

BILL ANALYSIS

Senate Research Center

H.B. 2835
By: King, Susan (Kolkhorst)
Health & Human Services
5/19/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties point out that the children with special health care needs services program provides services to persons other than children, including persons 21 years of age and older who have cystic fibrosis, but the terminology used in the Health and Safety Code is not inclusive of those over 21 years of age suffering from cystic fibrosis. The parties also cite a recent report indicating that persons not lawfully present in the United States constituted two-thirds of the total number of persons served by the program and that more than half of the people on the program's waiting list were identified as persons not lawfully present in the United States. H.B. 2835 seeks to address these issues.

H.B. 2835 amends current law relating to the name of the program serving certain persons with special health care needs and prioritizing services provided under the program.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor agency to TDH.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 7 (Section 35.003, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that the legislature finds that:

- (1) when proposing, adopting, or amending the rules of the Department of State Health Services, or the Health and Human Services Commission (HHSC) and when publishing new or amended reference materials, publications, or electronic media, the name of the Children with Special Health Care Needs Services Program (program) should be changed to accurately reflect that the program provides services to persons other than children, including persons 21 years of age and older who have cystic fibrosis;
- (2) as of January 31, 2015, persons not lawfully present in the United States constituted two-thirds the total number of persons served by the program;
- (3) as of January 31, 2015, the program's waiting list for services consisted of 178 persons, more than half of whom were identified as persons not lawfully present in the United States;
- (4) if because of financial limitations the program is unable to serve all persons eligible for services under the program, some persons placed on the program's waiting list may not receive the services;
- (5) the only authority the state may exercise to address the limited availability of services when financial limitations exist is for the state to give priority for services to citizens of the United States who are on the program's waiting list; and

(6) it is the policy of this state that, when financial limitations restrict the number of persons served by the program, citizens of the United States who are on the program's waiting list for services should be given priority over persons not lawfully present in the United States.

SECTION 2. Amends the heading to Chapter 35, Health and Safety Code, to read as follows:

CHAPTER 35. TEXAS SPECIAL HEALTH CARE NEEDS PROGRAM

SECTION 3. Amends Section 35.001, Health and Safety Code, as follows:

Sec. 35.001. New heading: SHORT TITLE; REFERENCE IN OTHER LAW. (a) Creates this subsection from existing text. Authorizes this chapter to be cited as the Texas Special Health Care Needs Program Act, rather than the Children with Special Health Care Needs Services Act.

(b) Provides that a reference in other law to the Children with Special Health Care Needs Services Program means the program administered under this chapter.

SECTION 4. Amends Section 35.0021, Health and Safety Code, by adding Subdivision (6-a) to define "person with special health care needs" and amending Subdivision (8) to redefine "program."

SECTION 5. Amends Section 35.0022, Health and Safety Code, as follows:

Sec. 35.0022. New heading: PERSON WITH SPECIAL HEALTH CARE NEEDS. (a) Defines "person with special health care needs" rather than "child with special health care needs."

(b) Defines "person" rather than "child."

(c) Provides that a reference in this chapter to a "child with special health care needs" means a "person with special health care needs" and a reference to a "child" means a "person."

SECTION 6. Amends the heading to Section 35.003, Health and Safety Code, to read as follows:

Sec. 35.003. SERVICES PROGRAM FOR PERSONS WITH SPECIAL HEALTH CARE NEEDS.

SECTION 7. Amends Section 35.003, Health and Safety Code, by amending Subsections (a) and (d) and adding Subsection (c-1), as follows:

(a) Changes references to "children" to "persons."

(c-1) Requires the executive commissioner of HHSC, to the extent allowed by federal law, to adopt rules requiring the Texas Department of Health (TDH) to give priority for services provided under the program to an eligible person who is placed on a waiting list under Subsection (c) (relating to the establishment of a waiting list of eligible persons for the program) based on the following criteria in order of importance:

(1) the acuity of the person's medical condition;

(2) whether the person is a United States citizen or a qualified alien as that term is defined by 8 U.S.C. Section 1641(b);

(3) the amount of time the person has been on the waiting list; and

(4) any other factors considered relevant by TDH.

(d) Changes references to “child” to “person.”

SECTION 8. Provides that the changes in law made by this Act apply to an eligible person placed on a waiting list under Section 35.003(c), Health and Safety Code, following an initial determination or redetermination of the person's eligibility for services under Chapter 35, Health and Safety Code, that is made on or after the effective date of this Act.

SECTION 9. Requires that the name of the Children with Special Health Care Needs Program operated under Chapter 35, Health and Safety Code, not later than September 1, 2019, be updated in applicable rules and reference materials, publications, and electronic media to reflect the change in law made by this Act. Requires that the name of the program, before that date, be changed in applicable rules and reference materials, publications, and electronic media only when proposing, adopting, or amending the rules and when publishing new or amended reference materials, publications, or electronic media.

SECTION 10. Effective date: September 1, 2015.