

The 81st Texas Legislature Weekly Review: Week Seven

In This Issue:

1. Important Bills
2. Education Update
3. Budget update will follow soon
4. Join Us at the Capitol!
5. Resources

1. Important Bills

As we have indicated in previous weeks, Representative Rose and Senator Ellis filed HB 1589 and SB 1060 relating to the creation of a strategic plan to reform long-term services and supports for individuals with disabilities. Below is an analysis of what this bill entails.

- Requires Health and Human Services Commission(HHSC) to develop a comprehensive plan to reform and rebalance long term services and supports system
- Requires HHSC to complete a comprehensive analysis and planning *for individuals with disabilities* to encompass services across programs and settings.
- Requires the system Reform to: Be based on principles of self-determination, include person-centered planning and consumer-directed services, expand access to services in consumer's setting of choice (whether community or institution), base provision of services on functional need rather than diagnosis or label, streamline community-based services, to the extent possible, to ensure access to services regardless of the type of disability, improve quality of services across settings, increase cost effectiveness and sustainability of long term services.
- Defines the principles of self-determination
- Requires Commission to develop a plan for the reform of services for people with disabilities.
- Requires on-going and meaningful public input
- Requires the plan to: Assess need for services based on interest lists; national trends, consumer satisfaction surveys, etc.
- Prescribe methods to expand timely access to community services by: Reducing wait times to 2 years or less, Transferring funds from institutional settings to community services where appropriate, Increasing community-based provider capacity, Providing Incentives for ICF-MR providers to transition to providing services in the most integrated setting, Improving and expanding behavioral supports in the community for adults and children, Apply Money Follows the Person to state schools, state centers, and private ICFMRs, simplifying and streamlining administrative, policy and regulatory processes as allowable
- Analyze utilization management methods for community-based services; identify modifications to ensure timely access to needed services.
- Examine local access issues; identify solutions.
- Examine current functional eligibility criteria, reimbursement methodology and assessment tools of community-based services; determine modifications needed so that individuals receive the services they need regardless of the program they are in.
- Prescribe methods to redesign home and community-based services across programs by: Ensuring that person-centered plans & philosophy match utilization management, to the extent allowed by federal law, allow flexibility in development of individual service plans based on need rather than diagnosis or label, Ensure ability to modify individual service plans when support needs change, Implement other changes needed to streamline services for those eligible for waiver services
- Prescribe methods to improve services to residents of state schools.
- Prescribe methods to reduce reliance on institutional placements.
- Prescribe methods to end institutionalization of clients under the age of 22
- Prescribe methods to consolidate and close state schools and state centers in accordance with Sec. (b).
- Prescribe methods to down-size public and private ICFMRs.

- Prescribe methods to improve quality of services to consumers by: Examining current quality assurance methods and identifying which methods/processes, need further enhancement, need to be developed, are effective and should be implemented across programs.
- Increasing oversight and accountability in community settings.
- Developing capacity of qualified direct care workers.
- Develop and make available alternatives to guardianship that support individuals' decision-making.
- Develop a process to report to the legislature on quality, timeliness of services, number served and types of services provided.
- Identify barriers to system reform including any needed statutory changes.
- Requires the Strategic plan to prescribe to methods that will result in consolidation/closure of state schools/state centers through a reduction in the number of consumers placed in facilities; the plan must: establish a goal of reducing population of state schools/state centers and other facilities larger than 16 beds, within 8 years of plan submission, to no more than the national average utilization rate, establish benchmarks for 8-year period that will demonstrate progress toward the reduction in utilization of institutional facilities with 16 or more beds
- reflect recommendation of a steering committee that includes: Speaker appointees: A state representative with a state school in district, A state representative without a state school in district; Lt. Governor appointees: A senator with a state school in district, A senator without a state school in district; Executive commissioner appointees: Community-based services provider, ICFMR services provider, State school employee, Consumers, Advocates for consumers, Advocates for consumers who are children, Families of residents of a state school in a rural area, Families of residents of a state school in an urban area, Mental Retardation Authority's (MRA).
- Require executive commissioner to hire an individual, not an employee of DADS, to oversee the closure process.
- Identify the number and locations of state schools to close and the timeline for closure
- Identify guiding principles for closure of state schools including guidelines for future use of facilities and addressing the needs of: residents and their families, employees, and communities
- Define supports that will be made available to state school residents who move from the facility
- Prescribe methods for providing support to individuals without guardians through alternatives to guardianship.
- Strategic plan must include a timeline and benchmarks; must include an evaluation that allows opportunity to revise plan in response to the process; plan must require reporting to governor, lieutenant governor, speaker, and appropriate committees, of significant changes to the plan or unmet timelines.
- Requires executive commissioner to consider activities in other states, previous lawsuits, and Department of Justice (DOJ) report.
- Allows the executive commissioner to contract with disinterested party to assist in the evaluation and development of plan.
- Requires executive commissioner to begin facility closure as prescribed in the plan as soon as possible after the submission of plan.
- Allows the commission to begin consolidation or closure without additional legislative action
- Requires the strategic plan to be submitted to the Senate Health and Human Services Committee and the House Human Services Committee by December 10, 2010.

This week, HB 1317, 785, 804 and 1454 have been scheduled for a committee hearing on Thursday, March 12, 2009. The Committee will meet at 10:30 am or upon adjournment in E2.036. We will be providing testimony during the hearing.

We **support, with changes** HB 1317 by Representative Patrick Rose.

We **support HB 1454** by Representative Elliott Naishtat

We **support HB 785** by Representative Eddie Rodriguez.

Please go to the link below to view the hearing notice and a list of all other bills that will be heard.

<http://www.legis.state.tx.us/tlodocs/81R/schedules/html/C3102009031210301.htm>

2. Education Update

SB 451 will be heard on Thursday, Mar. 12 at 8:30 a.m. in the Senate Education Committee, Room E1. 036

SB 451 by Van De Putte/HB 511 by Patrick – will require school districts to provide research based training for regular education teachers who provide instruction to students with disabilities on the recommendation of the Admission Review and Dismissal Committee (ARD). Most regular education teachers have students with disabilities in their classrooms however they may have received no training on how to modify or differentiate instruction for students with disabilities and may need training and support on to implement positive behavior intervention supports. This bill will provide greater opportunity for regular education teachers to get the training and support they need to successfully include students with disabilities in regular education classes.

HB 615 was heard on Monday, Mar. 9th in the House Business and Industry Committee.

HB 615 by Turner / SB 648 by Van de Putte - Allows an employee who is a parent of a student enrolled in a special education program, who has been an employee of a company for more than one year, up to 10 hours of unpaid leave in a 12 month period, to meet with a teacher, counselor, or principal. This bill will help working families to plan for and attend their child's Admission, Review and Dismissal (ARD) meetings or other meetings at the request of the teacher, principal or counselor during the year. The federal Individuals with Disabilities Education Act places a great emphasis on parent involvement in the development of the special education student's Individual Education Program. Parent involvement is critical in the success of the student.

New Bills filed last week:

SB 1486 by Watson - Qualifications of Special Education Personnel – this bill will require the TEA commissioner to establish specific qualifications for special education teachers, related services personnel and paraprofessionals and include information in the student's IEP about any required qualifications.

SB 1487 by Watson – this bill ensures that a teacher can request training and or classroom support to provide instruction to students with disabilities, allows a teacher to request and participate in an ARD committee meetings regarding a student they are teaching and requires the school district to respond to teachers concerns and to inform the parents of the schools response.

SB 1488 by Watson (companion to HB 828 by Hochberg) - 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 is 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

SB 1490 by Watson - TEA Due Process Hearings– this bill moves the special education Due Process Hearings from TEA to the State Office of Administrative Hearings. Moving the due process hearings to an independent agency will help to restore parent faith and confidence that due process hearings will be fair and equitable option for dispute resolution.

SB 1489 by Watson - Optional Dispute Resolution– this bill develops a statewide alternative dispute resolution option called IEP facilitation. IEP facilitation will be a voluntary process where both the school and the parent must agree to participate. TEA will contract with Independent facilitators to attend ARD committee meetings to make sure the process is correctly followed and the lines of communication remain open. This will help to avoid formal complaints, mediation and due process hearings and resolve issues at the lowest level.

3. Budget Update to follow

4. Join Us At The Capitol...Share the Vision!

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 making our vision of a constant presence at the Capitol a reality!

To sign up for a day, contact Ginger Mayeaux at gmayeaux@thearcoftexas.org or 512-494-6694 (125).

5. 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.