



The 81st Texas Legislature Weekly Review: Week Ten

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State Schools

House Bill 1317 by Representative Patrick Rose

Representative Rose laid out a committee substitute for HB 1317 for which opposed the bill as currently written. In lieu of the recent atrocious events which have been occurring in the Corpus Christi State School, we urged the Representative to include a moratorium on all state school admissions until DADS could demonstrate the ability to keep residents safe and free from abuse, neglect, and exploitation.

As we've previously indicated, there are many items in this bill we fully support including the establishment of an Office of Independent Ombudsman, mortality reviews, FBI fingerprint checks and random drug testing of state school employees, employee training, and annual inspections and investigations about abuse and neglect. We continue to have concerns regarding the designation of one state school for alleged offender residents. However, this section is being significantly revised by Representative Rose. This bill was left pending.

House Bill 748 by Representative Drew Darby

We opposed HB 748 which would allow state schools or state centers to contract their services out to community providers who provide disability services. We are working with the Representative and his staff to alleviate the concerns we have relating to the bill as filed. This bill was voted favorably out of committee on March 19, 2009.



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Employment

House Bill 785 by Representative Eddie Rodriguez

Representative Rodriguez laid out a committee substitute for HB 785 for which we supported. This bill will improve current employment services available for people with intellectual and developmental disabilities and would require the department to develop a plan to reduce the over-reliance on segregated/sheltered employment. This bill was left pending.

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Medicaid Buy-In

House Bill 67 by Representative Eddie Lucio, III

We supported HB 67 which will allow middle class families with incomes up to the 300% Federal Poverty Level (FPL) the opportunity to purchase Medicaid coverage for their children and youth who have special healthcare needs (CYSHN). This bill was left pending

Senate Bill 187 by Seantor Deuell

The Senate Health and Human Services Committee took up Senate Bill 187 on March 19, 2009, which we supported, relating to a Medicaid buy-In Program for CYSHN. This bill is the companion to HB 67. This bill was left pending.

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Volunteer Advocate Program

House Bill 1454 by Representative Elliott Naishtat

We supported HB 1454 by Representative Naishtat which would create a pilot program in both a rural and urban community to help people with intellectual and developmental disabilities make life decisions such as where the person wants to live, work, etc without impeding their self-determination. People with intellectual and developmental disabilities have the ability and right to live in communities of their choice with the right supports and services. HB 1454 would provide individuals with supported decision-making services to help make those choices while preserving their own self-determination. This bill was voted favorably out of committee on



March 19, 2009.

*For more information contact Dawn Choate at
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Education Update

The following two bills The Arc of Texas supports will be heard in the House Public Education Committee on Tues. March 24 in room E2.036 upon adjournment of the full House.

HB 828 by Hochberg/ SB 1488 by Watson - Allows the Commissioner of Education to make grants to school districts to cover the cost of education for students with disabilities. Schools can apply for the grants if they do not have sufficient funds to pay for special education services provided to an individual student or they do not receive sufficient funds to pay for special education services provided for all students with disabilities in the district. The funds can be used for the cost of training personnel to provide special education services. The districts who receive funds must provide special education services in the least restrictive environment. This program is currently referred to as High Cost Funds but has been a rider in the Texas Education Agency budget and not a law. Approximately 8 million dollars in federal funds have been used to provide grants the past two years. TEA has received 30 million dollars in requests for these funds. Making this a law will help to ensure that the program continues and that additional funding may be available.

HB 1322 by Hochberg requires TEA in conjunction with HHSC to develop an online website that will provide resources for teachers of students with special health care needs and will address the treatment and management of chronic illnesses.

Following are a few of the new bills effecting students with disabilities that were filed last week before the filing deadline :

SB 2083 by Shapiro - will require TEA to develop an internet based data collection process that each school and charter school will be required to use. The school will be required to conduct surveys of parents, teachers, paraprofessionals and the student, to determine whether the person completing the survey believes that a student receiving special education services is progressing academically toward living independently and working competitively, whether they have an understanding of the educational rights of a student with a



disability, is satisfied with the ARD committee meetings, conflict resolution, due process provided, teacher training and retention. The survey will also measure post school outcomes such as where the student is living, and whether the student is working or attending post secondary education. The survey will also address reasons for student withdrawal from school. The bill includes the development of a ranking of school districts, a report card to parents and grants for high ranking schools.

HB 3307 by Eissler – Will require schools to consider as a factor, a student's disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, when making a decision about suspension, removal to a disciplinary alternative education program (DAEP) or expulsion. Many school districts have a disproportionate number of students with disabilities that are sent to in school or out of school suspension or to a DAEP. This bill will hopefully help to reverse that trend.

HB 2657 by Hochberg – requires districts to define the circumstances that a student may be removed from a classroom, campus or disciplinary alternative education program (DAEP) including when a student engages in serious and persistent misbehavior. The bill defines the term serious and persistent misbehavior and changes the term serious or persistent to serious and persistent. Serious and persistent misbehavior is defined as 3 or more times within one school year of aggressive action (deliberate violent behavior that poses a direct threat to the health or safety of others) or conduct that meets the definition of a criminal offense in the penal code including extortion, coercion, public lewdness, indecent exposure, criminal mischief, harassment of a student or school employee or personal hazing. Many school districts have a disproportionate number of students with disabilities that are sent to in school or out of school suspension or to a DAEP. This bill will help to ensure that students are not removed from the classroom for minor infractions.

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The State Budget Writing Process

Over the last two weeks, the Senate Finance Committee (SFC) and House Appropriations Committee (HAC) subcommittees on Article II (health and human services agency budgets) have worked through



every HHS agency budget, multiple times we're sure!

In the last week, the SFC subcommittee on Article II reported subcommittee decisions to the full SFC over several meetings. Their final recommendations on the Article II riders (budget instructions) were reported to the SFC this morning. The HAC subcommittee on Article II meets Monday evening to make final decisions on budget riders and they will report their final decisions to the full HAC on Tuesday of next week. We will keep you posted on the budget writing process as the session progresses!

One of the most significant issues, and one that we hope will inspire you to get involved, is that of Senate Bill 1 "Rider 48" (SB1 is the Senate version of the budget bill).

Last week we learned that private providers (providers that are not members of the Private Providers Association of Texas), including home health providers (represented by a private lobbyist), are continuing to voice their strong opposition to SB1, Article II, Special Provision 48, Section (d) which "...removes the case management function from HCS [Medicaid Waiver] providers and moves this function and related funds to local Mental Retardation Authorities."

Furthermore, Rider's author (Sen. Ogden, Chair of Senate Finance) is not willing to compromise; he will not make any changes to his Rider. And we thank him for it! The Arc of Texas has supported this structure of case management for many years! We believe it will ensure that the individual/family has an ally. Also, this structure of case management will ensure and notably enhance local provider oversight and accountability measures. The Arc of Texas supports Rider 48 as it is written.

The problem?

The private providers opposed to this language are among the largest providers in Texas, so they have a strong lobby. So, the Rider is either going to make it through the process OR the Rider will die along the process.

Unfortunately, the Senate budget bill has been drafted so that "all the eggs are in one basket." In other words, if Rider 48 is "killed" then individuals eligible for programs waiving off the ICF/MR system will be left with nothing. Individuals with intellectual disabilities and



developmental disabilities are the persons that benefit from these services. Rider 48 contains \$200 million in General Revenue funds for: 6,900 HCS slots, 1,890 CLASS slots, 47 DBMD slots, state school rightsizing, Promoting Independence, prevention of institutionalization, funds to restore some of the "ID" (previously "MR") Safety-Net, and funds to hire staff to perform survey & certification of all HCS group homes and foster/companion care homes, etc.

If Rider 48 is "killed," then the entire package of services and funding for persons with intellectual and developmental disabilities will be lost.

Please note that the Senate budget bill addresses waiting list reductions across the board of 10% for some programs, 25% for other programs and 100% of a few programs--this is great news!! HOWEVER, these funds will address only programs and services other than those that waive off the ICF/MR system.

Again, supporting Rider 48 in its entirety is of critical importance.

We ask that you contact Senator Steve Ogden to thank him for SB1, Article II, Rider 48! Ask that he please continue to fight for this Rider. His office number is (512) 463-0105. You can also write a thank you note to Senator Ogden by visiting his webpage (<http://www.senate.state.tx.us/75r/Senate/members/dist5/dist5.htm>) and completing the E-Mail Form located at the bottom of that page.

Keep watching...we will be sending action alerts on this very important matter in the coming weeks.

For more information, contact Amy Mizcles at amizcles@thearcoftexas.org.

Join Us At The Capitol...Share the Vision for a better world!

Share the Vision for a better world with The Arc of Texas during the 81st Legislative session. The more than half a million Texans with intellectual and developmental disabilities along with their families know that discrimination and other barriers affect their lives on a regular basis. Help show the Texas legislature that these issues year-round. Instead of having one Capitol day this year, The Arc of Texas is promoting a constant presence of advocates at the Capitol through Arc Days at the Capitol. Let's show legislators that we promote better policies and laws for people with intellectual and developmental



disabilities all the time, not just one day out of the year. Join us in our vision of having a constant presence at the Capitol a reality!

Over the past month we have had 33 volunteers from different areas of the state come to Arc Days at the Capitol and make over 61 legislative visits!!!! Thank you to all who have already participated- your help is what makes us successful. We have 70 days of the 81st session left—Sign up for a day now!

Resources

To find your legislators and to read the bills discussed in this update, go to www.capitol.state.tx.us Look for the "search legislation" and "who represents me" links.