

Background:

A. State Policy Issues

TCDD Staff will provide an update regarding recent public policy activities.

Discussion topics include:

- Sunset Review Activities
- 2015 Legislation
- Guardianship
- Medical Marijuana

B. Update on State Supported Living Center Activities

The Committee will receive an update on recent activities involving State Supported Living Centers.

Discussion topics include:

- State Supported Living Center (SSLC) Long-term Plan – DRAFT
<http://www.communitynowfreedom.org/uploads/Rider39DraftReport.pdf>

C. Federal Policy Issues

TCDD Public Policy staff will provide an overview of the status and implementation of various federal legislative initiatives that impact people with developmental disabilities including an update on the Able Act.

Important Terms

Legislative Appropriations Request (LAR): a document prepared by each state agency and institution which details the amount of funding each agency is seeking from the legislature.

Public Policy Committee

Agenda Item 6.

Expected Action:

The Committee will receive updates on these items and may make recommendations for consideration by the Council.

Council

Agenda Item 16. B.

Expected Action:

The Council will receive reports from the Public Policy Committee and consider any recommendations offered from the Committee.



Tx Council/Developmental Dis. Bill Status Report

01-20-2015 - 11:58:06

 - Action in the date range  - Link to Related Information () - Priority

CRIMINAL JUSTICE

SB 226 Ellis, Rodney(D) Relating to the applicability of the death penalty to a capital offense committed by a person with an intellectual disability.

Remarks: Would eliminate the death penalty is a punishment for a person with an intellectual disability.

Bill History: 12-03-14 S Filed

EDUCATION

HB 43 Gonzalez, Mary(D) Relating to the creation of a task force to evaluate state assessment instruments administered to public school students with significant cognitive disabilities.

Remarks: Would create a 40-member task force to evaluate state assessments for public school students with cognitive disabilities.

Bill History: 11-10-14 H Filed

HB 70 Gonzalez, Mary(D) Relating to prevention of discrimination and harassment in public schools.

Remarks: Would prohibit a school employee or student from discriminating, harassing or retaliating at school, school event, while transporting based on actual or perceived ethnic, cultural, sexual orientation/identity or disability. Periodic training required.

Bill History: 11-10-14 H Filed

HB 73

Gonzalez, Mary(D)

Relating to academic assessment of public school students with significant disabilities.

Remarks: Would require TEA to develop portfolio or other assessment for students with cognitive disabilities or who are medically fragile receiving special education services if standardized assessment is an inappropriate measure of achievement.

Bill History: 11-10-14 H Filed

HB 279

Simmons, Ron(R)

Relating to eligibility for a public education grant of certain students receiving special education services.

Remarks: Would amend provisions governing receipt of a public education grant to attend public school in another school district or a transfer to another public school in the district where the student resides and to give preference to students at risk of dropping out of school or participating in the special education program. The exception to preference remains the same for all students, that is, a district may give preference over students at risk or eligible for special education to students already enrolled and their siblings or other children living in the same household.

Bill History: 11-12-14 H Filed

HB 356

Gonzalez, Mary(D)

Relating to a federal waiver to exempt public school students with significant cognitive disabilities from annual assessment requirements imposed by federal law.

Remarks: Would require TEA to apply to the US Department of Education for a waiver of the annual alternate assessment of students with significant cognitive disabilities required by the No Child Left Behind Act and IDEA.

Bill History: 11-21-14 H Filed

HB 435

Raymond, Richard(D)

Relating to the instruction of American Sign Language in public high schools.

Remarks: Would allow the instruction of ASL in public high schools via teleconferencing.

Bill History: 12-03-14 H Filed

HB 440 Gonzales, Larry(R) Relating to adapting the public school physical education curriculum to accommodate the needs of students with mental disabilities.

Remarks: Would require accommodations in physical education classes for students with a mental illness, intellectual and developmental disabilities, or pervasive developmental disorder.

Bill History: 12-04-14 H Filed

SB 176 Seliger, Kel(R) Relating to the Texas School Accountability Dashboard.

Remarks: Would add several data requirements to School Accountability Dashboard, including progress of students in special education.

Bill History: 11-12-14 S Filed

GUARDIANSHIP

HB 257 Farney, Marsha(R) Relating to a justice or judge having an interest in a business entity that owns, manages, or operates a private correctional or rehabilitation facility.

Remarks: Would change a judge's conflict of interest from owning to 10% to owning any share of a business.

Bill History: 11-12-14 H Filed

HEALTHCARE

HB 614 Davis, Sarah(R) Relating to establishing an advance directive registry.

Remarks: Would require a statewide website for posting advance directives so that doctors can find out immediately the patient wishes.

Bill History: 01-06-15 H Filed

SB 89 Ellis, Rodney(D) Relating to the expansion of eligibility for medical assistance to certain persons under the federal Patient Protection and Affordable Care Act.

Remarks: Would require expansion of Medicaid as allowed under the Affordable Care Act (ACA).

Bill History: 11-10-14 S Filed

HIGHER ED & EMPLOYMENT

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| HB 174 | Martinez Fischer, Trey(D) | Relating to requiring a living wage for those that do business with the state. Remarks: Would require state agencies, vendors, and contractors and political subdivisions to pay employees the greater of \$10.10/hour or the federal minimum wage. This could be particularly significant for persons with disabilities working at subminimum wage and associated with the Texas State Use Program. Bill History: 11-10-14 H Filed |
| SB 36 | Zaffirini, Judith(D) | Relating to requiring the Texas Higher Education Coordinating Board to maintain an inventory of postsecondary educational programs and services for persons with intellectual and developmental disabilities. Remarks: Would require Texas Higher Education Coordinating Board to keep, distribute, and update biennially an inventory of postsecondary educational programs and services provided by public colleges and universities to people with IDD. List would be shared on board's website and with TEA. Bill History: 11-10-14 S Filed |
| SB 37 | Zaffirini, Judith(D) | Relating to a study of the participation of individuals with intellectual or developmental disabilities in public higher education. Remarks: Would require TEA to maintain data on participation of people with IDD in public higher education. Would require TEA and Comptroller to have MOU outlining how offices will work in conjunction. Bill History: 11-10-14 S Filed |
| SB 38 | Zaffirini, Judith(D) | Relating to creation of an employment-first task force advisory committee. Remarks: Would create advisory committee of 11 or fewer members to make recommendations to the Employment First Task Force on increasing post-secondary education and access for individuals with IDD. Advocates have recommended that the Higher Education Coordinating Board would be the more appropriate location for this committee. Bill History: 11-10-14 S Filed |

HOUSING

SB 267 Perry, Charles (F)(R) Relating to the regulation by a municipality or county of the rental or leasing of housing accommodations.

Companions: HB 738 Larson, Lyle (Identical)
1-15-15 H Filed

Remarks: Would allow owners and others to refuse to rent to individuals with housing choice vouchers or based on source of income. Legal case have found income discrimination creates a disparate impact.

Bill History: 12-19-14 S Filed

SB 278 Watson, Kirk(D) Relating to an increase in the amount of the residence homestead exemption from ad valorem taxation by a school district and the increase of the exemption amount in subsequent years to reflect inflation.

Remarks: Would raise residence homestead exemption to \$25,000 benefitting fixed income homeowners. One of many bills this session related to ad valorem taxation. Would reduce the limitation on the total amount of ad valorem taxes that may be imposed by a school district on the homestead of a senior or person with a disability to reflect the increased exemption amounts, and the protection of school districts against the resulting loss in local revenue.

Bill History: 01-07-15 S Filed

SB 282 Watson, Kirk(D) Relating to the period for which certain property acquired by a charitable organization to provide low-income housing may be exempted from ad valorem taxation.

Remarks: Would increase from 5 to 10 years exemption from ad valorem tax for non-profit, low income housing. Could act as incentive to increase housing options for people with disabilities.

Bill History: 01-07-15 S Filed

LONG TERM SERVICES & SUPPORTS

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| HB 504 | Guillen, Ryan(D) | Relating to designating the second full week in September as Direct Support Professionals Week. |
| | Remarks: | Would designate the 2nd week in September as Direct Support Professionals Week. |
| | Bill History: | 12-12-14 H Filed |
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| HB 607 | Davis, Sarah(R) | Relating to the creation of the State Supported Living Center Realignment Commission. |
| | Remarks: | Would require an SSLC realignment commission for closure and consolidation. Needs respectful language edit. |
| | Bill History: | 01-06-15 H Filed |
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| HB 620 | Bonnen, Greg(R) | Relating to electronic benefits transfer cards used for recipients of benefits under certain assistance programs. |
| | Companions: | HB 747 Bohac, Dwayne (Identical) 1-15-15 H Filed |
| | Remarks: | Would require a photograph on electronic benefits card for SNAP benefits. |
| | Bill History: | 01-07-15 H Filed |
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| HB 765 | King, Susan(R) | Relating to ensuring that certain military members who reside out of state and their dependents maintain their positions on waiting lists for certain assistance programs provided by health and human services agencies. |
| | Companions: | SB 169 Uresti, Carlos (Identical) 11-10-14 S Filed |
| | Remarks: | Would ensure that military families stationed outside of Texas maintain their interest list position in their absence. Limit to one year maintenance on wait list after duty ends, killed or dies in service. |
| | Bill History: | 01-16-15 H Filed |
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HB 730 Lucio III, Eddie(D) Relating to the use of public school counselors' work time.

Companions: SB 165 Lucio, Eddie (Identical)
11-10-14 S Filed

Remarks: Would require 90% of school counselor time devoted to counseling and guidance. Administering assessments is not considered counseling.

Bill History: 01-15-15 H Filed

SB 125 West, Royce(D) Relating to certain assessments for children in the conservatorship of the Department of Family and Protective Services.

Remarks: Would require developmental psycho-social & trauma assessment of child who enters conservatorship.

Bill History: 11-10-14 S Filed

SB 133 Schwertner, Charles(R) Relating to mental health first aid training for school district employees and school resource officers.

Remarks: Would expand the list of school districts employees for whom LMHAs would be paid \$100 for mental health first aid training. The funds available for training would be subject to previous limitations of the lesser of 3 percent or \$40,000 per LMHA. DSHS would be required to annually report the numbers of educators, other school district employees, and others who received training.

Bill History: 11-10-14 S Filed

SB 164 Lucio, Eddie(D) Relating to a notification requirement if a school counselor is not assigned to a public school campus.

Remarks: Would require open enrollment charter schools to post website notice if there is no FT counselor for 30 days.

Bill History: 11-10-14 S Filed

SB 239 Schwertner, Charles(R) Relating to student loan repayment assistance for certain mental health professionals.

Remarks: Would establish a loan repayment assistance for physician, advanced practice nurse and clinical social work students who complete up to five years practice with Texas Department of State Health Services

Bill History: 12-15-14 S Filed

MISCELLANEOUS

HB 145 Martinez Fischer, Trey(D) Relating to certain legislative deadlines.

Remarks: Would require the legislature to prioritize Sunset legislation, the budget, and legislation in response to the public school finance lawsuit. After the 100th day of the 2015 session, no other business would be considered in either chamber until bills related to those issues are sent to the governor.

Bill History: 11-10-14 H Filed

HB 532 McClendon, Ruth Jones(D) Relating to the ability of a nonexempt employee to participate in certain academic, extracurricular, and developmental activities of the employee's child.

Remarks: Would allow nonexempt employees who work at least 30 hours a week to use between 8 and 20 hours in a year and employees who work less than 30 hours a week between 8 and 15 hours in a year to participate in the employee's child's school and developmental activities. Limits apply.

Bill History: 12-17-14 H Filed

HB 659 Raymond, Richard(D) Relating to the waiver of state park, museum, and other state-operated facility entrance fees for persons with certain disabilities.

Remarks: Would allow people with intellectual or developmental disabilities and their paid attendant to have free admission to state parks, museums or other state operated facilities.

Bill History: 01-12-15 H Filed

SJR 9 Taylor, Van (F)(R) Proposing a constitutional amendment to provide for review or approval of state agency rules by the elected members of the legislature.

Remarks: Would allow legislature to review, approve, repeal agency rules.

Bill History: 11-10-14 S Filed

Guardianship Reform & Supported Decision-Making

Texas Council for Developmental Disabilities public policy staff continue to be engaged in advocacy efforts that will advance the Council's position on guardianship:

- The vast majority of people with disabilities do not need guardians.
- Individuals should receive support, education or training to develop their capacity to make decisions for themselves, so that the guardianship may be averted.
- The interests of the individual and opportunity for maximum self-reliance must be considered at every point in the consideration of guardianship or its implementation.
- Alternatives to guardianship should be proven before guardianship is found to be the most appropriate and least restrictive alternative.

TCDD policy staff have worked with multiple groups to assess Texas' system of guardianship and alternatives, address policy and practice issues, develop proposals to strengthen alternatives to guardianship for individuals with disabilities, and educate and inform stakeholders about alternatives. A recent study by the Texas Office of Court Administration found that 51% of guardianship cases involved a person turning 18 and 58% were due to intellectual and developmental disability.¹ The promise of the Americans with Disabilities Act is an empty promise if a person with disabilities is under guardianship.

Network of Guardianship Stakeholders (WINGS)

TCDD staff participation on the Texas Office of Court Administration Texas Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) helped shape eight recommendations for reform that include three priorities in the TCDD position on guardianship:

- Services to coordinate alternatives to guardianship should be established.
- A standardized form, focused on a person's capabilities rather than limitations, should be developed for courts to obtain an accurate and detailed assessment of a proposed protected person's functional limitations.
- A template should be created to assist guardians in developing a person-centered plan.
Texas Council for Development Disabilities/DADS will provide person-centered planning templates and training online.

Guardianship and Supported Decision Making Workgroup (GRSDM)

The GRSDM ad hoc cross-organization collaborators met every month for the past 18 months to develop seven policy recommendations to advance alternatives to guardianship, educate and inform the public and policy makers on guardianship reform and supported decision-making and build support for positive changes. The GRSDM established a website to house the proposals. Please see www.grsdm.org.

Guardianship Reform & Supported Decision-Making

Proposals for Guardianship Reform and Supported Decision-Making

1. Respectful language matters. We need to change the impersonal term “ward” to “person under guardianship.”
2. The person proposed for guardianship or a person under guardianship should know the rights that they get to keep and these rights need to be communicated to them in a way they understand.
3. Supported decision-making agreements should be established in code as an informal alternative to guardianship where individuals could choose people they trust to help them understand the decisions they need to make and to communicate their decisions to others.
4. Alternatives to guardianship should be listed together in code with a directive to the court to determine whether alternatives could meet the needs of the person rather than guardianship.
5. Guardians should have requirements for at least monthly visits to individuals committed to institutional settings and provide timely responses to calls, emails or letters about the person.
6. The court should be required to determine if formal and informal supports are in place or available that enable individuals to meet their needs for food, clothing, or shelter, care for their physical or mental health, manage financial affairs and/or make decisions so that guardianship may be averted or limited.
7. Individuals under guardianship should, if possible, be able to make decisions about where they reside.

Texas Judicial Council

When the opportunity arose TCDD and Disability Rights Texas testified before the Elders Committee of the Texas Judicial Council about people with disabilities being impacted significantly by guardianship decisions and their need for protections of their civil rights to make important decisions without the need for a full or limited guardianship. At this meeting the chair of the Elders Committee voiced support for some of the proposals. The Elders Committee requested and received endorsement by the [Texas Judicial Council](#) for a majority of the seven proposals to advance alternatives to guardianship. The proposals will be drafted as legislation and will carry weight since they come from the Texas Supreme Court and its Judicial Council.

The Judicial Council endorsed the following reforms:

1. Supported decision-making agreements (GRSDM #3);
2. Requiring that a court make a finding that no less restrictive alternatives (GRSDM #4);
3. Requiring that the court find by clear and convincing evidence that alternatives to guardianship have been explored and determined not to be feasible (GRSDM #4);

Guardianship Reform & Supported Decision-Making

4. Requiring that the applicant or applicant's attorney certify to the court that alternatives to guardianship have been explored (GRSDM #4);
5. Requiring court approval before a guardian places a ward in a more restrictive care facility;
6. Requiring that the court consider the ward's right to make personal decisions about residence (GRSDM #7);
7. Defining supports and services and considering those resources in determining the need for a guardianship and the limits of power or authority of a guardian over an incapacitated person (GRSDM #6);
8. Requiring that the capacity assessment state whether improvement in the proposed ward's condition is possible and, if so, state the period of time after which the individual should be re-evaluated to determine if the guardianship is necessary;
9. Requiring the court to consider the adult's preference of the person to be appointed guardian by the court; and
10. Requiring that the applicant's attorney be certified by the State Bar of Texas as having successfully completed a course of study in guardianship law and procedure and by increasing the certification from three to four hours, with one hour of that training on alternatives to guardianship and supports and services available to proposed wards.

The Judicial Council also endorsed requiring that attorneys have one hour of training on alternatives to guardianship and services and supports available to individuals.

Training Stakeholders and the Judicial System on Guardianship Alternatives

We are hopeful that meaningful reform will be enacted by the 85th Texas Legislature. Training about the reforms will be necessary. TCDD facilitated a group of attorneys who represent individuals with disabilities and elder Texans in guardianship cases to discuss how to approach training to advance alternatives. TCDD staff drafted an executive summary for a possible project to raise awareness and provide training to attorneys, judges, service providers, people with disabilities and their family members on the alternatives to guardianship, when they are appropriate, and how to use them. That proposal will be considered by the Project Development Committee.

Next Steps

The momentum for change that supports the position of the Council is real. The recommendations in this report will increase opportunities for, and protect the civil rights and well-being of, people with developmental disabilities. If you wish to advocate for guardianship reform staff there is a one-pager in your binder materials that you can share with legislators.

Guardianship Reform & Supported Decision-Making

ⁱ Texas Guardianship Cases: Improving Court Processes and Monitoring Practices in Texas Courts. Texas Office of Court Administration. Pg. 5. Retrieved January 15, 2105 from http://www.txcourts.gov/media/701080/GUARDIANSHIP-STUDY_11-12-14-Final.pdf