

# **Texas Legislative Report, 2019 -Part 2**

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## **LEGISLATION FROM TEXAS 86TH LEGISLATURE**

### **PART 1. ITEMS OF INTEREST FROM THE FINANCE BILL (HB 1) REGARDING STATE SUPPORTED LIVING CENTERS:**

Average Monthly Number of State Supported Living Center Campus Residents - 2,848

Average Yearly Cost Per State Supported Living Center- \$245,923.80

*(This figure is less than what I have seen in other documents.)*

According to HHSC, The Home and Community-Based Services' (HCBS) individual annual maximum cost, based on the individual's level of need, ranges from \$168,000 to \$306,000 per year.

In 2020, the state will be making a serious investment in the maintenance of the state hospitals and SSLCs:

Over \$350,000 are earmarked for Facilities Repair and Renovations and almost \$209 million for Deferred Maintenance at State Hospitals and State Supported Living Centers.

#### **Behavioral Support Specialists at State Supported Living Centers**

San Angelo State Supported Living Center and Mexia State Supported Living Center shall provide behavioral support specialists to assist the alleged offender residents with any specialized educational needs.

*(Maybe the sex offenders will be limited to these two campuses. Family associations will be watching to see if this population will extend to other campuses.)*

#### **State Hospital and State Supported Living Center Workforce**

HHSC shall develop recommendations to reduce turnover and vacancy rates at state hospitals and state supported living centers.

*(We are curious how they will accomplish retaining employees if the pay rate is not increased in light of the added stress of new residents with criminal backgrounds. In April, the San Angelo SSLC was offering higher salaries and a recruitment bonus of \$2,000 to each new direct support professional. The center also is offering pay increases and one-time bonuses of \$2,000 to all current, eligible direct support professionals.)*

#### **Promoting Independence Initiative**

Using Texas state and Federal funding for the Independence Initiative, for 2,476 (HCBS) slots to be divided as follows:

- (a) 500 slots for individuals in crisis and/or at imminent risk of institutionalization
- (b) 500 slots for individuals in state supported livings centers and large or medium intermediate care facilities for individuals with intellectual disabilities
- (c) 236 slots for children aging out of foster care
- (d) 40 slots for children in transition from general residential operations facilities

#### **State Supported Living Centers Planning**

HHSC shall develop a plan to maximize resources at the SSLCs. The plan shall include reviewing existing structure, consider repurposing vacant or unused SSLC buildings to support SSLC residents and consider service delivery to IDD individuals who are not residents of the SSLCs. SSLCs would pilot dental services at the Austin and Richmond SSLCs, serving a projected 4 non-SSLC resident patients

per month at each site. Comprehensive dental services would be offered, including cleaning with sedation if necessary.

In the long-term, the SSLCs may seek to provide additional acute care, behavioral health, therapies, psychiatry and adaptive aide services to individuals with IDD who reside in a community setting.

*(Family association will need to advocate that any re-purposing of vacant or unused SSLC buildings will be used ONLY for the IDD population in the community. If more families can come into contact with services provided in the SSLCs it would increase public awareness of the positives at the SSLCs.)*

In development of the plan, HHSC shall consider SSLC residents' needs and preferences, and/or their legally authorized representatives' preferences. HHSC shall coordinate with relevant stakeholders in the development of the plan, including SSLC family associations and local mental health authorities.

*(This plan is should involve ALL the SSLC family associations across the state. A strategic plan to inform all the family associations that they MUST be involved in this decision-making process should be done.)*

### **Pharmacy Services at State Supported Living Centers**

Health and Human Services Commission (HHSC) shall evaluate the feasibility and cost-effectiveness of alternative models for providing pharmacy services for state supported living centers. The evaluation should include consideration of entering into a contract with an organization to provide off-site pharmacy services. HHSC shall report its findings and recommendations by December 1, 2020.

*(Family Associations need to continue to advocate that any possible contract with an off-site pharmacy provider will be detrimental to our population.)*

## **PART 2. ITEMS OF INTEREST FROM THE SENATE FINANCE HEARING 2-5-19**

### **Testimony from HHSC Commissioner:**

- Waiting list is an interest list -no assurance of providing services without assessment
- 40% of referrals to SSLC come from community providers because they cannot meet the needs of some with specialty, behavioral or advanced needs.
- SSLCs are not in competition with community providers.
- Reduction in census does not mean that costs will decrease. Acuity of clients has increased. Some clients need 1-1 staffing.

### **Testimony from RESCARE**

- RESCARE requested increase in pay for direct service workers.
- RESCARE turnover is 124% and they pay their DSP \$8.76 per hour.
- RESCARE serves 154,000 individuals and is the largest provider of community services in Texas.

## **PART 3. AMENDMENTS AT THE BEGINNING OF THE SESSION**

**Klick Amendment to SB 500** (Emergency appropriations bill) to remove millions from the current SSLC budget. This amendment, if adopted, would have stripped \$7.2 million from the bill earmarked for SSLCs. She finally withdrew her Amendment at the last minute.

**Julie Johnson Amendment to her HB 4400. Rider to HB 4400** -would have removed four million dollars from the budget for the SSLCs in the upcoming two years for a special project in North Texas. The Amendment was amended to NOT take money from SSLCs and placed in Art. XI – which means it may not even get funding. The bill was amended by Representative Abel Herrero, who has the Corpus Christi SSLC in his district.

#### **PART 4. OTHER BILLS INTRODUCED IN THIS SESSION**

**SB 1101** by Kolkhorst - Relating to the consolidation of ombudsman programs administered by the Health and Human Services Commission. This bill only made it to Calendars 5-17-2019

**SB 1408** by Kolkhorst - Relating to the authority of the office of independent ombudsman for state supported living centers to oversee community-based services provided to individuals with an intellectual or developmental disability. This bill never had a hearing. Part of legislation included Mortality Review Report on community providers. On 03/14/2019 it was referred to Health & Human Services.

*(Information that would have been provided to the ombudsman would include number of Confirmed ANE and mortality rates. If we had the number of confirmed incidents of ANE at group homes we would have documentation that the risk of ANE is lower at the SSLCs.)*

**HB 1669** by Lucio - Relating to increasing and improving the mental health and substance use disorder workforce in this state and increasing the capacity of local mental health authorities to provide access to mental health services in certain counties. Lucio III added his SB 1552 as an amendment last minute at the end of the session regarding training for all HHSC on resident rights at the SSLCs. - **Passed**

**SB 1552** - Refers to specific training EVERYONE at HHSC is to take regarding the rights of the residents at the SSLCs. The amendment also refers to educating guardians. New training includes "alleged criminal offenders, including sex offenders".

*(Many of us are concerned about this population having access to our fragile individuals. This should be one of our concerns to bring up with HHSC in our "stakeholder" meetings as we discuss future plans for the SSLCs.)*

**HB 3117** by Rep Schaefer (Tyler) and co-sponsor by Sen. Hughes (Tyler) - Relating to developing the proposed plan on long-term care for persons with an intellectual disability. It was written for Steven Campbell with Breckenridge Village of Tyler. Background, if an opening for an ICF bed becomes available there is no way for private ICFs to determine when that happens because HHSC has held those beds in suspension. - **Passed**

*(This bill will create a system to for private ICFS to be able to determine when funding for an ICF bed is available. This bill will allow more individuals to be served in private ICFs. CTD was against the bill.)*

**SB 1783** – by Senator Zaffirini - Relating to guardianships, alternatives to guardianship, and supports and services for incapacitated persons. Never made it out of House calendars

*(This bill would have provided way for "another person" to petition court to remove guardianship.)*

**SB 31** – By Sen. Zaffirini and almost entire Senate State Affairs Committee members - Relating to establishing a guardianship abuse, fraud, and exploitation deterrence program. - **Passed**

The law requires that the state establish and maintain a guardianship abuse, fraud, and exploitation deterrence program engaging **guardianship compliance specialists** who shall review the guardianships of wards and identify reporting deficiencies by guardians. A judge's actions or failure to act with respect to a report received from a guardianship compliance specialist indicating a concern constitutes judicial misconduct.

*(More education needed for current and future guardians. Guardians need to be informed that Annual Report of the Person needs to be done with care and accuracy. The report should include statement that ward needs are being met at the SSLC due to their high level of need.)*

**SB 1790** – by Sen. Zaffirini - Relating to peer specialists and the provision of peer services to individuals with an intellectual or developmental disability. **04/09/2019 Left pending in committee**

The Austin SSLC and the San Antonio SSLC are being visited by a group called Texas Advocates (grant provided by the Texas CDD and ARC of Texas) acting as “Peer Support Specialists for Individuals Living in Institutions”.

The goal of this project is to help individuals at the SSLCs create person-centered plans so they can become more independent. Peer support specialists will support residents identifying their individual goals, grow their advocacy skills, and make informed decisions about their services and supports. The grant continues until April 30, 2023.

*(Many of us emailed the committee, including the president of the Brenham Family Assn and the chairman of the committee (Kolkhorst) read her email at the hearing. Our opposition to the bill was that "peer specialists" help people to recover from mental illness and addiction. There is no recovery from IDD. The bill would have allowed the "peer specialists" be able to bill Medicaid and thereby legitimizing their program.)*

**In March 2019, the following two bills required intense lobbying through Facebook postings, emails, phone calls, visits to legislators and testifying before the House Human Services Committee to be defeated.**

**HB 3080** – by Rep. Klick - Relating to a closure plan for the Austin State Supported Living Center. - **No hearing**

**HB 4400** - Relating to the establishment of a pilot program to create additional housing for certain individuals with an intellectual or developmental disability through a Medicaid waiver program. 04/23/2019 Left pending in committee due to its author’s request

HHSC was to conduct a pilot program to provide funding to a community non-profit corporation to create additional housing for not less than 100 individuals with an intellectual or developmental disability through the home and community-based services (HCS) waiver program.

In establishing the pilot program, the commission shall set a goal to **reduce the number of individuals residing and receiving services in state supported living centers**, to an extent necessary to offset the costs of the pilot program.

Specifics on the non-profit described were referring to a non-profit called My Possibilities. Executive Director Michael Thomas is also a member of The Intellectual and Developmental Disability (IDD) System Redesign Advisory Committee. My Possibilities accepts Medicaid Waiver Funding (HCS, CLASS, TxHML, DBMD, ICF and General Revenue) and/or private pay.

My Possibilities has bought - a country club, in the Plano area. The plan is to convert the former country club site into a development of 300 new homes - a third of which would go to My Possibilities’ special-needs clients. The non-profit will own about 100 of the new homes. It will try to sell the rest at prices between \$350,000 and \$425,000.

*(This program would have stolen the homes from residents at the SSLCs to pay for higher functioning people to reside in the "community". Besides the author Julie Johnson, 20 representatives either co-authored or co-sponsored this bill.*

*Three family members from the Austin SSLC testified late at night against the bill. Family members from Brenham SSLC went to the authors and sponsors of the bill to protest the bill and provide the legislators with videos of family members and information on the high needs of the individuals living at the SSLCs.)*