SUBJECT: Creating ombudsman and telehealth pilot for early childhood intervention

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Frank, Hinojosa, Clardy, Deshotel, Klick, Meza, Miller, Noble

0 nays

1 absent — Rose

WITNESSES: For — Chasey Reed-Boston, Bay Area Rehabilitation Center; Stephanie Rubin, Texans Care for Children; Clayton Travis, Texas Pediatric Society; Christie Shaw, West Texas Centers ECI; Lauren Gerken; (*Registered, but did not testify*: Veronda Durden, Guillermo Lopez, Jennifer Peterson, Any Baby Can; Cynthia Humphrey, Association of Substance Abuse Programs; Jacquie Benestante, Autism Society of Texas; Brenda Frizzell, Bluebonnet Trails Community Services; Jason Sabo, Children at Risk; Yuchen Ji, Children's Defense Fund-Texas; Christina Hoppe, Children's Hospital Association of Texas; Chris Masey, Coalition of Texans with Disabilities; Priscilla Camacho, Dallas Regional Chamber; Jolene Sanders, Easterseals; Lauren Rangel, Easterseals Central Texas; Ender Reed, Harris County Commissioners Court; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Tesia Krzeminski, NAMI Austin; Eric Kunish, National Alliance on Mental Illness Austin; Greg Hansch and Alissa Sughrue, National Alliance on Mental Illness (NAMI) Texas; Will Francis, National Association of Social Workers-Texas Chapter; Gabriela McCann, Hannah Mehta, Protect Texas Fragile Kids; Robin Bradshaw, Protect Texas Fragile Kids, Texas Chargers; Christine Broughal, Texans for Special Education Reform; Marshall Kenderdine, Texas Academy of Family Physicians; Kimberly Kofron, Texas Association for the Education of Young Children; Sarah Crockett, Texas CASA; Leela Rice, Texas Council of Community Centers; Joey Gidseg, Texas Democrats with Disabilities; Michelle Romero, Texas Medical Association; Nancy Walker, Texas Occupational Therapy Association; Linda Litzinger, Texas Parent to Parent; Jennifer Lucy, Texprotects; Kyle Piccola, The Arc of Texas; Ashley Harris and Nataly Sauceda, United

Ways of Texas; Knox Kimberly, Upbring; and nine individuals)

Against — None

On — Dana McGrath and Lindsay Rodgers, Health and Human Services Commission; Ed O'Neil and Justin Porter, Texas Education Agency; Doug Danzeiser, Texas Department of Insurance; Jannette Olguin, The Harris Center for Mental Health and IDD; (*Registered, but did not testify*: Joel Schwartz and Meghan Young, Health and Human Services Commission; Jamie Dudensing, Texas Association of Health Plans; Pat Brewer, Texas Department of Insurance; Courtney Arbour, Texas Workforce Commission)

BACKGROUND: Human Resources Code ch. 73 establishes the early childhood intervention (ECI) program to identify and treat children younger than 3 who are documented as having developmental delay or who have a medically diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

Human Resources Code sec. 73.004 requires the governor to appoint an advisory committee to assist the Department of Assistive and Rehabilitative Services with the performance of its duties associated with the ECI program.

Occupations Code sec. 111.001 defines "telemedicine medical service" as a health care service delivered by a licensed physician or a health professional under the supervision of a licensed physician to a patient at a different physical location than the physician or health professional using telecommunications or information technology.

"Telehealth service" means a health service, other than a telemedicine medical service, delivered by a licensed health professional to a patient at a different physical location than the health professional using telecommunications or information technology.

DIGEST: CSHB 12 would create a teleconnective pilot program for early childhood

intervention (ECI) services, create an ombudsman for ECI service providers, and require a financial evaluation and report on ECI services.

Teleconnective pilot program. The Health and Human Services Commission (HHSC) would have to develop and implement a pilot program to provide ECI services to eligible children through telehealth and telemedicine medical services. HHSC would have to ensure the program aligned with the provision of existing telehealth and telemedicine medical services.

Implementation. The pilot program would be delivered using access points established in one or more education service center regions selected for implementation of the program. Access points could be established through modes HHSC determined appropriate, including in home-based settings and at schools, regional education service centers, and other entities located in an education service center region where the program was implemented.

HHSC would cooperate with the Texas Education Agency (TEA) to select education service center regions in which to implement the program. HHSC and TEA would have to consider each region in which there was a low or inadequate number of ECI service providers or a significant risk of losing service providers and would have to implement the program only in regions where it was reasonable and feasible. HHSC and TEA would have to consider the availability of existing infrastructure when selecting access points.

HHSC would have to ensure that all ECI service providers, including school districts, were allowed to participate in the teleconnective pilot program and provide services both inside and outside a school-based setting. HHSC would have to track the service hours of providers participating in the pilot program.

HHSC would, in consultation with TEA, establish any school-based provider access points under the pilot program and ensure that an adequate number of school-based and non-school-based access points were

established in participating regions. TEA would have to develop a training course on the pilot program for the appropriate school district employees.

HHSC would develop and implement the program as soon as practicable after the effective date of the bill, and no later than January 1, 2020.

Enrollment. The executive commissioner of HHSC would establish which eligible children would be automatically enrolled in the pilot program after receiving recommendations from the advisory committee.

The parent, guardian, or other legally authorized representative of an eligible child could opt the child out of the program at any time. A child who was enrolled in the pilot program could receive ECI services through the pilot program only to the extent that the services were available and suitable. Enrollment would not prevent a child from receiving ECI services in the home or other natural environment.

The parent, guardian, or other legally authorized representative of an eligible child would have to be present during an initial screening or evaluation under the pilot program and be given the opportunity to opt out of the pilot program at that time. After a child was enrolled in the pilot program, ECI services could be provided through telecommunications or other information technology.

The executive commissioner of HHSC would have to ensure that provider reimbursement for a telehealth or telemedicine medical service was made at a rate comparable to the rate paid under Medicaid for the provision of the same or similar services. HHSC would have to ensure that the pilot program complied with all federal and state laws on confidentiality of medical information.

Evaluation and report. HHSC would have to submit a report that evaluated the operation of the teleconnective pilot program and make recommendations on its continuation or expansion. The report would have to be submitted to the governor, lieutenant governor, House speaker, and presiding officers of the relevant legislative committees by January 1,

2021.

HHSC also would have to conduct an evaluation to ensure that an adequate number of access points had been established in each education service center region selected for implementation of the program. The evaluation would have to be completed by September 1, 2020, and related provisions would expire January 1, 2021.

Funding. HHSC would have to actively seek and apply for any available federal money to support the pilot program.

The pilot program would expire September 1, 2023.

Provider ombudsman. The executive commissioner of HHSC would designate an ombudsman for ECI service providers. The provider ombudsman's office would be administratively attached to the HHSC ombudsman's office. HHSC could use an alternate title for the ombudsman in provider-directed materials if it would benefit providers' understanding of or access to services.

The ombudsman would serve as a neutral party to assist ECI service providers in resolving issues related to providing those services, including through the STAR Kids managed care program, and would be required to:

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

The executive commissioner of HHSC would have to adopt and ensure the use of procedures for reporting, monitoring, and resolving disputes and complaints that are consistent with Medicaid procedures.

Federal funding for ECI services. HHSC would have to request

guidance from the federal Centers for Medicare and Medicaid Services or other federal agencies regarding the feasibility of receiving a waiver or other authorization to provide ECI services to children through Medicaid early childhood intervention services if those children were not eligible for Medicaid and did not have private health benefits coverage. As soon as was practicable after receiving that guidance, HHSC would have to prepare a report on how to best provide ECI services to uninsured children through Medicaid. HHSC would have to submit the report to the governor, the lieutenant governor, the House speaker, and the presiding officers of the relevant legislative committees.

The executive commissioner of HHSC would have to request clear direction and guidance from the federal Centers for Medicare and Medicaid Services on the reimbursement methodology that could be used to provide ECI case management services, including direction on allowable and unallowable costs. Provisions related to reimbursement methodology would expire September 1, 2021.

The Texas Workforce Commission would have to actively seek and apply for federal funding to establish a program to provide workforce development grants that would support education and training for ECI service providers.

Financial evaluation and report. As soon as practicable after the bill's effective date, HHSC would have to consult with TEA and other appropriate state agencies to conduct a financial evaluation of ECI services and a report on that evaluation. The report would have to quantify how ECI services affect other budget strategies, including budget strategies of school districts, regional education service centers, and other affected government entities.

HHSC would have to submit the report to the governor, lieutenant governor, House speaker, and presiding officers of the relevant legislative committees by September 1, 2020.

Implementation. HHSC would have to issue guidance by December 1,

2019, to health benefit plan issuers clarifying that ECI providers would have to file claims using the national provider identifier number and Texas provider identifier number.

If a state agency determined that a waiver or authorization from a federal agency was necessary for implementation of any provision of the bill, the state agency would be required to request the waiver and would be permitted to delay implementation of that provision until the waiver or authorization was granted.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 12 would strengthen the state's early childhood intervention (ECI) program by piloting a telehealth services program to provide ECI services remotely, by requiring a financial evaluation to determine potential long-term cost savings of the ECI program, and by supporting struggling service providers.

Increasing the use of telehealth ECI service provision could reduce the cost of care by allowing eligible children in rural areas to access care from home or local access points. Creating a formal telehealth pilot program would allow providers to more easily adopt remote service options and would provide lawmakers with better information on potential cost savings of extending or expanding the pilot.

Research has shown that ECI can restore or mitigate the effects of developmental delays, making eligible children less likely to require special education services and therapies later in life. This would save taxpayer money that would have otherwise been directed toward those services. By requiring a financial evaluation of the ECI program that would quantify the savings to all relevant budget strategies, the bill would allow lawmakers to better prioritize state funds to maximize the benefits of the program.

Between 2010 and 2018, the ECI program lost 16 providers, increasing the burden on the remaining providers and making it difficult for all

eligible children to receive the ECI services that are federally required. CSHB 12 would support providers by creating an ombudsman at HHSC to help resolve issues, collect data, and recommend program improvements.

Service providers also have faced challenges recruiting and retaining a sufficient workforce due to a lack of programs and training. CSHB 12 would address this shortage by directing the Texas Workforce Commission to draw upon any available federal funding to establish a workforce development grant program for providers to educate and train their staff and improve the provision of services.

OPPONENTS SAY: No concerns identified.

NOTES: According to the Legislative Budget Board, the bill would have a negative fiscal impact of $1.7 million to general revenue related funds through fiscal 2020-21.