

BILL ANALYSIS

Senate Research Center
82R1151 GCB-D

S.B. 26
By: Zaffirini
Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 26 would establish the definition of "intellectual disability" within the Government Code; require the Sunset Advisory Commission to consider respectful language in its recommendations to the 83rd Legislature; require health and human services agencies to use respectful language in all reference materials, publications, and electronic media; and require that the new language is used when referencing persons with mental retardation in general and wherever the term "retarded" is used in statute.

Many Texans believe that the term "retarded" is hurtful and offensive to persons with intellectual disabilities. Though the term is used as a medical diagnosis, it should not be used to describe a person or a person's character. What is more, national efforts are under way to change "mental retardation" to "intellectual disability" in the DSM-IV-TR [Diagnostic and Statistical Manual of Mental Disorders-Fourth Edition (Text Revision)] anticipated to occur in May 2013.

Thirty-three states and the District of Columbia have current or pending laws, policies, or positions in support of using person first and/or respectful language by using the term "intellectual disability" instead of "mental retardation" for legislative, operational, and/or business matters. There is uniformity within all 33 states and the District of Columbia in switching from using the term "mental retardation" to "intellectual disabilities." Six states are in the process of writing a respectful language bill to be filed or have attempted to pass a respectful language bill.

Current law does not recognize the term "intellectual disability" and does not require any utilization of the term. Codifying the new and respectful language will demonstrate the state's priority for persons with disabilities. Establishing this term in Texas law will provide the impetus for health and human services agencies to use the language in their referential material. If the Sunset Advisory Commission adopts the policy in its 2013 recommendations, this will ensure that the state has made every effort to use respectful language in the law and in practice.

As proposed, S.B. 26 amends current law relating to the use of person first respectful language in reference to individuals with disabilities.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle Z, Title 3, Government Code, by adding Chapter 392, as follows:

CHAPTER 392. PERSON FIRST RESPECTFUL LANGUAGE INITIATIVE

Sec. 392.001. FINDINGS AND INTENT. Sets forth the findings and intent of the legislature relating to language used in reference to persons with disabilities.

Sec. 392.002. USE OF PERSON FIRST RESPECTFUL LANGUAGE REQUIRED. (a) Requires the legislature and the Texas Legislative Council (TLC) to avoid using the

following terms and phrases in any new statute or resolution and to change those terms and phrases used in any existing statute or resolution as sections including those terms and phrases are otherwise amended by law:

- (1) disabled;
- (2) developmentally disabled;
- (3) mentally disabled;
- (4) mentally ill;
- (5) mentally retarded;
- (6) handicapped;
- (7) cripple; and
- (8) crippled.

(b) Requires the legislature and TLC, in enacting or revising statutes or resolutions, to replace, as appropriate, terms and phrases listed by Subsection (a) with the following preferred phrases or appropriate variations of those phrases:

- (1) "persons with disabilities";
- (2) "persons with developmental disabilities";
- (3) "persons with mental illness"; and
- (4) "persons with intellectual disabilities."

(c) Provides that a statute or resolution is not invalid solely because it does not employ this section's preferred phrases.

SECTION 2. Amends Chapter 325, Government Code, by adding Section 325.0123, as follows:

Sec. 325.0123. REVIEW OF CERTAIN AGENCIES FOR RESPECTFUL LANGUAGE. (a) Requires the Sunset Advisory Commission (Sunset), as part of its review of a health and human services agency, to consider and make recommendations regarding statutory revisions necessary to use the phrase "intellectual disability" instead of "mental retardation" and to use the phrase "person with intellectual disability" instead of "person with mental retardation."

(b) Requires Sunset, as part of its review of an agency, to consider and recommend, as appropriate, statutory revisions in accordance with the person first respectful language initiative under Chapter 392.

SECTION 3. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.0227, as follows:

Sec. 531.0227. PERSON FIRST RESPECTFUL LANGUAGE PROMOTION. Requires the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) to ensure that HHSC and each health and human services agency use the terms and phrases listed as preferred under the person first respectful language initiative in Chapter 392 when proposing, adopting, or amending HHSC's or the agency's rules, reference materials, publications, and electronic media.

SECTION 4. Amends Subchapter C, Chapter 7, Education Code, by adding Section 7.063, as follows:

Sec. 7.063. PERSON FIRST RESPECTFUL LANGUAGE PROMOTION. Requires the commissioner of education to ensure that the Texas Education Agency (TEA) uses the terms and phrases listed as preferred under the person first respectful language initiative in Chapter 392, Government Code, when proposing, adopting, or amending TEA's rules, reference materials, publications, and electronic media.

SECTION 5. Amends Section 591.003, Health and Safety Code, by adding Subdivisions (7-a) and (15-a) and amending Subdivisions (13) and (16), as follows:

- (7-a) Defines "intellectual disability."
- (13) Redefines "mental retardation."
- (15-a) Defines "person with intellectual disability."
- (16) Redefines "person with mental retardation."

SECTION 6. Provides that it is not the intent of the legislature that changes in law made by this Act affect the application or interpretation of the Penal Code or eligibility for any program.

SECTION 7. Effective date: September 1, 2011.