

SUBJECT: Parent or guardian involvement with children placed in certain institutions

COMMITTEE: Human Services — committee substitute recommended

VOTE: 6 ayes — Hupp, A. Allen, J. Davis, Gonzalez Toureilles, Naishtat, Paxton

0 nays

3 absent — Eissler, Goodman, Reyna

WITNESSES: For — Colleen Horton, Texas Center for Disability Studies; Bob Kafka, ADAPT of Texas, Institute for Disability Access; Amy Mizcles, The Arc of Texas; Susan Murphree, Advocacy, Inc.; (*Registered, but did not testify*: Dennis Borel, Coalition of Texans with Disabilities; Jennifer McPhail, ADAPT of Texas; Lee Spiller, Citizens Commission on Human Rights; Rona Statman, Texas Advocates; Cathy Cranston; Ron Cranston; Karen Greebon; Melanie Oldham; Denise Sonleitner; JT Templeton)

Against — Richard Hernandez; (*Registered, but did not testify*: Hugo Berlanga, Texas Management Inc.; Greg Hooser and Carole Smith, Private Providers Association of Texas; Dennis Tucker)

On — (*Registered, but did not testify*: Adelaide Horn, Department of Aging and Disability Services)

BACKGROUND: Children with mental retardation, mental illness, or another disability may be placed in an institutional care setting. In Texas, these facilities – including intermediate care facilities for the mentally retarded (ICF-MR's), nursing homes, and state-operated group homes – are regulated by the Health and Human Services Commission (HHSC) and Department of Aging and Disability Services (DADS).

DIGEST: CSHB 2479 would require HHSC and DADS to establish a system by which the response to every request for institutional placement of a child would include information about community-based and other support options for which the child could be eligible. That information would be provided through local mental health authorities, private entities, or DADS within 14 days of a request for placement, and the information also could be provided by an institution.

DADS would be required to develop information about options for community-based services and the benefits of living in the community. This information also would indicate that placement in an institution was considered temporary and that ongoing permanency planning was required by state law. DADS also would collect data about parental involvement and make it available in aggregate to the public.

The information requirements would not apply to a request for placement in an institution if the child were involved in an emergency situation or committed to an institution because of incompetence to stand trial.

A family admitting a child to an institution would be required to submit an admission form that included:

- contact information, including the parent or guardian's driver's license number and employment information;
- an emergency contact's information, including driver's license number and employment information; and
- a statement acknowledging responsibility to keep the information current and make every effort to participate in the child's life and in planning activities for the child.

DADS also would require a nursing facility to request written reauthorization of a child's plan of care at least annually and to obtain consent to transfer the child, if it were applicable and an emergency.

The local mental retardation authority would be notified by an ICF-MR or state-operated group home of a request for placement, and DADS would be notified by a nursing facility.

ICF-MR's, state-operated group homes, and nursing facilities would be required reasonably to accommodate parents or guardians in planning and decision making about the child's care, including conducting meetings at a time mutually agreed upon and making information and meetings accessible if the parent or guardian had a disability.

An ICF-MR or nursing home specifically would be required to notify parents or guardians of permanency planning meetings and reviews at least 21 days before the meeting and of any emergency situation involving the child. If notification of the meeting received no response, the ICF-MR or nursing home would have to notify DADS within 30 days after the

meeting and request that a search be conducted. If the search were unsuccessful after one year, DADS would refer the case to child or adult protective services, which then also would search. If that proved fruitless, the child would be considered abandoned, and DADS would request an order appointing the department as the child's temporary managing conservator.

HHSC and DADS would have to adopt all needed rules by September 1, 2006. The bill would apply only to requests for placement and children admitted to an institution on or after September 1, 2006. If a parent or guardian signed an acknowledgement of responsibility, the provisions of the bill would apply regardless of the date of placement. The bill would take effect September 1, 2005.

**SUPPORTERS
SAY:**

The state should encourage parents to be as fully involved as possible in the care decisions for their children. At the initial stage, this would include informing parents of community care options so that they could make a fully informed decision about what would be best for their child. On an ongoing basis, parents should be notified when planning decisions are made and should be able to participate.

Parents should not be able to abandon their children in institutions. A parent who does not participate and cannot be found by the department cannot represent the child's interests. Sometimes the state is more interested in a child's welfare than a parent.

CSHB 2579 would not close any options to parents of children with disabilities. At one time, the most appropriate setting for a child with a serious disability may have been in an institution, and parents who placed their children in them are concerned that the state intends to close those options to them. Simply providing information and requiring parents to remain involved would not jeopardize parents' options to place their children in any specific setting.

**OPPONENTS
SAY:**

This bill would be another way for the state to shift its focus and resources from the homes where children with disabilities have thrived for years and instead push living in the community. All of the information that DADS would be required to prepare would be pro-community and could make a parent feel extremely guilty about choosing another setting, even if it were more appropriate.

NOTES:

The committee substitute differs from the bill as introduced by requiring DADS to "attempt to" contact parents, rather than simply requiring contact; requiring information be requested from parents rather than requiring DADS to obtain it; exempting children committed to an institution from the pre-admission information disclosure; and adding local mental health authorities to DADS as entities that would have to provide information after a request for placement. The committee substitute also changed which entities could provide pre-admission information to parents and the timeframe for doing so; removed a requirement that a parent or guardian disclose a Social Security number on the admission form; and added the requirement that DADS collect and publish aggregate information about parental involvement.