Health and Human Services Commission, guardianship services, the Medicaid program, and the Medicaid managed care program. The bill provides rulemaking procedures in statutory provisions relating to grants awarded to certain guardianship programs and the administration of certain block grants.

S.B. 219 removes obsolete or duplicative statutory provisions relating to certain health and human services programs, duties, functions, and entities. The bill changes outdated references to public health hospitals and the Nursing Home Consumer Assessment of Healthcare Providers and Systems survey. The bill standardizes references to the Medicaid program, the supplemental nutrition assistance program, the child health plan program, and the financial assistance program. The bill updates and standardizes references to federal law.

Article 3. Health and Safety Code

S.B. 219 amends the Health and Safety Code to express the legislature's intent for the executive commissioner of the Health and Human Services Commission to retain the authority over and responsibility for contracting and auditing at each health and human services agency, to provide for the delegation of that authority to the Department of State Health Services (DSHS), and to provide for the executive commissioner's oversight authority to manage and direct the operations of DSHS. The bill transfers Health and Safety Code provisions governing external audits of certain Medicaid contractors based on risk and electronic transactions in Medicaid to the Human Resources Code.

S.B. 219 amends statutory provisions relating to DSHS and the Department of Aging and Disability Services (DADS), public health programs and the care and the treatment of certain populations, mental health and intellectual disability services and facilities, and certain health and treatment facilities and institutions to reflect the transfer of the powers and duties of the former Texas Department of Mental Health and Mental Retardation to DSHS and DADS. The bill conforms provisions relating to DSHS chemical dependency services and programs to reflect Chapter 461, Health and Safety Code, as it existed on August 31, 2009, and Section 1.19(a)(3), Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003.

S.B. 219 amends statutory provisions regarding certain administrative responsibilities, powers, and duties and rulemaking procedures for the executive commissioner and other health and human services agencies and officers. The bill updates the definitions of terms regarding the Medicaid program and standardizes references to the Medicaid program and the financial assistance program. The bill updates and standardizes references to federal law and makes related conforming changes.

S.B. 219 amends certain statutory provisions regarding the setting and collecting of licensing fees and the term of a license to accurately reflect administrative duties and to conform to previously enacted legislation. The bill removes superseded statutory provisions regarding interest in certain dedicated funds. The bill removes obsolete and duplicative statutory provisions relating to health and human services programs, duties, functions, entities, and funds. The bill updates certain references to public health hospitals and to various medical and industry-specific

terms and publications.

S.B. 219 amends statutory provisions governing certain health facility and occupational licenses; sanitation and environmental quality; food, drugs, alcohol, and hazardous substances; emergency services; and the health and safety of animals to accurately reflect the administrative hearings process, including provisions regarding administrative penalties and the posting of a supersedeas bond. The bill amends certain statutory provisions, including provisions relating to reimbursement of council and advisory committee members, to conform to certain bill drafting conventions and to more accurately reflect current agency functions and practices as directed by previously enacted legislation.

Article 4. Human Resources Code

S.B. 219 amends the Human Resources Code to express the legislature's intent for the executive commissioner of the Health and Human Services Commission to retain the authority over and responsibility for contracting and auditing at each health and human services agency, to provide for the delegation of that authority to the Department of Family and Protective Services, the Department of Assistive and Rehabilitative Services, and the Department of Aging and Disability Services, as appropriate, and to provide for the executive commissioner's oversight authority to manage and direct the operations of those agencies.

S.B. 219 amends statutory provisions relating to the powers, duties, functions, and administration of the Health and Human Services Commission (HHSC); the administration and coordination with the Texas Workforce Commission for the provision of certain assistance programs, including the Temporary Assistance for Needy Families (TANF) program and the Medicaid program; and the provision of services through family violence centers to reflect the transfer of the powers and duties from the former Texas Department of Human Services. The bill conforms provisions relating to state services for the aging to reflect Chapter 101, Human Resources Code, as it existed on August 31, 2006, and Section 1.20(a)(1), Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003.

S.B. 219 amends statutory provisions relating to nutritional assistance programs to reflect HHSC's administrative responsibility for the supplemental nutrition assistance program (SNAP) and the Department of Agriculture's administrative responsibility for the commodity distribution program. The bill describes certain administrative duties and provides for rulemaking procedures of the executive commissioner and other state agencies and officers. The bill amends statutory provisions regarding the setting and collecting of fees to accurately reflect administrative duties and to conform to previously enacted legislation.

S.B. 219 removes obsolete and duplicative statutory provisions relating to certain health and human services programs, duties, functions, entities, and funds. The bill conforms statutory provisions to certain bill drafting conventions and amends the provisions to accurately reflect current agency functions and practices as directed by previously enacted legislation. The bill updates terms regarding and standardizes references to the Medicaid program, TANF, and SNAP. The bill updates and standardizes references to federal law.

Article 5. Occupations Code

S.B. 219 amends the Occupations Code to amend statutory provisions regarding the setting and collecting of licensing fees and the term of a license to accurately reflect administrative duties and to conform to previously enacted legislation. The bill amends statutory provisions regulating midwives, marriage and family counselors, licensed professional counselors, perfusionists, respiratory care practitioners, orthotists and prosthetists, code enforcement officers, sanitarians, licenses to perform asbestos-related activities, and mold assessors and remediators to provide requirements regarding notice of a violation and penalty and the administrative hearings process, including provisions regarding the posting of a supersedeas bond. The bill removes obsolete and

duplicative statutory provisions relating to certain health and human services functions and entities. The bill describes administrative duties and provides for rulemaking procedures of the executive commissioner of the Health and Human Services Commission and other state agencies and officers.

Article 6. Changes Affecting Other Codes

S.B. 219 amends the Agriculture Code, Code of Criminal Procedure, and Education Code to replace references to an abolished or obsolete state agency or official with references to the appropriate legacy agency or official. The bill amends language in the Agriculture Code and Code of Criminal Procedure to conform to person-first respectful language requirements. The bill amends provisions of the Agriculture Code to reflect the rulemaking authority granted to the executive commissioner of the Health and Human Services Commission in Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003.

S.B. 219 amends the Estates Code to make a conforming change.

Repealers

Article 1 repeals the following provisions of the Family Code:

Section 101.002	Section 161.002(c)	Section 162.305
Sections 261.001(3) and (8)	Section 262.008(c)	Section 263.1015
Section 264.007	Section 264.105	Section 264.106
Section 264.1063	Section 264.107(f)	Section 264.206
Sections 264.501(2) and (5)	Subchapter H, Chapter 264	

Article 2 repeals the following provisions of the Government Code:

Section 531.02131	Section 531.0222	Section 531.0249
Section 531.030	Section 531.0314	Section 531.046
Section 531.049	Section 531.065	Section 531.0993
Section 531.1063	Section 531.286	Section 531.552
Section 531.902	Section 531.905	Section 533.0025(a)
Subchapter D, Chapter 533	Section 534.001(10)	Sections 536.001(4) and (13)
Section 537.001	Section 538.001	

Article 3 repeals the following provisions of the Health and Safety Code:

Section 11.002	Section 11.003(a)	the heading to Section 11.004
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Section 11.004(a)	Sections 11.0045, 11.005, 11.0055, 11.006, 11.007, 11.008, 11.009, 11.010, and 11.011	the heading to Section 11.012
Section 11.012(e)	Section 11.013	Section 11.015
Section 11.0161	Section 11.017	Section 11.018
Section 12.0123, as added by Chapters 1447 and 1460, Acts of the 76th Legislature, Regular Session, 1999	Section 12.017	Subchapter C, Chapter 12
Sections 33.018(a)(2) and (3) and 33.051(1) and (2)	Sections 34.001(1), (2), and (3)	Sections 42.002(1) and 42.005(e)
Section 47.0035	Sections 48.001(2), (3), (5), and (6)	Section 61.002(1)
Sections 62.002(1) and (2)	Section 62.055(d)	Section 62.059
Section 62.101(b-1)	Section 62.1012	Section 63.001
Sections 81.043(c) and (d) and 81.050(i)	Section 85.013	Sections 85.083 and 85.084
Subchapter F, Chapter 85	Sections 85.271(1) and (3)	Sections 87.001(5) and (10)
Section 88.001(12)	Section 92.008	Section 93.011
Sections 96.001(1) and (2)	Sections 98.001(3), (4), and (5)	Section 101.0075
Section 103.0105	Sections 103A.001(1) and (3)	Sections 104.002(1), (2), (3), and (4)
Section 105.008	Chapter 112	Sections 115.001(2) and (3)
Sections 117.001(1) and (3)	Sections 141.013(b) and 141.017(e)	Sections 142.001(10) and (11-b)
Section 142.015	Section 142.016	Section 144.082(e)
Section 146.019(s)	Section 161.0901	Section 162.017
Sections 181.001(b)(1) and (2-b)	Section 241.024	Section 241.181, as added by Chapter 217 (H.B. 15), Acts of the 83rd Legislature, Regular Session, 2013
Section 242.004	Section 242.094(e), as added by Chapter 583 (S.B. 28), Acts of the 73rd Legislature, Regular Session, 1993	Section 244.002(2)
Section 244.008	Section 245.002(3)	Section 245.008

Sections 247.006 and 247.047	Section 248.029(e)	Section 251.001(1)
Sections 252.045 and 252.099	Section 254.051(f)	Sections 311.004(b) and 311.031(1)
Sections 312.002(1) and (2)	Section 321.002(e)	Section 341.001(1)
Section 345.043(b)	Sections 401.003(2), 401.249(d), and 401.501(2)	Sections 431.002(3), (4), (7), and (12), 431.045(d), 431.055(e), 431.2021, 431.243, 431.247(a), 431.2471, 431.275, and 431.277
Sections 432.003(1), (2), and (4) and 432.022(e)	Sections 433.003(4) and 433.095(e)	Sections 436.002(4), (5), (13), and (17)
Sections 437.001(1), (2), (3), and (3-a)	Section 438.041(1)	Section 438.042(b), as added by Chapter 885 (H.B. 1682), Acts of the 72nd Legislature, Regular Session, 1991
Section 438.101(1)	Section 438.151	Section 439.004
Sections 440.003(2), (3), (4), and (15)	Section 441.001	Chapter 461
Section 462.001(4)	Chapter 463	Sections 464.001(2) and 464.013
Sections 466.002(2) and (3)	Section 466.023(g)	Subchapters A and C, Chapter 468
Section 485.001(3)	Section 486.001(a)(2)	Section 501.001(1)
Sections 502.003(2) and (8)	Section 502.0141(e)	Section 503.001(1)
Sections 505.004(2) and (6) and 505.011(f)	Sections 506.004(2) and (6) and 506.011(f)	Sections 507.004(2) and (6) and 507.010(f)
Chapter 535	Sections 552.0011(1) and (5)	the headings to Subchapters A and B, Chapter 553
the heading to Subchapter A, Chapter 554	Sections 555.001(5) and (9)	Section 571.003(1)
Sections 577.0011 and 577.006(d)	Sections 591.003(2) and (21) and 591.012	Section 592.101
Section 593.079	Sections 756.081(2) and (3)	Sections 773.003(3), (4), and (5), 773.005, and 773.066(f)
Section 781.001(3)	Section 782.002(b), as added by Chapter 1027 (H.B. 1623), Acts of the 80th Legislature, Regular Session, 2007	Section 782.003(a), as added by Chapter 1027 (H.B. 1623), Acts of the 80th Legislature, Regular Session, 2007

Section 821.051(3)	Section 822.101(2)	Sections 823.001(2) and (3)
Sections 826.002(2) and (4)	Section 828.015	Section 1001.076
Sections 1002.001(2), (3), and (4)		

Article 4 repeals the following provisions of the Human Resources Code:

Section 21.001	Section 21.002	Section 21.003
Section 21.0031	Section 21.0032	Section 21.004
Section 21.005	Section 21.0051	Section 21.0052
Section 21.006	Section 21.00605	Section 21.0061
Section 21.008	Section 21.009	Section 21.010
Section 21.014	Section 21.015	Section 21.016
Section 21.018	Section 21.019	Sections 22.005(a), (b), (c), and (e)
Section 22.010	Section 22.018(e)	Section 22.0291
Section 22.034	Section 22.037	Section 22.038
Section 31.0037	Section 31.005(c)	Section 31.009
Section 31.0125	Section 31.014	Section 31.031(g)
Sections 31.0355(d), (e), and (f)	Sections 32.003(2) and (3)	Sections 32.024(j), (k), and (m)
Section 32.0246	Section 32.027(b)	Section 32.030
Section 32.041	Sections 32.052(e) and (f)	Section 32.060
Section 32.101(1)	Section 32.201(2)	Section 32.251(5)
Section 33.007	Section 33.010	Section 33.026(a)
Section 33.051	Sections 40.001(2) and (4-a)	Section 40.0562
Section 40.0563	Section 40.058(b-1)	Section 42.0221
Section 48.002(a)(7)	Section 73.002	Section 73.0021
Section 73.0022	Section 73.0023	Section 73.0024
Section 73.0025	Section 73.0052	Sections 73.006(a), (c), and (d)
Sections 73.022(c), (d), and (e)	Section 73.023	Section 74.006(c)

Section 81.001(1)	Section 81.002	Section 81.0021
Section 81.0022	Section 81.003	Section 81.004
Section 81.005	Section 81.0051	Section 81.008
Section 81.009	Section 81.014	Section 91.001
Section 91.002(1)	Section 91.011	Sections 91.012(a), (b), and (c)
Section 91.013	Section 91.014(b)	Section 91.015
Sections 91.016(a), (b), (c), and (d)	Section 91.017	Sections 91.018(a), (b), (d), (e), (f), and (g)
Section 91.020	Chapter 101	Section 103.0075(d)
Section 103.010(b)	Sections 111.002(1) and (8)	Sections 111.011, 111.012, 111.013, 111.0131, 111.0132, 111.014, and 111.015
Section 111.017, as amended by Chapters 393 (H.B. 1402) and 1460 (H.B. 2641), Acts of the 76th Legislature, Regular Session, 1999	Sections 111.018(c), (d), (e), (f), (g), and (h)	Section 111.020
Section 111.024	Section 111.025	Section 111.026
Section 111.055(b)	Chapter 116	Section 121.0015
Sections 122.0011 and 122.002(2)	Chapter 134	Section 136.002(4)
Section 22.005(d), as amended by Chapters 1050 (S.B. 71) and 1083 (S.B. 1179), Acts of the 82nd Legislature, Regular Session, 2011		

Article 5 repeals the following provisions of the Occupations Code:

Section 110.001(1)	Section 352.002(1)	Section 353.002(1)
Section 402.001(1)	Section 403.001(1)	Section 503.002(1-a)
Section 503.206	Section 505.002(2-a)	Section 603.2041(e)
Section 605.002(2)	Section 1954.002(6)	Sections 1954.056(b), (c), and (d)
Section 1958.055(b)	Chapter 2152	

Article 6 repeals the following statutory provisions:

the heading to Subchapter A, Chapter 15, Agriculture Code	Section 1, Chapter 112 (H.B. 434), Acts of the 55th Legislature, Regular Session, 1957 (Article 12691-2, Vernon's Texas Civil Statutes)
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EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.