

Background:

A. State Policy Issues

The 82nd Texas Legislative Session convened Tuesday, January 11, 2011, and will adjourn after 140 days on May 30, 2011. TCDD Public Policy Director Angela Lello will provide an overview to the Committee of the Whole of key dates for this legislative session, current issues, and key committees, and will provide information about how Council members may be involved. The Public Policy Committee will also discuss the Committee’s role during the Session and may provide guidance to staff concerning emerging policy issues.

B. Update on State Supported Living Center Monitoring Activities

The Committee will receive an update on recent Department of Justice monitoring team reports of State Supported Living Centers. Staff will also discuss with the Committee recent advocacy efforts and discussions in response to those reports. Materials are enclosed related to this item.

C. Update on 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. Additional information is provided in meeting materials.

<p><u>Public Policy Committee</u></p> <p><u>Agenda Item 5.</u></p>	<p><u>Expected Action:</u></p> <p>The Committee will receive updates on these items and may make recommendations for consideration by the Council.</p>
<p><u>Council</u></p> <p><u>Agenda Item 16. A.</u></p>	<p><u>Expected Action:</u></p> <p>No action anticipated. Information item only.</p>

TCDD Priority Bills

Education

Bill	Author	Caption	Bill Summary
HB 357/ SB 35	Rodriguez/ Zaffirini	Relating to transition and employment services for public school students enrolled in special education programs.	Requires schools to designate a school transition and employment coordinator. The bill also specifies that transition services should begin for students at age 14 and requires the Texas Education Agency (TEA) to develop a transition and employment manual for students enrolled in special education and their parents.
HB 1340	Walle	Relating to the use of positive behavioral interventions and supports in public schools.	This bill would establish a State Plan for Positive Behavioral Intervention & Supports, with a leadership team for implementing its recommendations.
HB 596	Shapiro	Relating to transition planning for a public school student receiving special education services.	Provides that student transition planning should begin when a student reaches the age of 14 and should include social and recreational goals.

Education – Discipline

Bill	Author	Caption	Bill Summary
HB 195	Walle	Relating to disciplinary action taken against public school students on the basis of serious and persistent misbehavior.	Specifies the behavior that students must engage in to be expelled from a disciplinary alternative education program (DAEP).
HB 622/ SB 718	Hochberg/ Van de Putte	Relating to disciplinary action taken against certain public school students on the basis of serious and persistent misbehavior.	Defines the behaviors that constitute serious behavior that could result in a student being expelled from a DAEP.
HB 711	Walle	Relating to a study and report by the Texas Education Agency regarding certain public school disciplinary placements.	Directs the Texas Education Agency (TEA) to conduct a study on the academic achievement of students who are removed from class or school to a disciplinary placement.

Long-term Services and Supports

Bill	Author	Caption	Bill Summary
HB 1481/ SB 26	Truitt/ Zaffirini	Relating to the use of person first respectful language in reference to individuals with disabilities.	The bill would initiate the process of eliminating the R-word from state statutes.
HB 2270	Castro	Relating to health benefit plan coverage for early childhood intervention services.	Expands the definition of rehabilitative and habilitative therapies and prohibits a health benefit plan from refusing to cover those services.
HB 2407	Darby	Relating to the designation of the San Angelo State Supported Living Center as a forensic state supported living center.	Would designate San Angela State Supported Living Center as a forensic center for the care of high-risk alleged offender residents.
SB 222	Nelson	Relating to access to certain long-term care services and supports under the medical assistance program.	Directs DADS to increase utilization reviews of Medicaid waiver services and institute other cost-containment initiatives.
SB 415	Zaffirini	Relating to individuals with intellectual disabilities committed to state supported living centers.	Limits the length of court commitment to a SSLC to 12 months unless extended by a court.
SB 614/ HB 2536	Rodriguez Schwertner	Relating to the creation of the State Supported Living Center Realignment Commission and the residential placement of individuals with intellectual and developmental disabilities.	Would establish the State Supported Living Center Realignment Commission to evaluate and make recommendations regarding closure and consolidation of state supported living centers.
SB 775	Zaffirini	Relating to establishing a participant-directed Medicaid waiver pilot program.	Would create a Participant-directed Medicaid Waiver Pilot Program in at least one rural and one urban area for a period of at least four years to allow participants in Medicaid waiver programs to have greater choice, direction, and control of the benefits they receive.
SB 23/ HB 1645	Nelson	Relating to efficiencies and cost-savings in the health and human services and other related regulatory agencies, including the state medical assistance and child health plan programs.	Would direct DADS and HHSC to implement changes to certain programs, including long term services and supports, in order to achieve the necessary cost-containment needed to operate programs with the funding appropriated in HB 1.

Children and Families

Bill	Author	Caption	Bill Summary
HB 420	Alonzo	Relating to a subsidy under an adoption assistance agreement for certain adoptive parents of children in foster care.	This bill would require DFPS to subsidize the adoption of children in foster care by a parent whose family income is less than 300% of the federal poverty level, if the agency determines that the child would otherwise have remained in foster care until age 18 without a subsidy.
HB 712	Walle	Relating to employee caseload and call processing standards for the provision of child and adult protective services.	Would ensure that the average caseload for investigations, family-based safety services (FBSS) and Adult Protective Services (APS) do not exceed certain levels and limits the hold time for the statewide intake hotline.
HB 1709	Dukes	Relating to the creation of the individual development account program to provide savings incentives and opportunities for certain foster children to pursue home ownership, postsecondary education, and business development.	Establishes an individual development account program to help certain foster children save money that can be used towards the purchase of a home, the cost of postsecondary education, and/or other assets.
SB 218	Nelson	Relating to procedures in certain suits affecting the parent-child relationship and the operation of the child protective services and foster care systems.	Foster care redesign bill for DFPS. Would keep kids in their home communities by using payments based on performance targets instead of a child’s level of care. Directs DFPS to contract with providers who can individualize continuums of care, limits children being placed outside of the home under a case closure agreement, and authorizes DFPS to conduct criminal background checks on supervised independent living providers who provide case management to children staying in foster care after age 18.
SB 221	Nelson	Relating to the Department of Family and Protective Services, including protective services and investigations of alleged abuse, neglect, or exploitation for certain adults who are elderly or disabled; providing a criminal penalty.	Strengthens the authority of Adult Protective Services and clarifies the definition of “exploitation” to include attempted exploitation and using a client’s personal information for personal or monetary gain.
SB 260	West	Relating to minimum training standards for employees of certain child-care facilities.	Increases training requirements for employees of licensed child care centers in order to improve the quality of care provided in licensed child care facilities.

Children and Families (continued)			
Bill	Author	Caption	Bill Summary
SB 681	West	Relating to the establishment of a task force to study the assessments of children in the child welfare system.	Creates a task force to study the assessments of children in the child welfare system. There currently are a number of assessment tools that can be used to perform an assessment, but there is no standard making it difficult for DFPS to appropriately serve children with disabilities in the foster care system.

Employment			
Bill	Author	Caption	Bill Summary
HB 2171	Torres	Relating to a franchise tax credit for the employment of persons with a disability or veterans of the United States armed forces.	Would provide a franchise tax credit for businesses that employ people with disabilities or veterans.
HB 3629	Shelton	Relating to abolishing the Department of Assistive and Rehabilitative Services and transferring its powers and duties to the Department of Aging and Disability Services and the Department of State Health Services.	Would abolish DARS and transfer the vocational rehabilitation, independent living, and blind services programs to DADS. The ECI program would be transferred to DSHS.

Transportation			
Bill	Author	Caption	Bill Summary
HB 1105	Harper-Brown	Relating to the adoption and implementation of a policy by the Texas Transportation Commission providing for	Would require TxDOT to build “complete streets” to provide for the needs of various road users, including people with mobility impairments.
HB 2064	Allen	Relating to a study by the Texas Department of Transportation on public transportation services for people with disabilities.	Requires TxDOT to study public transportation services for people with disabilities. TxDOT would identify and evaluate the efficiencies/ inefficiencies of the different public transportation services in the state designed for people with disabilities and recommend strategies for reducing inefficiencies.

Transportation (continued)

Bill	Author	Caption	Bill Summary
HB 2561	Allen	Relating to the eligibility of visitors to use certain public transportation services for people with disabilities.	Would allow individuals who reside outside of a transportation provider’s service area to be able to use the provider’s services while visiting within the service area.

Mental Health

Bill	Author	Caption	Bill Summary
HB 39/ SB 118	Menendez/ Uresti	Relating to a court's authority to order a proposed patient to receive extended outpatient mental health services	Changes from 60 consecutive to 60 total inpatient days for court to order extended outpatient treatment.
SB 1857/ HB 3611	Zaffirini / Truitt	Relating to the administration of medications for persons with intellectual and developmental disabilities	Delegation by nurses to unlicensed persons of as needed administration of medicine with rules and training.

Healthcare

Bill	Author	Caption	Bill Summary
SB 441/ HB 3557	Lucio/ Lucio III	Relating to coverage for autism spectrum disorder under certain health benefit plans.	Provide autism coverage up to 18 years of age under group health insurance plans.
HB 1321	Allen	Relating to coverage for certain children diagnosed with autism spectrum disorder	Provide autism coverage up to 18 years of age under group health insurance plans.
HB 1744	Allen	Relating to health benefit plan coverage for certain children diagnosed with autism spectrum disorder	Provides Autism coverage services agreed upon by doctor and family, including positive behavior interventions and supports.
SB 169	Lucio III	Relating to coverage for autism spectrum disorder under certain health benefit plans offered to state employees	Includes Autism coverage in basic coverage of state employee health insurance
SB 293/ HB 70/ HB 842	Nelson/ Martinez, A., Davis, J.	Relating to telemedicine medical services, telehealth services, and home telemonitoring services provided to certain Medicaid recipients	Will help critical shortages of physicians, psychiatrists and lessen costs of healthcare through video consulting, diagnostics and remote monitoring of health care.

Healthcare (continued)			
Bill	Author	Caption	Bill Summary
SB 574/ HB 1192	Van de Putte/ Castro	Relating to the requirement and study of insurance coverage for serious emotional disturbance (SED) of a child.	Would require group health insurance options to cover SED in children and state study of use of coverage and fiscal impact.
SB 47	Zaffirini	Relating to the pro re nata administration of psychoactive medications in certain residential health care facilities	Will eliminate standing orders to give psychotropic medications via injection which have led to abuse.

Housing

Bill	Author	Caption	Bill Summary
HB 309	Menendez	Relating to the establishment of the supportive living facility pilot program	Would allow development of assisted living facilities with tax credit funds with tax credits currently reserved for affordable, integrated housing
SB 649/ HB 1818	Hinojosa/ Harper-Brown	Relating to the continuation and functions of the Texas State Affordable Housing Corporation; providing penalties	Sunset bill continues TSAHC until 2023.
SB 655/ HB 2608	Hinojosa/ Harper-Brown	Relating to the continuation and functions of the Texas Department of Housing and Community Affairs	Sunset bill continues TDHCA until 2023.
SB 1838/ HB 3720	Van de Putte/ Turner	Relating to the transfer of housing funds from the Texas Department of Housing and Community Affairs to the Texas Veterans Commission	Would take from Housing Trust Fund and Amy Young Architectural Barrier Program and move to Veterans Commission.

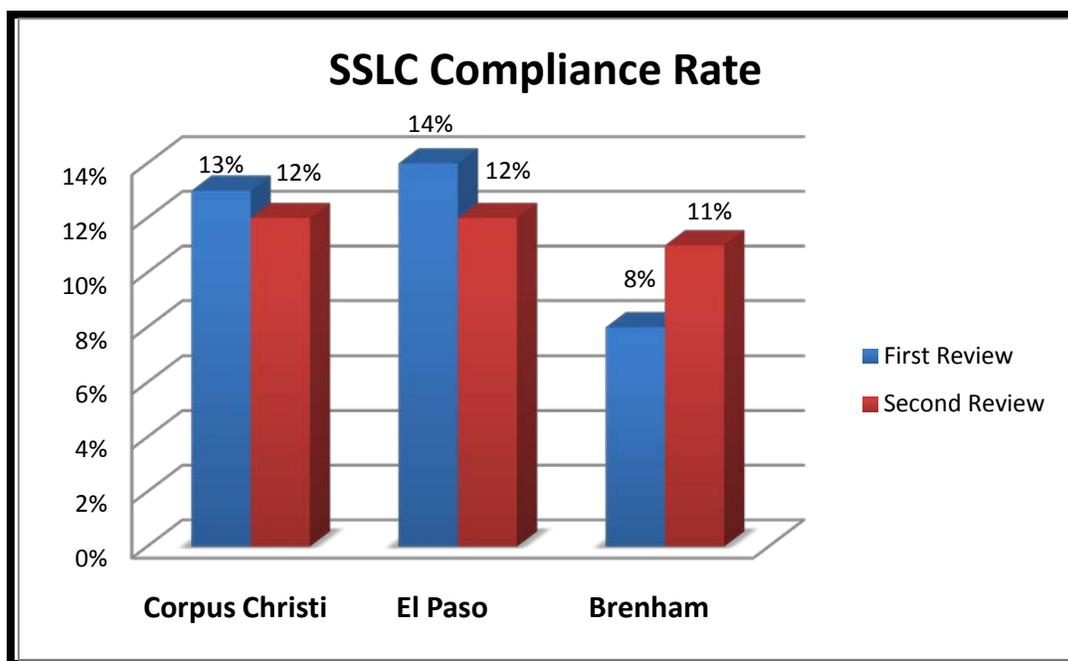
Access

Bill	Author	Caption	Bill Summary
HB 2658	Lavender	Relating to architectural barriers standards	Would repeal the Texas Architectural Barriers Act

State Supported Living Center Compliance Reports, Round Two

In June 2009, the State of Texas/DADS and the U.S. Department of Justice (DOJ) entered into a Settlement Agreement (SA) that covers the 12 State Supported Living Centers (SSLC) and the ICF/MR component of Rio Grande State Center. As determined by the Settlement Agreement, three monitors and their teams are responsible for monitoring the facilities' compliance with the SA and related Health Care Guidelines. The monitoring teams examine activities in 20 different aspects of care provided to residents in each facility to determine the status of each facility's compliance with provisions of the U.S. DOJ Settlement Agreement. Within each section, there are a varying number of more specific provisions. Each provision is rated as substantial compliance or noncompliance with the terms of the Settlement Agreement. There are also provisions that are not rated if the monitoring team had insufficient information to rate a provision.

Baseline reviews of the facilities were conducted in January through May 2010. The first round of compliance reviews were completed from July 2010 to January 2011 to report on each facility's compliance with the SA. The second compliance reviews of each facility began in February 2011. As of mid-April, reports have been issued from reviews of three SSLCs: Corpus Christi, El Paso, and Brenham. The text below discusses some of the observations made by the monitoring teams on each SSLC's compliance with the SA.



This chart compares the proportion of compliance with the SA by each SSLC in the first compliance review with the second review based on the number of provisions that were rated as substantially compliant.

Corpus Christi State Supported Living Center (CCSSLC)

CCSSLC was compliant in 19 of 162 provisions rated by the monitoring team, which comprises 12 percent compliance with the DOJ Settlement Agreement. Although the monitoring team observed a lot of activity in managing how restraints were used, there was still concern that not enough was being

done to prevent the need for using restraints. CCSLSC made progress in establishing policies for reporting abuse, neglect, and incidents, and 13 of 22 areas were found to be in substantial compliance. The monitoring team observed improvements in skill acquisition programs and improved individual engagement, with engagement increasing from 64 percent during the last visit to 76 percent in the current visit. However, the monitoring team did have a number of concerns with CCSLSC's skill acquisition programs and stated concerns about the comprehensive vocational assessment. Staff was in the initial stages of implementing a new Community Living discharge plan to provide more direction than the previous plan, which did not identify all of the obstacles to movement or all of the essential supports needed to transition to the community.

El Paso State Supported Living Center (EPSSLC)

EPSSLC was compliant in 19 of 164 provisions assessed by the monitoring team, which comprises 12 percent compliance with the DOJ Settlement Agreement. Although restraint use in the first quarter of fiscal year 2011 decreased by 10% when compared to the previous quarter, this was a 203% increase when compared to the same quarter of the previous year. From 6/1/10 to 11/31/10, DFPS confirmed 22 cases of abuse, neglect, or exploitation. There was a total of 349 injuries reported for the first quarter of FY11, a decrease of 26% from the previous quarter. The issues and problems in the identification and management of risk that were presented in the first compliance report were still occurring at EPSSLC, but changes were about to be made with the development of new policies. The monitoring team noted a number of improvements in medical care, including better documentation, the development of clinical guidelines, and a reduction in the number of individuals receiving pretreatment sedation at the facility. Many individuals who needed communication supports and services did not receive them. Assessments of individual communication skills were not accurate, and the assessments were not thorough in many cases. There was improvement in individual engagement and training to help individuals with skill acquisition, although no items in this provision were found to be in substantial compliance. The number of individuals placed in the community was low, with only one placement occurring since the previous onsite review. The monitoring team recommended that EPSSLC more thoroughly track the obstacles to referral to determine why the referral rates were so low.

Brenham State Supported Living Center (BSSLSC)

BSSLSC was compliant in 11 percent of the provisions that were assessed by the monitoring team or in 18 of the 160 of provisions that were assessed. The monitoring team observed a significant decline in the use of restraint in the first six months of 2011, compared with the same period of time in 2010. Staff at BSSLSC was unclear about the proper policy for reporting abuse and neglect to the Department of Family and Protective Services. The monitoring team observed variability across disciplines regarding completion of clinical assessments in a timely manner, and behavioral and health status changes did not necessarily trigger assessments and evaluations. The monitoring team is confident that a new assessment tool for determining risk will be more effective in accurately reflecting risk levels. In the area of psychiatric care and services, a number of individuals receiving psychiatric services did not have evaluations in effect. Moreover, medical records did not always substantiate the rationale for the use of psychotropic medications. There was a continued lack of skill assessment while awaiting completion of the ongoing review of assessment strategies by DADS. No individuals were employed in Supported Employment or Competitive Employment Jobs, and training on community skills lacked the formalized components necessary for learning to occur.

Compliance Reports for the facilities are posted online at <http://www.dads.state.tx.us/monitors/reports/>. The Settlement Agreement can be viewed at <http://www.dads.state.tx.us/homepage/FinalSettlementAgreement.pdf>.