83rd Regular Session Legislative Summary
Department of Aging and Disability Services

Please note: The information below is a high level summary of some, but not all, of the legislation passed during the Regular Session with significant impact on the Department of Aging and Disability Services (DADS), our consumers, or our providers.

HB 33 by Menendez
Relating to alternative methods of dispute resolution in certain disputes between the Department of Aging and Disability Services and an assisted living facility licensed by the department.

- Makes substantive changes to the Informal Dispute Resolution (IDR) procedures available to assisted living facilities (ALFs).
- Makes arbitration available in certain enforcement actions taken by DADS against an ALF and sets the procedures to be followed when arbitration is elected. Makes arbitration available for any dispute between an ALF and DADS relating to renewal, suspension or revocation of a license, or assessment of a civil or administrative penalty.
- Makes IDR available to address disputes between an ALF and DADS concerning a statement of violations instead of disputes involving proposed enforcement actions or related proceedings. Expands the time in which the IDR must be completed by the Health and Human Services Commission (HHSC) from 30 to 90 days after receipt of the IDR request.
- Requires the party that elects arbitration to pay the costs of the arbitration. Sets limits on the total fees and costs paid for an arbitrator and states the amount shall not be more than $1000 per day.
- Allows the State Office of Administrative Hearings to designate a nationally recognized association to conduct the arbitrations, and permits DADS to request the Attorney General for representation.

HB 1760 by Darby
Relating to the provision of services to certain individuals with developmental disabilities by a state supported living center.

- Gives DADS the authority to accept in-kind and monetary donations and repeals the sections giving the DADS legacy agencies the authority to accept donations.
- Requires that DADS use donations in accordance with the purpose expressly required by the donor and allows DADS to decline donations that cannot be economically used for that purpose.
- Requires DADS to keep a record of all donations.
HB 2673 by Price

Relating to the protection and care of individuals with intellectual and developmental disabilities.

- Expands criminal history check requirements to include contractors and extends the authority and duty to conduct criminal history checks to HHSC.
- Requires HHSC to contract with an institution of higher education or a health care organization or association with experience in conducting research-based mortality studies, rather than a patient safety organization, to conduct independent mortality reviews of deaths of persons receiving services from intermediate care facilities (ICFs) and from 1915(c) waiver programs for individuals eligible for ICF services, and adds additional confidentiality provisions relating to the independent mortality reviews.
- Adds the Department of Family and Protective Services (DFPS), the office of independent ombudsman for state supported living centers, and HHSCs office of inspector general to the list of entities to whom the contracted organization must submit their semi-annual report.

HB 2683 by Price

Relating to employment in certain consumer-directed services and by certain facilities and to the nurse aide registry and the employee misconduct registry.

- Makes employees of the consumer directed services (CDS) option eligible for the nurse aide registry (NAR) and employee misconduct registry (EMR).
- Requires an individual employer taking part in CDS to:
  - search the NAR and EMR annually;
  - follow employee discharge requirements resulting from an EMR, NAR, or criminal history check;
  - maintain copies of the results of the search.
- Adds exploitation of a child, elderly person, or individual who is disabled to the list of convictions that bar employment in facilities or for an individual employer.
- Allows provider facilities and agencies to store EMR checks on employees wherever they prefer (such as in one comprehensive binder) instead of requiring providers to store EMR checks in individual personnel files.
- Directs DADS to send a report to DFPS specifying that an employee of an individual employer committed reportable conduct. Mandates the individual employer must notify his or her employees about the EMR.
- Requires DADS to complete an EMR reportable conduct hearing within 120 days after DADS receives the hearing request.
HB 3196 by Price

Relating to licensing and certification requirements for certain health facilities and to the allocation of Medicaid beds in certain of those facilities; increasing fees.

- Requires DADS to increase the nursing facility license fee to cover the three year license period and increase the Alzheimer's certification to three years. The nursing facility license fee will be adjusted to $375 plus $15 per bed in order to be commensurate with the three year license period.
- Authorizes DADS to require an applicant for a nursing facility Medicaid bed waiver to provide a performance bond or other financial security determined by DADS in the amount of $500,000.

HB 3276 by Simmons

Relating to the coverage by certain health benefit plans for the screening and treatment of autism spectrum disorder.

- Requires that a health benefit plan provide coverage for screening (at a minimum at the ages of 18 and 24 months) of autism spectrum disorder.
- Requires that a health benefit plan provide coverage for treatment of autism spectrum disorder and permits an individual acting under the supervision of a health care practitioner to provide treatment.

SB 7 by Nelson

Relating to improving the delivery and quality of certain health and human services, including the delivery and quality of Medicaid acute care services and long-term services and supports.

*Provisions below related to DADS only.

- Requires HHSC and DADS to implement an acute care and long-term services and supports (LTSS) system for individuals with intellectual and developmental disabilities (IDD) that:
  - serves more people in a cost-efficient manner
  - improves access by ensuring people receive information about all available LTSS
  - improves assessment of needs and available supports
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- promotes person-centered planning, self-direction, self-determination, community inclusion, and customized integrated, competitive employment
- promotes individualized budgeting
- promotes integrated service coordination of acute care and LTSS
- improves outcomes, including reducing unnecessary institutionalization and potentially preventable events
- promotes high quality care
- provides fair hearing and appeals processes
- ensures availability of a local safety net provider and services
- promotes independent service coordination and ombudsmen services
- ensures individuals with the most significant needs are appropriately served in the community and processes are in place to prevent inappropriate institutionalizations

- Establishes the IDD System Redesign Advisory Committee. HHSC and DADS must consult with the committee on all provisions impacting individuals with IDD.
- HHSC must submit an annual report regarding IDD LTSS redesign implementation and recommendations to the Legislature by September 30, 2014.
- HHSC and DADS must submit a report to the Legislature by December 1, 2014 regarding the Local Authorities (LA) role as a service provider.
- Allows HHSC and DADS to implement one or more private provider pilots to test managed care strategies based on capitation.
- HHSC and DADS must implement the pilots by September 1, 2016 and operate the pilots for at least 24 months. Pilot participation is voluntary.
- HHSC and DADS must evaluate the IDD pilot progress and outcomes by December 1, 2016 and December 1, 2017 and submit reports to the Legislature.
- Individuals with IDD must receive acute care through STAR+PLUS and HHSC must monitor provision of those benefits.
- Implements Community First Choice (CFC) for individuals with IDD in STAR+PLUS.
- Managed Care Organizations (MCOs) must contract with Community Living Assistance and Support Services (CLASS) Home and Community Support Services Agencies and certified Home and Community-based Services (HCS) and Texas Home Living (TxHmL) providers.
- HCS/TxHmL providers do not need a license to provide CFC services.
- MCOs must consider LA assessments and contract with LAs regarding service coordination.
- DADS must contract with, and pay, LAs to:
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- provide IDD service coordination to CFC clients with IDD by helping individuals eligible to receive community services, including individuals transitioning to a community setting;
- provide assessments to MCO regarding whether individual needs attendant and/or habilitation services based on functional need, risk factors, and desired outcomes;
- assist individuals with developing Individual Support Plans (ISPs); and
- provide the MCO and DADS information regarding recommended plans of care and outcomes based on the ISP.
- LAs may not provide CFC attendant or habilitation services.
- HHSC must submit CFC report to the Legislature by June 1, 2016.
- Rolls TxHmL into STAR+PLUS by September 1, 2017.
- Rolls HCS, CLASS, Deaf Blind with Multiple Disabilities (DBMD), and community ICFs into STAR+PLUS by September 1, 2020.
- Requires statewide stakeholder input and continuity of care.
- Waiver clients can continue to receive LTSS through their 1915(c) waiver.
- MCOs must have expertise serving children and adults with IDD before HHSC transitions them into STAR+PLUS.
- HHSC and DADS must evaluate STAR+PLUS transition outcomes and submit a report on September 30, 2018, 2019 and 2020.
- Implements a comprehensive assessment and resource allocation process for individuals with IDD who receive Medicaid waiver or ICF services (including state supported living center services).
- DADS must evaluate existing assessments and may implement an evidence-based assessment.
- Requires prior authorization for HCS group home.
- DADS must cooperate with IDD advisory committee to establish prior authorization process.
- HHSC must adopt rules to allow for additional housing supports for individuals with disabilities, including individuals with IDD, including:
  - community housing options that comprise a continuum of integration;
  - provider-owned and non-provider owned residential settings;
  - assistance with living more independently; and
  - rental properties with onsite supports.
- DADS, Texas Department of Housing and Community Affairs and others must work with public housing entities to expand housing opportunities for individuals with disabilities, including individuals with IDD.
- Requires statewide stakeholder input process to ensure comprehensive review of residential services options.
- Implements specialized training and one or more Behavioral Intervention Teams (BITs) for individuals with IDD at risk of institutionalization.
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- Requires Prader-Willi study and report by December 1, 2014 regarding housing needs, available crisis intervention programs and strategies to serve these individuals.
- Directs HHSC to study the need for applying income disregards to individuals with IDD receiving Medicaid benefits and submit a report by January 15, 2015 to the Governor, Lt. Governor, and House speaker, Senate Committee on Health and Human Services and House Committee on Human Services chairs.

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SB 33 by Zaffirini

Relating to the electronic monitoring of residents at state supported living centers; providing criminal penalties.

- Provides for the use of authorized electronic monitoring, meaning the placement of an electronic monitoring device (video surveillance or audio device), in the rooms of state supported living center residents.
- Requires HHSC to create forms by rule that must, depending on the circumstances, be signed by or on behalf of a resident.
- Identifies who may request the monitoring equipment and the types, forms, and from whom the consent must be obtained.
- Explains reporting requirements for abuse, neglect and/or exploitation and provides notice requirements for the electronic monitoring.
- Identifies certain enforcement sanctions which may be imposed on a center director and potential criminal penalties for interference with a device.

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SB 45 by Zaffirini

Relating to the provision of employment assistance and supported employment to certain Medicaid waiver program participants.

- Requires that HHSC or DADS, as appropriate, provide employment assistance and supported employment to individuals receiving services in the following programs: Community Based Alternatives (CBA), CLASS, DBMD, HCS, Medically Dependent Children’s Program (MDCP), TxHmL, STAR+PLUS Medicaid managed care, and the youth empowerment services program.
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SB 492 by Lucio
Relating to the licensing and regulation of prescribed pediatric extended care centers; providing penalties; imposing fees.

• Directs DADS to create a separate provider type and licensing category for a Prescribed Pediatric Extended Care Center (PPECC).
• Authorizes DADS to license and regulate PPECCs.
• PPECCs will be characterized by the following:
  o Will serve medically dependent or technologically dependent minors (younger than 21 years old) who because of an acute, chronic, or intermittent medically fragile or complex condition requires on-going nursing services or routine use of a medical device prescribed by a physician to avert death or further disability.
  o Services will be prescribed by a physician
  o Services will be available for 12 or fewer hours per 24-hour period and will not have a residential component.
  o Maximum patient capacity will be no more than 60
  o Services are strictly voluntary
• Requires PPECCs to hold a license beginning January 1, 2015.

SB 1226 by Zaffirini
Relating to the establishment of an employment-first policy and task force to promote competitive employment opportunities that provide a living wage for individuals with disabilities.

• Requires HHSC, the Texas Education Agency and the Texas Workforce Commission to adopt and implement an employment-first policy.
• The Executive Commissioner of HHSC must establish an interagency task force, or use an existing committee or task force, to promote competitive employment of individuals with disabilities and to promote the expectation that individuals with disabilities are able to meet the same standards, responsibilities, and expectations as any other working-age adult.
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SB 1235 by West
Relating to guardianships, including assessments for and provision of guardianship services by the Department of Aging and Disability Services.

- Authorizes DADS to obtain the financial records of persons referred for guardianship and wards of the guardianship program in the Finance Code.
- Clarifies that an update or endorsement of a determination of an intellectual disability may be used instead of a determination of an intellectual disability to support an application to appoint a guardian for a person with intellectual disabilities.