

BILL ANALYSIS

Senate Research Center

H.B. 2463
By: Raymond et al. (Campbell)
Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The legislature created the Department of Assistive and Rehabilitative Services (DARS) in 2003 to work with Texans with disabilities to improve the quality of their lives and to enable their full participation in society. To achieve its mission, DARS focuses on providing time-limited services through a variety of state and federally funded programs. As a result of its review of DARS, the Sunset Advisory Commission (Sunset) recommended several statutory modifications that are contained in H.B. 2463.

DARS is subject to abolishment under the Texas Sunset Act on September 1, 2015, unless continued by the legislature. Sunset did not recommend continuing DARS, but instead recommended consolidating the agency with the other health and human services agencies in a functional approach under the Health and Human Services Commission, as provided in separate legislation.

H.B. 2463 amends current law relating to the continuation and functions of the Department of Assistive and Rehabilitative Services.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 (Sections 117.079, 117.080, 117.081, and 117.082, Human Resources Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is rescinded in SECTION 5 (Section 117.153, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 117.001, Human Resources Code, by amending Subdivision (1) to define "caseworker" and adding Subdivisions (1-a) to define "center for independent living," (1-b) to define "commission," (4-a) to define "direct services," and (4-b) to define "direct services program."

SECTION 2. (a) Amends Section 117.003, Human Resources Code, as follows:

Sec. 117.003. SUNSET PROVISION. Provides that the Department of Assistive and Rehabilitative Services (DARS) is subject to Chapter 325 (Texas Sunset Act), Government Code. Provides that, unless continued in existence as provided by that chapter, DARS is abolished and this chapter expires September 1, 2027, rather than September 1, 2015.

(b) Provides that this section takes effect only if H.B. 2304, S.B. 200, or similar legislation of the 84th Legislature, Regular Session, 2015, providing for the transfer of the functions of DARS to the Health and Human Services Commission (HHSC) is not enacted or does not become law. Provides that if H.B. 2304, S.B. 200, or similar legislation of the 84th Legislature, Regular Session, 2015, is enacted, becomes law, and provides for the transfer of DARS's functions to HHSC, this section has no effect.

SECTION 3. Amends Subchapter D, Chapter 117, Human Resources Code, by adding Sections 117.079, 117.080, 117.081, and 117.082, as follows:

Sec. 117.079. INTEGRATION OF INDEPENDENT LIVING SERVICES PROGRAMS. (a) Requires DARS, not later than September 1, 2016, to integrate into a single independent living services program the following programs that DARS operates under Title VII of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 796 et seq.):

- (1) the Independent Living Program for individuals who are blind or have visual impairments; and
- (2) the Independent Living Services Program for individuals with significant disabilities.

(b) Requires the executive commissioner of HHSC (executive commissioner) to adopt any rules necessary to facilitate the integration of the programs identified in Subsection (a), including rules that direct DARS, as the single designated state entity responsible for administering the state's independent living services program, to comply with the requirements of 29 U.S.C. Section 796c for the integrated program.

(c) Provides that this section expires September 1, 2017.

Sec. 117.080. PROVISION OF INDEPENDENT LIVING SERVICES. (a) Requires DARS to ensure that all services provided under the independent living services program that DARS operates under Title VII of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 796 et seq.) are directly provided by centers for independent living, except as provided by Subsection (b), and are not directly provided by DARS.

(b) Requires DARS, if an area of the state does not have a center for independent living, or no center for independent living in that area is able to provide certain necessary services under the independent living services program, to seek to identify a center for independent living that is willing and able to contract with a nonprofit organization or other person to provide the independent living services in the area under the program. Authorizes DARS, if no center for independent living is willing and able to contract with another organization or other person, to directly contract with an organization or other person who is not a center for independent living to provide the independent living services in the area under the program.

(c) Requires DARS to evaluate the independent living services provided by a center for independent living and to provide necessary training or technical assistance to help the center for independent living expand its capacity to provide a full range of independent living services.

(d) Requires DARS to monitor the performance of each center for independent living in providing independent living services, including how the center for independent living monitors the performance of the organizations and other persons with whom it contracts to provide independent living services.

(e) Requires the executive commissioner to adopt rules to implement this section that include:

- (1) an equitable and transparent methodology for allocating funds to centers for independent living under the independent living services program;

- (2) requirements applicable to DARS in contracting with centers for independent living to provide independent living services under the program;
- (3) requirements applicable to centers for independent living in contracting with organizations and other persons to provide independent living services under the program;
- (4) requirements applicable to DARS in contracting with organizations or other persons who are not centers for independent living to provide independent living services under the program;
- (5) a process for DARS to monitor independent living services contracts;
- (6) guidelines on DARS's role in providing technical assistance and training to centers for independent living as necessary; and
- (7) expectations for DARS employees to refer persons who contact DARS seeking independent living services to centers for independent living.

(f) Requires DARS, notwithstanding the requirements of this section, to ensure that services provided under the independent living services program are provided as required by this section not later than August 31, 2016. Provides that this subsection expires September 1, 2017.

Sec. 117.081. **COMPREHENSIVE REHABILITATION SERVICES PROGRAM.** Requires DARS to operate a comprehensive rehabilitation services program to provide comprehensive rehabilitation services to persons with traumatic brain or spinal cord injuries. Requires the executive commissioner to adopt rules for the program that include:

- (1) a system of organization for the delivery of the comprehensive rehabilitation services;
- (2) eligibility requirements for the comprehensive rehabilitation services;
- (3) the types of services that may be provided to a client under the program; and
- (4) requirements for client participation in the costs of the comprehensive rehabilitation services.

Sec. 117.082. **CHILDREN'S AUTISM PROGRAM.** Requires DARS to operate a children's autism program to provide services to children with autism spectrum disorders. Requires the executive commissioner to adopt rules for the program that include:

- (1) a system of organization for the delivery of the autism services;
- (2) eligibility requirements for the autism services;
- (3) the types of services that may be provided to a client under the program; and
- (4) requirements for participation by the client's family in the costs of the autism services.

SECTION 4. Amends Chapter 117, Human Resources Code, by adding Subchapter D-1, as follows:

SUBCHAPTER D-1. ADMINISTRATION OF DIRECT SERVICES PROGRAMS IN GENERAL

Sec. 117.091. DIRECT SERVICES PROGRAM CASEWORKER GUIDELINES. (a) Requires DARS to use program data and best practices to establish and maintain guidelines that provide direction for caseworkers' decisions in all of DARS's direct services programs. Provides that the guidelines:

(1) must categorize direct services program cases based on the types of services provided and, for each category, include provisions addressing the recommended length of time a case in that category should last and the recommended total expenditures for a case in that category;

(2) must include provisions for creating intermediate goals for a client receiving services through a direct services program that will allow the caseworker to monitor the client's progress and the caseworker's supervisor to evaluate how the client's case is advancing;

(3) must include criteria for caseworkers to use in evaluating progress on the intermediate goals described in Subdivision (2); and

(4) may include other provisions designed to assist caseworkers and their supervisors to achieve successful outcomes for clients.

(b) Authorizes a caseworker to exceed the recommended guidelines described in Subsection (a)(1) in a direct services program case but requires the caseworker to obtain the approval of the caseworker's supervisor after documenting the need to exceed the guidelines.

(c) Provides that the guidelines established under this section are not intended to limit the provision of appropriate or necessary services to a client.

(d) Requires DARS to provide the guidelines established under this section to caseworkers in a format that allows caseworkers to easily access the information.

Sec. 117.092. DIRECT SERVICES PROGRAM CASE REVIEW SYSTEM. (a) Requires DARS to establish and maintain a single, uniform case review system for all direct services programs.

(b) Requires that the case review system:

(1) include risk assessment tools that account for the different risks involved in each direct services program;

(2) require that case reviews:

(A) be used to consistently evaluate each direct services program across all regions, with the goal of evaluating at least 10 percent of all cases in each program and region annually;

(B) focus on areas of highest risk and prioritize the review of the following cases:

(i) except as provided by Subparagraph (ii), cases in which direct services have been provided for more than two years;

(ii) cases in the Blind Children's Vocational Discovery and Development Program in which direct services have been provided for more than five years; and

(iii) cases that are significantly outside the expenditure guidelines for that type of case;

(C) be used to evaluate a caseworker's eligibility determinations and decisions to close a case before a service plan is developed or without the client reaching the client's goal; and

(D) focus on the quality of a caseworker's decision-making and compliance with program requirements; and

(3) require a caseworker's supervisor to use the reviews of a caseworker's cases in conducting the caseworker's performance evaluation and in providing informal guidance to the caseworker to improve the caseworker's performance.

Sec. 117.093. DIRECT SERVICES PROGRAM MONITORING. (a) Requires DARS personnel not employed to perform functions directly under a direct services program to be designated to monitor those programs from a statewide perspective. Requires the designated personnel to collect, monitor, and analyze data relating to direct services programs and report outcomes and trends to program managers and, as necessary, the commissioner of assistive and rehabilitative services or other appropriate executive management.

(b) Requires that the monitoring function under Subsection (a) include monitoring of performance data from all regions and all direct services programs to identify trends and case review data to ensure compliance with the case review system under Section 117.092.

(c) Requires personnel designated to perform the monitoring function required by this section to work with direct services program staff to develop objective and detailed outcome measures for the programs.

(d) Authorizes DARS to conduct internal peer reviews of DARS's field offices at regular intervals to assess the field offices' compliance with federal regulations and DARS policies and to compare each field office's compliance with the compliance of the other field offices. Authorizes DARS to use personnel designated to perform the monitoring function required by this section to facilitate the internal peer reviews.

SECTION 5. Repealer: Section 91.022 (Service Delivery), Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015.

Repealer: Section 117.153 (Training and Supervision of Counselors), Human Resources Code, as redesignated and amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015.

SECTION 6. Requires the executive commissioner to adopt the rules required by Section 117.080(e), Human Resources Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 7. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 8. Effective date, except as otherwise provided by this Act: September 1, 2015.