

## **BILL ANALYSIS**

C.S.H.B. 2572  
By: Truitt  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Chapters 533 and 535 of the Health and Safety Code address the roles and responsibilities of local mental health and mental retardation authorities. These provisions were amended by House Bill 2292, 78th Texas Legislature, in a manner which restricted the types of services that can be provided by local mental health and mental retardation authorities. These changes adversely affected the local service delivery structure in ways that were not anticipated when the legislation was enacted. Over the past two years, representatives of the public and private sector have worked to resolve these problems, and C.S.H.B. 2572 is the result of those efforts.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission (HHSC) in SECTION 3 of this bill.

### **ANALYSIS**

The bill defines "commission," "executive commissioner," "ICF-MR and related waiver programs," and "qualified service provider."

The bill makes conforming changes to reflect the current organizational structure of health and human services agencies.

The bill authorizes a local mental health and mental retardation authority, subject to certain criteria, to determine whether to provide service directly or to contract with another organization to provide service.

The bill authorizes a local mental health authority to serve as a qualified service provider, and deletes certain provisions that allowed the authority to serve only as a provider of last resort, and then only if certain other criteria are satisfied. The bill strikes "and mental retardation" from "a local mental health and mental retardation authority" for purposes of the applicability of this subsection of the bill.

The bill authorizes a local mental retardation authority to serve as a provider of ICF-MR and related waiver services, subject to certain limitations set forth in the bill.

The bill strikes certain provisions in current law relating to a provider of services under certain Medicaid waiver programs.

The bill directs the HHSC executive commissioner to adopt rules establishing the roles and responsibilities of local mental retardation authorities with respect to access; intake; eligibility functions; enrollment, initial assessment, and service authorization; utilization management; safety net functions, including crisis management services and assistance in accessing facility-based care; service coordination functions; provision and oversight of state general revenue services; local planning functions, including stakeholder involvement, technical assistance and training, and provider complaint and resolution processes; and processes to assure accountability in performance, compliance, and monitoring.

The bill directs the HHSC executive commissioner to adopt rules relating to a local mental retardation authority's role as a qualified service provider of ICF-MR and related waiver programs. The rules are to set forth certain requirements relating to the authority's provider capacity. The HHSC executive commissioner is to seek the participation of local mental health

and mental retardation authorities, providers, advocates, and other interested stakeholders in adopting such rules.

The bill directs the Department of Aging and Disability Services (DADS) to review and determine the local mental retardation authority's status as a qualified service provider at least biennially, and sets forth certain criteria to be considered as part of the review.

The bill directs HHSC, if feasible and economical; to use local mental health and mental retardation authorities to implement Chapter 533, Health and Safety Code, and strikes a provision prohibiting the designation of local mental health and mental retardation authorities as the sole provider of services if other providers are available.

The bill repeals certain provisions of the Health and Safety Code and of Chapter 198, Acts of the 78th Legislature, Regular Session.

The bill directs HHSC, not later than January 1, 2007, to submit a report to the governor, lieutenant governor, and speaker of the house regarding the implementation of the provisions of this Act by local mental retardation authorities.

#### **EFFECTIVE DATE**

September 1, 2005

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The original eliminates the "provider of last resort" provision for a local mental retardation authority, but retains the "provider of last resort" provision insofar as it applied to a local mental health authority. The substitute eliminates the "provider of last resort" provision for a local mental health authority, and authorizes a local mental health authority to serve as a qualified service provider.