

CHAPTER 1067

S.B. No. 719

AN ACT

relating to the establishment and duties of an interagency council to identify mentally impaired offenders and to establish community-based sentencing alternatives for mentally impaired offenders.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 9, Title 70, Revised Statutes, as amended, is amended by adding Article 4413(49a) to read as follows:

Art. 4413(49a). INTERAGENCY COUNCIL ON MENTALLY RETARDED, DEVELOPMENTALLY DISABLED, AND MENTALLY ILL OFFENDERS

Sec. 1. DEFINITIONS. In this Act:

(1) *"Mentally ill offender" means a person arrested or charged with a criminal offense who has a mental illness.*

(2) *"Mental illness" means an illness, disease, or condition that either:*

(A) *substantially impairs a person's thought, perception of reality, emotional process, or judgment; or*

(B) *grossly impairs a person's behavior, as manifested by recent disturbed behavior.*

(3) *"Mentally retarded offender" means a person arrested or charged with a criminal offense who has mental retardation, other than a mentally disordered person, whose mental deficit requires him to have special training, education, supervision, treatment, care, or control in his home or community or in a private or state school for the mentally retarded.*

(4) *"Mental retardation" means significantly subaverage intellectual functioning existing concurrently with deficits in adaptive behavior and originating during the developmental period.*

(5) *"Developmentally disabled" means a condition of severe, chronic disability of a person that:*

(A) *is attributable to a mental or physical impairment;*

(B) *is manifested before the person reaches 22 years of age;*

(C) *is likely to continue indefinitely;*

(D) *results in substantial functional limitations in three or more of the following areas of major life activity:*

(i) *self-care;*

- (ii) self-direction;
- (iii) learning;
- (iv) language;
- (v) mobility;
- (vi) capacity for independent living; or
- (vii) economic self-sufficiency; and

(E) reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services that are lifelong or of extended duration and are individually planned and coordinated.

(6) "Adaptive behavior" means the effectiveness with which a person meets the standards of personal independence and social responsibility reasonably expected of the person's age and cultural group.

(7) "Case management" means a process by which one person, or a team that is responsible for establishing and remaining in contact with a mentally ill, developmentally disabled, or mentally retarded person on a continuing basis, provides to the person access to the services required by that person and ensures the coordinated delivery of those services to that person.

(8) "Council" means the Interagency Council on Mentally Retarded, Developmentally Disabled, and Mentally Ill Offenders.

Sec. 2. **ESTABLISHMENT OF COUNCIL.** The Interagency Council on Mentally Retarded, Developmentally Disabled, and Mentally Ill Offenders is established.

Sec. 3. **MEMBERSHIP.** (a) The council is composed of 27 members. The governor shall appoint nine at-large members to serve on the council. The executive head of each of the following agencies or associations, or that person's designated representative, shall serve as members of the council:

- (1) the Texas Department of Corrections;
- (2) the Texas Department of Mental Health and Mental Retardation;
- (3) the Board of Pardons and Paroles;
- (4) the Texas Adult Probation Commission;
- (5) the Texas Juvenile Probation Commission;
- (6) the Texas Youth Commission;
- (7) the Texas Rehabilitation Commission;
- (8) the Central Education Agency;
- (9) the Criminal Justice Policy Council;
- (10) the Mental Health Association in Texas;
- (11) the Texas Commission on Alcohol and Drug Abuse;
- (12) the Commission on Law Enforcement Officer Standards and Education;
- (13) the Texas Council of Community Mental Health and Mental Retardation Centers;
- (14) the Commission on Jail Standards;
- (15) the Texas Planning Council for Developmental Disabilities;
- (16) the Texas Association for Retarded Citizens;
- (17) the Texas Alliance for the Mentally Ill; and
- (18) the Parent Association for the Retarded of Texas, Inc.

(b) If an executive head of a state agency designates a representative as a member, the representative must be an officer or employee of the agency at the time of the designation and during the time of his service on the council. If the director of the Criminal Justice Policy Council designates a representative as a member, the representative must be an employee of the Criminal Justice Policy Council at the time of the designation and during the time of service on the council. At the time of their

appointment or designation and during the term of their service, the association members and the at-large members must have expertise in the rehabilitation of mentally retarded, developmentally disabled, or mentally ill persons.

Sec. 4. *TERMS.* The at-large members of the council serve staggered six-year terms.

Sec. 5. *OFFICERS; MEETINGS; QUORUM.* (a) At the first meeting of each calendar year, the council shall elect a chairman from its members.

(b) The council shall meet at least four times each year. The council may meet at other times at the call of the chairman or as provided by council rule.

(c) A quorum consists of 15 members.

Sec. 6. *EXPENSES.* Members of the council may not receive any compensation for the performance of their duties on the council, but the council shall reimburse members for travel and other necessary expenses incurred in performing their official duties, at the same rate provided for state employees in the General Appropriations Act of the current biennium.

Sec. 7. *POWERS AND DUTIES.* The council shall:

(1) determine the status of mentally retarded, developmentally disabled, and mentally ill offenders in the state criminal justice system;

(2) identify needed services for mentally retarded, developmentally disabled, and mentally ill offenders;

(3) develop a plan for meeting the treatment, rehabilitation, and educational needs of mentally retarded, developmentally disabled, and mentally ill offenders, including a case management system and the development of community-based alternatives to incarceration;

(4) cooperate in coordinating procedures of represented agencies for the smooth and orderly provision of services for mentally retarded, developmentally disabled, and mentally ill offenders;

(5) evaluate various in-state and out-of-state programs for mentally retarded, developmentally disabled, and mentally ill offenders and recommend to the directors of current state programs methods of improving those programs;

(6) collect and disseminate information about available programs to judicial officers, probation and parole officers, and the general public;

(7) distribute money appropriated by the legislature to political subdivisions, private organizations, or other persons to be used for the development, operation, or evaluation of programs for mentally retarded, developmentally disabled, or mentally ill offenders;

(8) apply for and receive money made available by the federal or state government or by any other public or private source to be used by the council to perform its duties; and

(9) develop and implement a pilot project to demonstrate a cooperative program that identifies, evaluates, and manages outside of incarceration nonviolent mentally retarded, developmentally disabled, and mentally ill offenders.

Sec. 8. *DEVELOPMENT OF PILOT PROGRAM.* (a) The council shall establish a pilot program in a county selected by the council to implement a collaborative community-based alternative system to divert nonviolent mentally or emotionally impaired offenders from the criminal justice system in Texas and to rehabilitate them. The program shall conform with the report and recommendations made by the Texas Department of Mental Health and Mental Retardation and the Texas Department of Corrections to the 70th Legislature as directed by S.C.R. No. 128, 69th Legislature, Regular Session, 1985. The council may employ and train a case management team to carry out project purposes and to coordinate the joint efforts of agencies represented on the council.

(b) The agencies represented on the council shall perform duties and offer services as required by the council to further the purposes of the project.

Sec. 9. ANNUAL REPORT. Not later than February 1 of each year, the council shall file a report with the governor, lieutenant governor, and speaker of the house of representatives detailing the activities of the council during the preceding year. The report must include an evaluation of any demonstration project undertaken by the council, an evaluation of the council's progress toward developing a plan for meeting the treatment, rehabilitative, and educational needs of mentally retarded, developmentally disabled, and mentally ill offenders, recommendations of the council made in accordance with Subdivision (5) of Section 7 of this Act, and any other recommendations that the council considers appropriate.

Sec. 10. TRAINING. The council shall provide technical assistance to represented organizations and agencies in the development of appropriate training programs.

Sec. 11. DEMONSTRATION PROJECTS. The council shall assess the need for demonstration projects and provide management for approved projects.

Sec. 12. APPLICATION OF SUNSET ACT. The Interagency Council on Mentally Retarded, Developmentally Disabled, and Mentally Ill Offenders is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the council is abolished, and this Act expires September 1, 1999.

SECTION 2. The Interagency Council on Mentally Retarded, Developmentally Disabled, and Mentally Ill Offenders shall implement the pilot program required by this Act not later than one month after the first meeting of the council.

SECTION 3. The governor shall appoint the nine at-large members of the Interagency Council on Mentally Retarded, Developmentally Disabled, and Mentally Ill Offenders before the 30th day after the effective date of this Act and shall designate three of those appointees to serve terms of two years, expiring February 1, 1989, three to serve terms of four years, expiring February 1, 1991, and three to serve terms of six years, expiring February 1, 1993. After the expiration of the initial terms, all terms are for periods of six years.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 13, 1987, by the following vote: Yeas 31, Nays 0. Passed the House on May 22, 1987, by a non-record vote.

Approved June 20, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.