

## **BILL ANALYSIS**

Senate Research Center

H.B. 2525  
By: Naishtat (Moncrief)  
Health & Human Services  
5-16-97  
Committee Report (Amended)

### **DIGEST**

The House Human Services Committee's (committee) interim charge on long-term care services recommended that changes be made to Title 8, Section 121, Human Resources Code, relating to rights and responsibilities of persons with disabilities. The current language regarding persons with disabilities in Title 8 is considered to be outdated. "Clean up" revisions are needed in order to ensure that Section 121, Human Resources Code, contains the currently accepted terminology. The "clean up" revisions proposed by the committee would conform Section 121, Human Resources Code, to the terminology in the Americans with Disabilities Act. This bill would implement the committee's recommendations for primarily "clean up" modifications to Section 121, Human Resources Code.

### **PURPOSE**

As proposed, H.B. 2525 implements the House Human Services Committee's recommendation for primarily "clean-up" modifications to Section 121, Human Resources Code, relating to rights and responsibilities of persons with disabilities.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading of Title 8, Human Resources Code, as follows:

TITLE 8. New heading: RIGHTS AND RESPONSIBILITIES  
OF PERSONS WITH DISABILITIES

SECTION 2. Amends Section 121.001, Human Resources Code, to provide that the policy of the state is to encourage and enable persons with disabilities, rather than physically handicapped persons, to participate fully in the social and economic life of the state, to achieve maximum personal independence, to become gainfully employed, and to otherwise fully enjoy and use all public facilities available within the state.

SECTION 3. Amends Section 121.002, Human Resources Code, to redefine "white cane," "public facilities," and "housing accommodations." Redefines "assistance animal," rather than "assistance dog." Deletes the definition of "handicapped person." Defines "person with a disability."

SECTION 4. Amends Section 121.003, Human Resources Code, as follows:

(a) Deletes text in reference to certain limitations and conditions established by law. Makes conforming changes.

(b) Prohibits a common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within the state from refusing to accept as a passenger a person with a disability, rather than a person who is blind or physically handicapped, solely because of the person's disability, rather than blindness or handicap, nor may a person with a disability be required to pay an additional fare because of his or her use of an assistance animal, rather than dog, among other devices, used to assist a person with

a disability in travel. Makes conforming changes.

(c) Makes conforming changes.

(d) Provides that a discrimination prohibited by this section includes a refusal to allow a person with a disability to use or be admitted to any public facility, a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a public facility, and a failure to comply with Article 9102, V.T.C.S.; make reasonable accommodations in policies, practices, and procedures; or provide auxiliary aids and services necessary to allow the full use and employment of the public facility. Makes conforming changes.

(e) Prohibits regulations relating to the use of public facilities by any designated class of persons from the general public from prohibiting the use of particular public facilities by persons with disabilities who, except for their disabilities or use of assistance animals or other devices for assistance in travel, would fall within the designated class. Deletes text relating to certain lists. Deletes existing Subsection (e). Makes conforming changes.

(f) Provides that it is the policy of the state that persons with disabilities be employed by the state, by political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as persons without disabilities, rather than the able-bodied, unless it is shown that there is no reasonable accommodation that would enable a person with a disability to perform the essential elements of a job, rather than the particular disability prevents the performance of the work involved. Makes conforming changes.

(g) Deletes existing Subsection (i). Make conforming changes.

(h)-(j) Makes conforming changes.

SECTION 5. Amends Section 121.004(b), Human Resources Code, to make conforming changes.

SECTION 6. Amends Section 121.005, Human Resources Code, as follows:

Sec. 121.005. New heading: RESPONSIBILITIES OF PERSONS WITH DISABILITIES. Deletes existing Subsection (c). Makes conforming changes.

SECTION 7. Amends Section 121.006, Human Resources Code, as follows:

Sec. 121.006. New heading: PENALTIES FOR IMPROPER USE OF ASSISTANCE ANIMALS. Provides that a person is guilty of a misdemeanor and on conviction shall be punished by a fine of not more than \$200 when the person who uses an assistance animal, rather than fits a dog, with a harness or leash of the type commonly used by persons with disabilities who use trained animals, rather than dogs for purposes of travel or auditory awareness, in order to represent that his or her animal is a specially trained assistance animal when training of the type described in Section 121.002(1)(B) of this chapter has not in fact been provided. Provides that a person who habitually abuses or neglects to feed or otherwise neglects to properly care for his or her assistance animal is subject to seizure of the animal under Subchapter B, Chapter 821, Health and Safety Code. Deletes text in reference to the denial of certain entitled benefits. Makes conforming changes.

SECTION 8. Amends Section 121.007, Human Resources Code, as follows:

Sec. 121.007. New heading: BLIND AND DISABLED PEDESTRIANS. Makes conforming changes.

SECTION 9. Amends Section 121.008, Human Resources Code, as follows:

Sec. 121.008. New heading: DISSEMINATION OF INFORMATION RELATING TO

PERSONS WITH DISABILITIES. Makes conforming changes.

SECTION 10. Amends Section 121.009, Human Resources Code, to make conforming changes.

SECTION 11. Amends Section 121.010, Human Resources Code, as follows:

Sec. 121.010. New heading: TESTING ADULTS WITH DISABILITIES. Requires, rather than authorizes, a test that evaluates an adult with a disability for a job position in business, government, or industry, or a test to determine that person's educational level, to measure individual abilities and not specific disabilities. Authorizes the examiner to use as an alternate form of testing any procedure or adaption that will help ensure that the best performance possible by an adult with a disability, including, among other items, use of interpreters, large print, or braille text. Prohibits an examiner from using a test that has a disproportionate, adverse effect on an adult with a disability or a class of adults with disabilities unless, among other conditions, alternate tests or alternative forms of testing that have a less disproportionate, adverse effect do not exist or are not available. Makes conforming changes.

SECTION 12. Amends Chapter 121, Human Resources code, by adding Section 121.011, as follows:

Sec. 121.011. ACCESSIBILITY OF EXAMINATION OR COURSE OFFERED BY PRIVATE ENTITY. Requires a private entity that offers an examination or course related to applications, certification, credentialing, or licensing for secondary or postsecondary education, a profession, or a trade, to perform certain actions. Authorizes a private entity that offers an examination or a course described by Subsection (a) to require persons with disabilities to provide reasonable documentation of their disabilities and reasonable advance notice of any necessary modifications or aids. Prohibits the deadline for advance notice from being earlier than the application deadline for the examination course. Prohibits the entity from refusing a request for modifications or aids from a person with a disability on grounds that the person, because of the person's disability, would not meet other requirements of the profession or occupation for which the course or examination is given.

SECTION 13. Effective date: September 1, 1997.

SECTION 14. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

Amendment 1.

Page 3, line 23, strikes "a disease that is contagious or not contagious,". Such an amendment revises the proposed definition of "person with a disability" to mean a person who has a mental or physical disability, including mental retardation, hearing impairment, deafness, speech impairment, visual impairment, or any health impairment that requires special ambulatory devices or services.