



For people with intellectual and developmental disabilities.

November 17, 2021

The Honorable Dade Phelan
Speaker, Texas House of Representatives
Room 2W.13
Texas State Capitol

Dear Speaker Phelan:

Thank you for your leadership in the 87th Texas Legislature. Under your guidance, the House considered and passed numerous measures beneficial for all Texans. The Arc of Texas looks forward to a productive interim that maintains the meaningful momentum you have generated for thoughtful policy deliberation and public participation in policymaking.

As a statewide membership organization, The Arc of Texas promotes, protects, and advocates for the human rights and self-determination of more than a half-million Texans with intellectual and developmental disabilities (IDD). In collaboration with 27 local chapters across the state, we work with Texans with IDD and their families to identify barriers to and solutions for quality community services and supports, access to civil rights and criminal justice, competitive integrated employment, and inclusive education. With their input in mind, The Arc of Texas respectfully submits the following recommendations for interim study.

Quality Community Services and Supports

Applicable committees: Appropriations, Appropriations Article II Subcommittee, Human Services

- Study new and sustainable funding mechanisms for Medicaid home and community-based services (HCBS) waiver programs, including the creation of a designated HCBS infrastructure fund. Consider funding streams used in Louisiana, Ohio, Alaska, and other states with long-term revenue sources for HCBS programs. Make recommendations to fully fund and expand services for Texans with IDD on interest lists.
- Study ways to improve and strengthen the Community First Choice (CFC) program. Make recommendations to improve the awareness of CFC among individuals with disabilities and their families.
- Study ways to enhance data collection for the Medicaid HCBS waivers Interest List. Make recommendations to modernize processes and utilize technology to improve responsiveness for individuals with disabilities and their families and the state's capacity to forecast future needs.
- Monitor the implementation of the IDD Strategic Plan to ensure individuals with disabilities including intellectual, developmental, physical, and mental health conditions, can access services in the most cost-effective, least restrictive environment.

- Study the impact of the base wage for community attendant services in Texas Medicaid. Review the history of the base wage for community attendants. Determine whether community attendant base wage is competitive to market wage rates for alternative employment, such as fast food, convenience retail, and unskilled warehouse work, and how this impacts attendant shortages. Study the turnover rates in the community attendant workforce and whether excessive turnover has a negative effect on the quality of care and increased acute care costs, emergency room visits, hospitalizations, and avoidable institutionalization. Review projections from the Texas Workforce Commission on future demands for community attendants. Determine a base wage rate to secure and retain the workforce for current and future demands.

Civil Rights and Criminal Justice

Applicable committees: Criminal Jurisprudence, Human Services, County Affairs, Judiciary & Civil Jurisprudence

- Examine whether current laws effectively protect students with disabilities from assault, maltreatment, and excessive use of force. Discuss strategies to equip educators with knowledge and skills to identify and safely negotiate reasonable use of force. Make recommendations to improve student safety while protecting educators' abilities to maintain order and safety for everyone in the classroom.
- Monitor the implementation of HB 3540 (86R) which affirmed peace officers have the discretion whether to arrest a resident of a group home or intermediate care facility with IDD. Considering the death of Fred Harris, evaluate the state's efforts to make all peace officers and law enforcement agencies aware of this change.
- Investigate the use of Supported Decision-Making Agreements created through SB 1881 (84R) in the criminal legal system to determine how often they are used, by whom, and in response to what charges. Make recommendations to expand the usage of Supported Decision-Making Agreements and other alternatives to guardianship for individuals with disabilities.
- Study best practices for supporting individuals with IDD experiencing mental illness. Examine access to comprehensive, integrated mental health (MH)/IDD services in Texas and the extent to which services are being provided in a person-centered way across public and private sectors and in institutional settings. Identify barriers experienced by consumers and family members in accessing both MH and IDD services for individuals with co-occurring conditions, including cross-coordination to maximize well-being and availability and access to resources for providers and schools on how best to serve people with both MH/IDD needs. Make recommendations for proactive, preventive approaches that keep people with MH/IDD in the community and out of restrictive settings and reduce law enforcement interaction to avoid criminal justice involvement.
- Study the availability of mental health crisis services available to individuals with IDD and the policies that impact access to these services. Make recommendations to encourage interagency collaboration and increased access to training for mental health providers on co-occurring mental health conditions and intellectual and developmental disabilities (MH/IDD).

- Evaluate the use of DPS' Texas Law Enforcement Telecommunications System (TLETS) and HHSC's Clinical Management for Behavioral Health Services (CMBHS) data exchange processes. Specifically, review results from the Annual Report on the Screening of Offenders with Mental Impairments as required by Rider 53 of Article II of HB 1 (86R). Explore the outcome of offenders who do not have exact or probable matches with the TLETS/CMBHS systems. Make recommendations to improve and facilitate the collaboration and communication between jails and state-funded mental health and IDD service providers for jail diversion.

Competitive Integrated Employment

Applicable committees: Higher Education, International Relations & Economic Development, Human Services

- Review progress toward the goals of the 60X30TX plan, including availability, access, and outcomes for students with disabilities. Specifically, review recommendations from the Advisory Council on Postsecondary Education for Persons with Intellectual and Developmental Disabilities (SB 1017, 86R). Consider whether legislative action may be needed to improve policies related to recruitment, data collection, and availability of postsecondary opportunities for diverse populations.
- Study performance-based approaches to funding employment services for people with disabilities. Consider programs implemented in other states such as Oklahoma, Wisconsin, and Oregon, including payment structures that incentivize competitive integrated employment. Examine ways to reduce conflicts within provider incentives that complicate the provision of employment services for people with disabilities. Recommend policy changes to designate employment supports as the primary method of funding state-financed day services for working-age adults with disabilities.
- Review access to and comprehension of employment information for working-age individuals with disabilities. Make recommendations for ways to ensure all working-age individuals with disabilities, including young adults, are offered factual information regarding employment as an individual with a disability, including the relationship between an individual's earned income and the individual's public benefits and how work incentives can be utilized. Assess the state's existing capacity to train and educate all who may need this information.
- Explore strategies for funding for the expansion or improvement of existing occupational skills training programs, including Project SEARCH®, for Texans with disabilities as described in the SB 2027 (85R) report by the Texas Health and Human Services Commission (HHSC) and the Texas Workforce Commission (TWC).

Inclusive Education

Applicable committees: Appropriations, Appropriations Article III Subcommittee, Public Education, Select Committee on Youth Health & Safety

- Evaluate ongoing strategies to continuously improve special education services for students in public schools, including implementation of the Texas Education Agency's corrective action plan and monitoring of HB 3 (86R), HB 159 (87R), HB 2256 (87R), and HB 785 (87R). Make recommendations for continued improvement.

- Assess the enrollment of students with individualized education programs (IEPs) in remote learning programs offered by local education agencies (LEAs) and the accessibility of such programs. Study the implementation of SB 15 (87(2)) and determine best practices for ensuring students receiving virtual and off-campus electronic instruction and special education services are educated in a manner consistent with an admission, review, and dismissal (ARD) committee's determination, defined services, and the student's needs. Make recommendations to facilitate remote learning program preparedness for future public health and/or other emergencies.
- Study the statewide cost of legal expenses associated with special education, including current processes for approval of and amount of funds spent by the Texas Education Agency, as well as Local Education Agencies (LEA) and charter schools related to special education litigation. Examine expenditures including general counsel and paralegal FTEs, contracted legal services, payments issued to settle special education-related grievances, penalties, and all other related legal fees. Make recommendations to improve accountability and transparency of legal expenses and maximize funding available for direct educational purposes.
- Study access to childcare in Texas for children with disabilities and developmental delays, including access to safe, high-quality, inclusive care; inclusive childcare enrollment rates across the state, attrition rates of children with disabilities from inclusive childcare settings.

We appreciate your consideration of these items as you finalize your list of interim charges. Please do not hesitate to contact The Arc of Texas for information or if we can be of service.

Sincerely,



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