

BILL ANALYSIS

C.S.H.B. 12
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Research indicates that providing early childhood intervention services to certain young children who suffer from a diagnosed medical condition, an auditory or visual impairment, or a developmental delay prevents the need for more services later on in life. It has been noted that tens of thousands of children in Texas receive such services from service providers such as physical, occupational, and speech therapists; audiologists; dietitians; and behavior analysts. Concerns have been raised regarding decreased funding and other factors that have placed certain burdens on those providers and hindered the ability of children to receive sufficient early intervention services with respect to their conditions. C.S.H.B. 12 seeks to address these issues by providing for additional support for providers of early childhood intervention services.

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 rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 2 and 3 of this bill.

ANALYSIS

C.S.H.B. 12 amends the Human Resources Code, with respect to the referral of a child who is under three years of age and meets certain other criteria for appropriate medical or developmental screening or evaluation services, to replace the authorization for the child and the child's family to be referred for such services with the authorization for the child and the child's parent, guardian, or other legally authorized representative to be referred for such services.

C.S.H.B. 12 requires the executive commissioner of the Health and Human Services Commission (HHSC) to designate an ombudsman for providers of early childhood intervention services, establishes that the ombudsman's office is administratively attached to the office of the ombudsman for HHSC, and provides for alternate references to the title of the ombudsman's office created by the bill in provider-directed materials. The bill establishes that the ombudsman serves as a neutral party to assist providers of early childhood intervention services, including through the STAR Kids managed care program. The bill requires the ombudsman to:

- provide dispute and complaint resolution services;
- perform provider protection and advocacy functions;
- collect inquiry and complaint data; and
- at least annually, submit a report to HHSC relating to the inquiry and complaint data and make recommendations to HHSC on how to improve the provision of early childhood

intervention services.

C.S.H.B. 12 requires the executive commissioner by rule to adopt and ensure the use of the ombudsman procedures for the reporting, monitoring, and resolution of disputes and complaints that are consistent with the procedures adopted and used under Medicaid.

C.S.H.B. 12 adds a temporary provision set to expire September 1, 2021, requiring the executive commissioner to request clear direction and guidance from the federal Centers for Medicare and Medicaid Services on the reimbursement methodology that may be used for the provision of case management services for early childhood intervention services, including direction on allowable and unallowable costs. The bill requires HHSC, not later than December 1, 2019, to issue guidance to health benefit plan issuers clarifying that providers of early childhood intervention services must file claims using the national provider identifier number and Texas provider identifier number.

C.S.H.B. 12 requires HHSC, not later than January 1, 2020, to develop and implement a tele-connective pilot program to provide early childhood intervention services to eligible children through the provision of telehealth and telemedicine medical services delivered using access points established in one or more education service center regions selected for implementation of the program. Access points may be established at schools, regional education service centers, and other entities located in an education service center region in which the program is implemented, in home-based settings, and through other modes HHSC determines appropriate. The bill requires HHSC, in developing and implementing the pilot program, to ensure the program aligns with the provision of existing telehealth and telemedicine medical services.

C.S.H.B. 12 requires HHSC, in cooperation with the Texas Education Agency (TEA), to select the education service center regions in which to implement the pilot program and requires HHSC and TEA, in making such a determination, to consider each region in which there is a low or inadequate number of authorized providers of early childhood intervention services or a significant risk of losing such service providers and to implement the program only in regions in which the implementation is reasonable and feasible.

C.S.H.B. 12 requires HHSC to ensure that all providers of early childhood intervention services, including school districts, are allowed to participate as providers in the pilot program and provide services both inside and outside a school-based setting. The bill requires HHSC to track the service hours of providers participating in the pilot program.

C.S.H.B. 12 requires HHSC, in consultation with TEA, to establish any school-based provider access points under the pilot program and to ensure that an adequate number of school-based and non-school-based access points are established in education service center regions participating in the program. The bill requires HHSC and TEA, when selecting the access points, to consider the availability of existing infrastructure. The bill adds a temporary provision set to expire January 1, 2021, requiring HHSC, not later than September 1, 2020, to conduct an evaluation of the pilot program to ensure that an adequate number of access points have been established in each education service center region selected for implementation of the program.

C.S.H.B. 12 requires the executive commissioner of HHSC, after receiving recommendations from the advisory committee established to assist HHSC in the performance of its duties with respect to the early childhood intervention program, by rule to establish which eligible children will be automatically enrolled in the pilot program. The bill authorizes the parent, guardian, or other legally authorized representative of an eligible child, at any time, to elect to opt the child out of the pilot program. A child who is enrolled in the pilot program may receive early childhood intervention services through the program only to the extent the services are available and suitable. The bill establishes that enrollment in the pilot program does not prevent a child from receiving early childhood intervention services in the child's home or other natural

environment.

C.S.H.B. 12 requires TEA to develop a training course on the pilot program to be given to appropriate school district employees. The bill requires the parent, guardian, or other legally authorized representative of an eligible child to be present during an initial screening or evaluation under the pilot program and requires the parent, guardian, or representative to be given the opportunity to opt the child out of the program at the time of the child's initial screening or evaluation. After a child is enrolled in the pilot program, early childhood intervention services, including any initial treatment or prescription, that are delivered or issued by a physician or by a health care provider acting under the delegation or supervision of the physician or under the health care provider's license may be provided using telecommunications or other information technology.

C.S.H.B. 12 requires the executive commissioner of HHSC, in adopting rules governing the pilot program, to ensure that provider reimbursement for a telehealth or telemedicine medical service is made at a rate that is comparable to the rate paid under Medicaid for the provision of the same or substantially similar services. The bill requires HHSC to ensure that the pilot program complies with federal and Texas law regarding confidentiality of medical information.

C.S.H.B. 12 requires HHSC, not later than January 1, 2021, to submit an initial report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over the early childhood intervention program and requires the report to evaluate the operation of the pilot program and make recommendations regarding the continuation or expansion of the program. The bill requires HHSC to actively seek and apply for any available federal money to support the pilot program. The bill's provisions relating to the tele-connective pilot program expire September 1, 2023.

C.S.H.B. 12 amends the Labor Code to require the Texas Workforce Commission to actively seek and apply for federal funding to establish a program designed to provide workforce development grants to providers participating in the early childhood intervention program for purposes of improving the provision of program services by offering providers appropriate education and training.

C.S.H.B. 12 requires HHSC to request guidance from the federal Centers for Medicare and Medicaid Services or other appropriate federal agency regarding the feasibility of receiving a waiver or other authorization necessary to provide through Medicaid early childhood intervention services to children who are eligible to receive those services but who are not eligible for Medicaid and do not have private health benefits coverage. The bill requires HHSC, as soon as practicable after receiving such guidance, to prepare a report on how best to provide to children such coverage and to submit the report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over the early childhood intervention program.

C.S.H.B. 12 requires HHSC, after consulting with TEA, other appropriate state agencies, and the advisory committee established to assist HHSC in the performance of its duties with respect to the early childhood intervention program, to conduct a financial evaluation of the early childhood intervention services provided under the program, as amended by the bill, and report on that evaluation. The bill requires the report to quantify the amount by which providing early childhood intervention services in Texas affects other budget strategies, including the budget strategies of school districts, regional education service centers, and other affected governmental entities. The bill requires HHSC, not later than September 1, 2020, to submit the report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over the early childhood intervention program.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 12 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include provisions relating to the following:

- a prohibition against requiring prior authorization for the provision of early childhood intervention program services for recipients under the STAR health program or STAR kids managed care program; and
- the provision of health benefit plan coverage for children with developmental delays for certain rehabilitative and habilitative therapies by a person certified as an early intervention specialist.

The substitute, with regard to the pilot program:

- changes the location of the access points in which early childhood intervention services through the provision of telehealth and telemedicine medical services are delivered from schools and school districts selected to participate in the program to one or more education service center regions selected for implementation of the program; and
- clarifies that access points may be established at schools, regional education service centers, and other entities located in an education service center region in which the program is implemented, in home-based settings, and through other modes HHSC determines appropriate.