

BILL ANALYSIS

Senate Research Center

C.S.S.B. 305
By: Zaffirini
Health & Human Services
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Committee Report (Substituted)

DIGEST

Currently, the Interagency Council on Early Childhood Intervention Services (council) is responsible for providing aid to children who are developmentally delayed. Federal law now requires states to provide childhood intervention services. The council will risk losing federal dollars if it does not adhere to federal guidelines. This bill will bring existing state statutes into compliance with federal mandates. This bill also changes the structure of the council, creating a board which will govern the council and authorizes the board to obtain criminal records from various law enforcement agencies.

PURPOSE

As proposed, C.S.S.B. 305 changes the structure and composition of the Interagency Council on Early Childhood Intervention and authorizes the council to obtain criminal records.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the board of the Interagency Council on Early Childhood Intervention in SECTION 2 (Section 73.002(h), Human Resources Code) and to the Interagency Council on Early Childhood Intervention in SECTION 9 (Section 73.0051(b), Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 73.001, Human Resources Code, to define "board" and redefine "council" and "developmental delay."

SECTION 2. Amends Section 73.002, Human Resources Code, as follows:

Sec. 73.002. New heading: BOARD. Provides that the Interagency Council on Early Childhood Intervention (council) is governed by a board composed of nine, rather than three, lay members who are the family members, rather than parents, of children with developmental delay, appointed by the governor with the advice and consent of the senate. Requires nonvoting representatives, in addition to the members appointed under Subsection (a), to be appointed by the commissioner or executive head of certain agencies to actively participate in board deliberations and advise the board on the appointing agency's perspective and concerns regarding the early childhood intervention program. Requires five of the lay members of the board to be parents of children who are receiving or have received early childhood intervention services. Requires each state agency representative appointed under Subsection (b) to have administrative responsibility in the agency represented by the representative for early childhood intervention or related services, and to have authority to make decisions and commit resources on behalf of the appointing agency. Provides that the representatives to the board appointed under Subsection (b) serve as nonvoting participants and serve at the will of the appointing authority. Requires the members of the board to elect one member to serve as the presiding officer, rather than chairperson, and one member to serve as assistant presiding officer. Requires officers to serve a two-year term. Requires the board to establish regulations, policies, and procedures for carrying out the council's duties under this chapter. Requires the board to develop a method for responding to, rather than programs funded under this chapter to respond to, complaints regarding services provided by the council. Makes conforming and nonsubstantive changes.

SECTION 3. Amends Chapter 73, Human Resources Code, by adding Section 73.0021, as follows:

Sec. 73.0021. **ELIGIBILITY REQUIREMENT FOR BOARD MEMBERSHIP.** Requires appointments to the board to be made without regard to race, color, disability, sex, religion, age, or national origin. Provides that a person is not eligible for appointment as a board member if certain criteria apply to the person.

SECTION 4. Amends Chapter 73, Human Resources Code, by adding Section 73.0022, as follows:

Sec. 73.0022. **REMOVAL OF BOARD MEMBERS.** Sets forth grounds for removal of a member from the board. Provides that the validity of an action of the board is not affected by the fact that it was taken when grounds for removal of a board member existed. Requires the executive director to notify the presiding officer of the board if the executive director of the council has knowledge that a potential ground for removal exists. Requires the presiding officer to then notify the governor of the potential removal and the cause for the potential removal action. Requires the governor to make a subsequent appointment, if a board member is removed for cause, for the remainder of that board member's term.

SECTION 5. Amends Section 73.003, Human Resources Code, as follows:

Sec. 73.003. New heading: **STRATEGIC PLAN.** Requires the council to develop and implement a strategic plan for a statewide system of early childhood intervention services, as required by Subchapter VIII, Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1471 et seq.), and its subsequent amendments, to ensure that the provisions of this chapter are properly implemented by the agencies affected. Deletes certain plan requirements. Deletes the requirement that the council make written recommendations for the carrying out of its duties under this chapter. Makes conforming and nonsubstantive changes.

SECTION 6. Amends Section 73.004, Human Resources Code, by amending Subsection (b) and adding Subsection (c), to provide that the advisory committee established by the council is not subject to Article 6252-33, V.T.C.S. Makes conforming changes.

SECTION 7. Amends Chapter 73, Human Resources Code, by adding Section 73.0041, as follows:

Sec. 73.0041. **ADVISORY COMMITTEE DUTIES.** Requires the advisory committee established under Section 73.004 to perform the duties and responsibilities required of an advisory committee under Subchapter VIII, Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1471 et seq.), and its subsequent amendments.

SECTION 8. Amends Section 73.005, Human Resources Code, as follows:

Sec. 73.005. New heading: **BOARD POWERS AND DUTIES.** Requires the board with the advice of the advisory committee to advise the legislature on legislation that is needed to maintain a statewide system of quality intervention services for children with developmental delay who are under three years of age and the families of those children. Makes conforming and nonsubstantive changes.

SECTION 9. Amends Chapter 73, Human Resources Code, by adding Section 73.0051, as follows:

Sec. 73.0051. **POWERS AND DUTIES OF COUNCIL.** Sets forth the powers and duties of the council. Requires the council, by rule, to provide for compliance with the terms and provisions of applicable federal and state laws in the administration of programs and the delivery of services under this chapter, to establish a program to monitor fiscal and program implementation, and to establish appropriate sanctions for providers who fail to comply with statutory and regulatory fiscal and program requirements.

SECTION 10. Amends Chapter 73, Human Resources Code, by adding Section 73.0052, as follows:

Sec. 73.0052. PERSONNEL MATTERS. Requires the board to provide to its members and to the employees of the council information regarding their qualifications under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees. Requires the board to employ an executive director. Requires the executive director to establish necessary administrative units, and hire other necessary employees. Requires the board to evaluate the performance of the executive director annually, utilizing established standards. Requires the executive director or the executive director's designee to develop an intra-agency career ladder program. Provides that employees will be notified of all available positions. Provides that, when appropriate, postings will be made available to council employees before public posting. Requires the executive director or the executive director's designee to develop a system of annual performance evaluations based on measurable job tasks. Requires all merit pay for council employees to be based on the system established under this subsection. Requires the executive director or the executive director's designee to prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. Sets forth items required to be stated in the policy statement. Requires the policy statement prepared under Subsection (f) to cover an annual period, be updated annually, and be filed with the governor.

SECTION 11. Amends Section 73.006, Human Resources Code, as follows:

Sec. 73.006. New heading: REIMBURSEMENT FOR EXPENSES. Provides that the lay members of the board and advisory committee are entitled to reimbursement for reasonable, rather than actual, expenses incurred in the performance of board or advisory committee duties. Provides that a board member, nonvoting representative to the board, or advisory committee member who is disabled, and who because of the disability, requires attendant care to perform the person's duties, is entitled to reimbursement for the cost of the attendant. Deletes a requirement that the council select and employ an early childhood intervention administrator with the approval of the governor and other personnel necessary for the administration of the council's duties. Makes conforming and nonsubstantive changes.

SECTION 12. Amends Section 73.007, Human Resources Code, to require the council to develop and implement a general public awareness strategy focusing on the importance of prenatal care and early identification of infants and toddlers with developmental delay and the availability of resources to meet their needs and a statewide plan for conducting training and technical assistance for service providers, primary referral sources, and families with children under three, rather than six, years of age with developmental delay. Makes conforming and nonsubstantive changes.

SECTION 13. Amends Section 73.008, Human Resources Code, to require the council to develop and implement a statewide strategy for the coordination of programs with, rather than utilizing information from, other agencies serving children with developmental delay. Makes conforming and nonsubstantive changes.

SECTION 14. Amends Section 73.009(a), Human Resources Code, to authorize the referral of a child under three years of age and the child's family for services described by this section if the child is considered at risk of developmental delay. Deletes a requirement that the child is considered at risk of developmental delay because of certain biological or environmental factors.

SECTION 15. Amends Section 73.010, Human Resources Code, to provide that a child is eligible for services under this chapter if the child is documented as having developmental delay or has a medically diagnosed physical or mental condition that has a high probability of resulting in developmental delay. Deletes certain criteria for eligibility. Deletes the authorization for the council to charge fees for services provided under this chapter. Makes a conforming change.

SECTION 16. Amends Section 73.022, Human Resources Code, as follows:

Sec. 73.022. New heading: FINANCES. Sets forth financial procedures for the council. Makes conforming changes.

SECTION 17. Amends Chapter 73, Human Resources Code, by adding Section 73.023, as follows:

Sec. 73.023. APPLICATION OF SUNSET ACT. Provides that the council is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that the council is abolished on September 1, 2003, unless continued in existence as provided by that chapter.

SECTION 18. Amends Chapter 73, Human Resources Code, by adding Section 73.024, as follows:

Sec. 73.024. OPEN MEETINGS; OPEN RECORDS; ADMINISTRATIVE PROCEDURE. Provides that the board, council, and advisory committee are subject to the requirements of the open meetings law, Chapter 551, Government Code, the open records law, Chapter 552, Government Code, and Chapter 2001, Government Code.

SECTION 19. Amends Chapter 411F, Government Code, by adding Section 411.132, as follows:

Sec. 411.132. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: INTERAGENCY COUNCIL ON EARLY CHILDHOOD INTERVENTION. Sets forth procedures for handling criminal history record information obtained by the council.

SECTION 20. Repealer: Sections 73.011-73.021, Human Resources Code (Parent Counseling and Case Management, Monitoring, Intervention Services, Report, New Program Strategy, Program Approval, Program Standards, Council Guidelines, and Program Monitoring).

SECTION 21. (a) Requires the governor, as soon as possible after the effective date of this Act, to appoint the nine lay members of the board in accordance with Section 73.002, Human Resources Code, as amended by this Act, with the members' terms expiring at various times.

(b) Requires the executive director or commissioner of the agencies listed in Section 73.002(b), Human Resources Code, as amended by this Act, as soon as possible after the effective date of this Act, to appoint representatives required by that section.

(c) Provides that until all members of the board are appointed and are qualified to take office as required by this Act, a majority of the members who are qualified to serve on the board constitutes a quorum of the board, so long as at least four are qualified.

(d) Provides that the term of a member of the council of the Interagency Council on Early Childhood Intervention, as the council existed immediately before the effective date of this Act, expires and the member's position is abolished on the date on which a majority of the members of the board are appointed and are qualified to take office.

SECTION 22. Effective date: September 1, 1997.

SECTION 23. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amends SECTION 2, Section 73.002, Human Resources Code, to provide that the board of the Interagency Council on Early Childhood Intervention (board) is composed of nine lay members, rather than six lay members and three agency representatives. Those three agencies now provide nonvoting representatives to the board.

Amends SECTIONS 3, 4, 11, and 21 to delete text referring to voting agency members of the board.