Policy Proposal Supplemental Materials

Please use this as a resource while you take the 89th Session Priorities Survey. For each policy proposal, an attempt was made to provide all the information you may need to complete the survey. The policy proposal numbers on this page correspond to the ones in the survey.

# Access

## 01.01

Designate the Governor’s Committee on People with Disabilities with the lead coordination responsibility among state agencies with the annual distribution of service animal education materials to public facilities and businesses operating within the state.

### Impact on Population

Service animal handlers and trainers experience a lot of discrimination and harm due to lack of knowledge about their rights. There is also confusion between service animals and emotional support animals.

### Cost

No known cost.

### Potential for Success

GCPD already does a lot of what the proposal suggests as part of its normal functions.

### Time

GCPD is contacted by the community and businesses on a consistent basis.

### GCPD Staff Recommendation

GCPD Staff recommend retiring this recommendation.

## 01.02

Clarify the difference in state law between the terms “service animal” and “assistance animal” in the Human Resources Code Sec. 121.002. Remove “approved” from the term “approved trainer” in the Human Resources Code Sec. 121.003(i) as the U.S. Department of Justice confirmed that individuals may train their own service animal under the Americans with Disabilities Act and no state agency is designated to approve service animal training. See Appendix A of this report.

### Impact on Population

Explain the impact the success of this proposal would have:

There are about 55 million people with disabilities in the U.S., but only 20,000 service dogs are in use. Concern is rising among service-animal owners about the ease with which people can claim any dog is a service dog. “Service dog vests” is a top-searched term on Google. Websites, including eBay and Amazon, offer for sale certificates, badges, ID cards, vests, leashes, collars, dog tags and other accessories indicating your dog is a “service dog,” and “emotional support dog” or a “seizure alert dog” with absolutely no proof of an animal’s training or abilities. There are also “registries” that will certify your pet dog as a “service dog” or “therapy dog” or “emotional support animal.” Since three different sets of federal statues apply to the rights of individuals with disabilities to be accompanied by animals - the American’s with Disabilities Act, the Fair Housing Act, and the Air Carrier Access Act - this division of responsibility has resulted in a bewildering array of conflicting and confusing regulations affecting people with medical and psychological disabilities who may have legitimate needs for service dogs, therapy dogs, or emotional support animals.

### Cost

No known cost.

### Potential for Success

* How feasible is this policy proposal?
  + Legislatively? This proposal has been carried since 2018 but has not had a bill.
  + Administratively? This proposal is not administratively feasible.
* Has there been a successful Texas bill related to this proposal? No.

### Time

This is an ongoing issue. While it is important, this is not a time sensitive issue.

### GCPD Staff Recommendation

GCPD Staff invited Service Dogs, Inc, Jeff Miller, and Steve Eliot to work on the rewrite of Chapter 121 HRC. Their meeting is Thursday, March 7.

## 01.03

Ensure effective training of law enforcement regarding service or assistance animals and their legitimacy.

### Impact on Population

The public has become accustomed to encountering service animals in a grocery store, restaurant, or shopping center. However, laws and regulations regarding service animals and assistance animals are often misunderstood. First, there is some confusion with the terminology used. For example, the terms service animal, assistance animal, emotional support animal and comfort animal are often used interchangeably. Also, confusion may result from the context and setting regarding a service animal encounter and which laws apply to that particular encounter. For instance, an apartment complex doesn’t follow the same laws for services animals as a grocery store or college dorm or classroom or on an airplane.

Unfortunately, enforcement of Texas service animal laws is almost nonexistent. The Texas Governor’s Committee on People with Disabilities (GCPD) receives calls from businesses concerning people who want to bring a dog into a restaurant or other public place. The dog appears to be a pet, yet how does the business know if it is a service animal, assistance animal, or pet? Certification and licensing for service animals are not required by law and only two questions can be asked of the service dog owner. Yet when a disability is not obvious, the person with a disability may be challenged with inappropriate questions and even be asked to leave an establishment. Also, it’s too easy to commit service animal fraud by ordering a service animal vest or collar or obtaining fraudulent service animal certification or licensure online. This makes it difficult for someone with a genuine need for a service animal who is accompanied by a trained service animal to be acknowledged as using a legitimate and lawful accommodation or policy modification within the public setting.

This would be a systemic fix for the problem identified by the policy recommendation.

### Cost

Providing additional training has potential costs. Enforcement of laws surrounding service and assistance animals could also result in revenue from fines.

### Potential for Success

* How feasible is this policy proposal? This proposal has support from the community, including the training community.
* Has there been a successful Texas bill related to this proposal? No.
* Does this proposal have support from the disability community? Yes.

### Time

GCPD staff receive phone calls and emails regarding service animal issues on a consistent basis.

### GCPD Staff Recommendation

Staff will research what training is already mandated in Texas Commission on Law Enforcement. Staff can then create training resources and work on disseminating them to police departments.

## 01.05

Designate a state agency to work in collaboration to create public awareness training/classes (i.e., Texas Workforce Commission-Vocational Rehabilitation Services, GCPD) and support a robust public education campaign regarding service and assistance animals.

### Impact on Population

While this may reach many individuals, once the campaign ends, awareness may drop off again. This is not a systemic fix.

### Cost

There would be a cost to the state agency designated to create, promote, and provide the training.

### Potential for Success

* How feasible is this policy proposal?
  + Administratively? It is unlikely a state agency will do this beyond what their current responsibilities are related to service animal laws.
* Has there been a successful Texas bill related to this proposal? No.

### Time

This is an ongoing issue but there is not an immediate need to fix the issue.

### GCPD Staff Recommendation

GCPD Staff recommend retiring this recommendation and promoting service animal laws as part of our routine activities.

## 01.06

Adopt criteria to reduce fraud for healthcare practitioners issuing a letter for an emotional support animal. Healthcare practitioners must be prohibited from providing documentation relating to an individual’s need for an emotional support dog unless they:

* hold a valid, active, license to provide professional services within the scope of the license in the jurisdiction where the documentation is provided;
* establish a client-provider relationship with the individual for at least 30 days prior to providing the documentation;
* complete a clinical evaluation of the individual regarding the need for an emotional support dog; and
* provide notice to the individual that knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor. Violating these requirements subjects the healthcare practitioner to discipline from the licensing board.

### Impact on Population

The public is skeptical toward service animals due to the ease with which an individual can purchase dog vests and accessories identifying an animal as a service animal. Websites, including eBay and Amazon, sell certificates, badges, ID cards, vests, leashes, collars, dog tags and other accessories that can be used to indicate any dog is a “service dog,” or “emotional support dog,” or a “seizure alert dog” with no proof of an animal’s training or abilities. Online “registries” will certify a pet as a “service dog” or “therapy dog” or “emotional support animal.” When these instances of fraud occur, it is harder for someone with a genuine need who is accompanied by a trained service animal to be acknowledged as using a legitimate and lawful accommodation. This would provide a systemic solution to the problem.

### Cost

Unknown.

### Potential for Success

* How feasible is this policy proposal?
  + Legislatively? There are legislators who would be open to supporting this type of bill.
* Has this been done in other states successfully? This policy successfully became law in another state through the work of a coalition of stakeholders including all the different users of service animals and emotional support animals.
* Does this proposal have support from the disability community? Concerns were expressed about the lack of free or low-cost access to behavioral healthcare for low-income individuals seeking an ESA certification letter.

### Time

This is an ongoing issue but without a pressing need to solve.

### GCPD Staff Recommendation

Staff recommend keeping this recommendation and will reach out the Texas Medical Board prior to the 89th session.

## 01.07

Require that a person or business that sells or provides a certificate, identification, tag, vest, leash, or harness for an emotional support animal must provide a written notice to the buyer or recipient on applicable laws and penalties for misrepresenting the animal as a service animal.

### Impact on Population

The emergence of ESAs has led to an increase in the fraudulent selling and subsequent misrepresenting of emotional support dogs as service dogs, including businesses now selling various misleading ESA-related certificates and merchandise that inaccurately imply that ESAs have the same legal rights and privileges as service dogs.

### Cost

There would be little cost to the state or taxpayers.

### Potential for Success

* How feasible is this policy proposal?
  + Legislatively? This policy successfully became law in another state through the work of a coalition of stakeholders including all the different users of service animals and emotional support animals.
  + Administratively? Potentially through the Texas Department of Licensing and Regulation FAQs.
* Has there been a successful Texas bill related to this proposal? [HB 5206](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=88R&Bill=HB5206) was not fully successful but had parts that passed (fraudulently representing an animal as a service animal).
* Has this been done in other states successfully? [California Assembly Bill 468](file:///\\goliad\Users\monica.villarreal\Downloads\20210AB468_92.pdf)

### Time

This is an ongoing issue but there is not a pressing time concern for solving it.

### GCPD Staff Recommendation

Staff is neutral on this recommendation. There are benefits but many challenges to enforcement. Staff will check on the California law and how they are enforcing it.

## 01.08

To tackle ESA fraud a person or business that sells or provides a dog for use as an emotional support dog will have to provide a written notice – in at least 12-point bold type, on the receipt or a separate paper – to the buyer or recipient of the dog stating that:

* the dog does not have the special training required to qualify as a guide, signal, or service dog;
* the handler of the dog is not entitled to the rights and privileges accorded by law to the handler of a guide, signal, or service dog; and
* knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor.

### Impact on Population

The emergence of ESAs has led to an increase in the fraudulent selling and subsequent misrepresenting of emotional support dogs as service dogs, including businesses now selling various misleading ESA-related certificates and merchandise that inaccurately imply that ESAs have the same legal rights and privileges as service dogs.

### Cost

There would be little cost to the state or taxpayers.

### Potential for Success

* How feasible is this policy proposal?
  + Legislatively? This policy successfully became law in another state through the work of a coalition of stakeholders including all the different users of service animals and emotional support animals.
  + Administratively? Potentially through the Texas Department of Licensing and Regulation FAQs.
* Has there been a successful Texas bill related to this proposal? [HB 5206](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=88R&Bill=HB5206) was not fully successful but had parts that passed (fraudulently representing an animal as a service animal).
* Has this been done in other states successfully? [California Assembly Bill 468](file:///\\goliad\Users\monica.villarreal\Downloads\20210AB468_92.pdf), [California Civil Rights Emotional Support Animals and Fair Housing Law FAQ](https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2022/12/Emotional-Support-Animals-and-Fair-Housing-Law-FAQ_ENG.pdf)

### Time

While this is an important issue, there is not a pressing need to solve this in the immediate future.

### GCPD Staff Recommendation

Staff recommend checking if TDLR could put this information into their FAQs. There is not a unified source of ESAs, so identifying providers that this potential law would impact would be difficult.

## 01.09

Work with the State Preservation Board, the Texas Facilities Commission, and the Texas Legislature to pass a concurrent resolution that describes the life and contributions of Justin Dart leading to the passage of the ADA and resolves to name the capitol complex transit amenity the “Lead On!” Transit Amenity in his honor.

### Impact on Population

The Capitol Complex Transit Amenity has already been built and is currently in use by the community. This proposal would name it in honor of Justin Dart’s legacy.

### Cost

No cost to the state or taxpayers.

### Potential for Success

This would require a concurrent resolution from the Texas Legislature.

### Time

This is not a time-sensitive issue.

### GCPD Staff Recommendation

Staff recommend keeping this recommendation.

## 01.10

Amend Chapter 469 of the Government Code, Elimination of Architectural Barriers, to adopt the Texas Accessibility Standards (TAS) to effectuate changes for Universal Changing Places. The Texas Department of Licensing and Regulation (TDLR) may develop rules to implement accessibility standards for adult changing.

### Impact on Population

People who are non-ambulatory or who have self-care issues, such as catheters, colostomies or incontinence issues, need a safe clean place to change or be changed. No one should have to be lain on a public restroom floor. By adding a Universal Changing Place to these places people will have a safe, clean place to be changed or change. It will enable people and families with disabilities to go out and about and enjoy concerts, shopping, traveling, etc. Places will be truly accessible. According to the ADA there is to be an accessible restroom available for all, but currently there are millions of Texans that do not have an accessible restroom. They are forced to stay home, leave the venue, or be lain on a public restroom floor.

### Cost

According to the Florida Department of Transportation - an 8X10 Family/Companion Care restroom cost approximately $25,000 including Powered Height Adjustable ADULT Changing Table. These costs might be more or less for someone remodeling.

### Potential for Success

* How feasible is this policy proposal? TDLR can add building requirements and best practices for adult changing tables to the TAS, but authority to require adult changing tables in new construction must come from the Texas Legislature.
* Has there been a successful Texas bill related to this proposal? No.
* Has this been done in other states successfully? [New Hampshire Law](https://bills.nhliberty.org/bills/2019/HB628), [Arizona Law](https://www.azleg.gov/legtext/54leg/1r/bills/hb2113s.htm), [California Law](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB662)
* Does this proposal have support from the disability community? Disability Rights Texas, disABILITYsa, Changing SA, Texas Paralyzed Veterans, ARC Texas, United Cerebral Palsy Texas, Muscular Dystrophy Association are all supportive of this recommendation.

### Time

This issue currently affects many Texans with disabilities who have no recourse besides laying on a public bathroom floor, leaving the venue, or just staying home.

### GCPD Staff Recommendation

Staff recommend amending this recommendation to focus on the requirement of adult changing tables in certain areas of public accommodations.

## 01.11

Work with the State Preservation Board to install an adult changing table within the Texas Capitol building.

### Impact on Population

According to the State Preservation Board, the Texas Capitol Complex receives over one million visitors a year, including many who would benefit from the availability of a universal changing place. The Texas Capitol Complex is referred to as belonging to all Texans and everyone should feel welcome. Legislation can make funding available to build one facility that can meet all universal changing place requirements.

### Cost

The architect of the State Preservation Board estimates the following cost to modify one family restroom to install the universal changing place at the Texas Capitol Complex.

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| |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | | **Estimate - Full Remodel of Family Restrooms** | | | | | | | | | (as of 1/29/2020) | | | |  |  |  | | | |  | | | |  |  |  | | | | Demo | | | | $1,500.00 |  | Careful tile removal | | | | Disposal | | | | $500.00 |  | Per café restrooms | | | | Plumbing | | | |  |  |  | | | | Remove and cap | | | | $1,800.00 |  |  | | | | Add shower handle | | | | $2,000.00 |  |  | | | | Substrate repair & patch | | | | $2,800.00 |  |  | | | | Float floor to drain | | | | $2,500.00 |  | For shower handle, will require chipping | | | | Tile material | | | | $3,500.00 |  | Per café restrooms | | | | Wall Tile installation | | | | $5,000.00 |  | Per café restrooms | | | | Floor Tile installation | | | | $1,000.00 |  | Per café restrooms | | | | Changing table | | | | $10,000.00 |  | Wall mounted, motorized Pressalit 3000 | | | | Shipping | | | | $500.00 |  |  | | | | Installation | | | | $1,200.00 |  |  | | | | Replacement partitions | | | | $1,300.00 |  | Per café restrooms | | | | Partition installation | | | | $800.00 |  | Per café restrooms | | | | Patch door frame | | | | $800.00 |  | For removed interior doors | | | |  | |  |  | | | | | General Conditions (15%) | | | | $4,860.00 |  |  | | | | Contingency (30%) | | | | $9,720.00 |  |  | | | |  | | | |  |  |  | | | | Restroom Total: | | | | $49,780.00 |  |  | | | |  | |

### Potential for Success

This addition would allow more accessibility and open up the Capitol to people with disabilities. Remodeling one of the family restrooms in the Texas Capitol is feasible as a onetime expenditure project.

### Time

This issue currently affects many Texans with disabilities who have no recourse besides laying on a public bathroom floor, leaving the Capitol, or just staying home.

### GCPD Staff Recommendation

Staff recommend keeping this recommendation.

## 08.01

From funds appropriated for this purpose, the TEA Commissioner will distribute funds to each school district to provide at least one playground in the district that is inclusive and accessible for students with disabilities. School districts should be encouraged to access other funding for these projects, including through partnerships with municipal parks and recreation departments, private foundations, and state and federal grants. Local Education Agencies (LEAs) and the TEA can work with the Texas Department of Licensing and Regulation, Architectural Barriers Program for technical support on these projects.

### Impact on Population

This would allow all students to have access to accessible play.

### Cost

Unknown.

### Potential for Success

There has not been recent legislation on this topic.

This topic is popular and current for many advocates.

### Time

This is not a time sensitive issue.

### GCPD Staff Recommendation

Staff recommend retaining this recommendation.

# Communications

## 02.01.01 – 02.01.08

***Recommendation 2.1.1***: Establish a formalized SSP/CN program within HHSC, including training for providers. This will ensure services are provided in a standard, consistent manner.

***Recommendation 2.1.2***: Establish the following eligibility criteria for the program:

* individuals who meet the definition of DeafBlind as defined by HHSC; and
* individuals who meet the financial criteria required for the Deaf Blind with Multiple Disabilities Waiver of a monthly income not greater than 300 percent of the federal poverty level.

***Recommendation 2.1.3***:Establish a pay rate for SSP/CN providers by rule. Pay should be based on SSP-level training requirements and ASL fluency. GCPD recommends a starting wage of $20 per hour based on the national average. This is comparable to the 2019-2020 State of Texas Salary Schedule for an Interpreter I position.

***Recommendation 2.1.4***: Establish a voucher program to pay for SSP/CN services administered by HHSC.

***Recommendation 2.1.5.***: Appropriate ongoing funding for the SSP/CN program.

***Recommendation 2.1.6****:* Establish an initial proposed annual budget of $584,400. This cost is derived as follows:

* Estimated maximum number of hours per month for services to one individual (e.g., grocery shopping, attendance at a community event): 5 hours per week or 20 hours per month equals 240 service hours per year per person.
* 5 percent of the estimated 2,000 people who are DeafBlind, and not receiving services through Medicaid, will use SSP/CN services equates to 100 individuals served.
* Calculation for annual cost of program is $528,000.
* Administrative costs for the program (approximately 10 percent) are $56,400.

***Recommendation 2.1.7***: Establish the fee for service by rule to facilitate future changes.

***Recommendation 2.1.8***: Develop an initial advisory committee to create the program, including individuals who are DeafBlind, SSPs/CNs, GCPD, and other organizations that serve individuals who are DeafBlind.

### Impact on Population

In response to concerns raised by constituents, GCPD researched and prepared [a report on the status of support service providers (SSPs)/CoNavigators (CN) in Texas](https://gov.texas.gov/uploads/files/organization/disabilities/GCPD-SSP-CN-Report-2020.pdf). Issues on SSP/CN services for the DeafBlind community can crossover between communication and health. In this report, SSP/CN services are addressed as a communication issue. After an extensive review on this profession in Texas and across the country, GCPD prepared seven recommendations for establishing a program that funds SSP/CN services in Texas.

According to the Texas Health and Human Services Commission, DeafBlindness is a chronic condition in which a person not only has deafness, with their hearing impaired severely enough so that most speech cannot be understood with amplification, but who also has legal blindness, where their visual acuity is 20/200 or less in the better eye with best correction or their visual field is 20 degrees or less. In other words, DeafBlindness is a combination of sight and hearing loss that not only affects a person’s ability to communicate or access information, but significant and unique adaptations may be required for the individual to maintain independence and move around in the world.

Providing SSP services in Texas communities can have an enormous impact by allowing greater independence, self-determination, and a higher quality of life for Texans who are DeafBlind. This would be especially true in small and rural communities where limited or no services may be available to these citizens.

### Cost

Establish an initial proposed budget of $5.808 million for the SSP program. This cost is derived as follows:

* Estimated maximum number of hours per month for services to (1) individual (e.g., personal business, grocery shopping, attendance at a community event): 5 hours per week or 20 hrs per month = 240 SSP service hours/year per individual.
* Estimated 44% of the estimated 2,486 people who are DeafBlind will need SSP services (many in this population are school age (K-12), already receiving Intervener services, are adults in the DBMD waiver program, or have enough vision or hearing to function without an SSP): 1100 individuals served.
* Calculation for cost of program: 1,100 individuals x 240 service hrs/yr = 264,000 hrs/yr x $20/hr = $5,280,000/year.
* Administrative Costs for SSP program: $5,280,000 x 10% = $528,000
* Total Program Cost: $5,280,000 + $528,000 = $5,808,000

### Potential for Success

* How feasible is this policy proposal? DeafBlindness is a low incidence disability. Compared to the greater population this will have an immaterial impact to the state budget as a whole.
* Has there been a successful Texas bill related to this proposal? [HB 140 (88R)](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=88R&Bill=HB140). This bill died in Senate Health & Human Service Committee.
* Has this been done in other states successfully? Yes, details of each program are available in the SSP/CN report (linked above).
* Does this proposal have support from the disability community? Yes. DBMAT is one association in support of this proposal, and there are many more.

### Time

Currently, Texans with DeafBlindness have little or no access to this type of program, leaving them to rely on friends and family to navigate their everyday tasks, such as opening their mail or going food shopping.

### GCPD Staff Recommendation

GCPD Staff recommends keeping this recommendation. 02.01.05: Because implementation of this program will not be until 2025/2026 if a bill successfully passes, appropriated and ongoing funding should be adjusted for inflation. 02.01.06: Staff recommend that this budget be adjusted for inflation by roughly 20% minimum.

## 02.02

Restore the number of contracted Resource Specialists from 18 to 34 specialists through full funding of the HHSC Office of Deaf and Hard of Hearing Services Resource Specialist Program. Explore collaborative funding between HHSC and Texas Workforce Solutions Vocational Rehabilitation Services where contracted resource specialists could support vocational rehabilitation services for Deaf customers and transition-age youth.

### Impact on Population

Resource specialists provide services for people who are deaf or hard of hearing, as well as government agencies, service providers, employers, and private entities. Regional service providers offer services statewide at no cost through contracts with HHSC Office of Deaf and Hard of Hearing Services.

[Deaf and Hard of Hearing Technology Specialists](https://dhhs.hhsc.state.tx.us/providers/contractors.asp?ptype=TechSpec) promote quality of life for persons who are deaf and hard of hearing through technology and managing hearing loss. Services include:

* assistive technology demonstration and assessment,
* consultation and training on communication strategies, and
* referrals to community resources for support for hearing loss.

[Deaf and Hard of Hearing Access Specialists](https://dhhs.hhsc.state.tx.us/providers/contractors.asp?ptype=Access) promote equal access and equal opportunity for persons who are deaf or hard of hearing in Texas. Services include:

* advocacy and teaching self-advocacy skills for effective communication,
* consultation and training on culturally competent service provision, including mandates regarding communication access, and
* referrals to other community resources.

### Cost

$1,000,000 est. per year

### Potential for Success

[HHSC 2018-2019 Legislative Appropriations Request](https://hhs.texas.gov/sites/default/files/documents/about-hhs/communications-events/news/fy18-19-lar.pdf)

The HHSC 2018-2019 LAR states, "The Resource Specialist Program serves to coordinate and facilitate access to existing services of state agencies and other service providers, and helps to remove communication barriers that interfere with the ability of consumers to function effectively in the communities. This program is designed to maximize the use of resources available in the community and assists consumers in becoming or remaining self-sufficient." In addition, HHSC predicts the number of people who are deaf or hard of hearing to increase, "This strategy provides services for consumers who are deaf or hard of hearing to eliminate communication barriers and ensure equal access within their communities. HHSC estimates there are currently over 939,000 persons in Texas who are hearing impaired or 3.3 percent of the population. HHSC predicts this population will grow to approximately 997,000 in FY 2019. As the population of individuals who are deaf or hard of hearing in Texas grows, so does the demand for services. Yet, HHSC lowered the appropriations request for client services by almost $1,000,000 for the 2018 and 2019 fiscal year.

Page 673 - Contract services, training and certification 2016-2017 base (pre-merger) is 4,613,913 while the 2018-2019 request was 3,597,704.

Also, the 2017 client services budget was 3,479,278; HHSC requested 2,528,774.

### Time

Following the sunset of the Texas Department of Assistive and Rehabilitative Services (DARS) and merger of the Office for Deaf and Hard of Hearing Services (ODHHS) into HHSC, ODHHS had its 34 Resource Specialists reduced to 18. Communities such as Beaumont, Wichita Falls, Abilene, Odessa, Midland, and others now go without the services provided by these specialists. The Resource Specialists Program provides services for people who are Deaf or Hard of Hearing, as well as to government agencies, service providers, employers, and private entities. Regional service providers offer services statewide at no cost to individuals through contracts with HHSC ODHHS.

### GCPD Staff Recommendation

GCPD staff recommends keeping this recommendation. GCPD staff will research past funding sources and schemes. Staff will help identify stakeholders that will support this recommendation during the 89th session.

## 02.03

GCPD recommends the HHSC ODHHS amend its sign language contracts used to provide interpreters for state agencies to require that interpreter agencies only provide a certified interpreter at a level appropriate to the job assignment. Failure to provide a certified interpreter may result in cancellation of the contract with a provider for a repeated violation.

### Impact on Population

Interpreters are the link between the deaf world and the hearing world. If there is a language breakdown, there is a learning breakdown (ondeafness.com). The Board for Evaluation of Interpreters (BEI) or the Registry of Interpreters for the Deaf (RID) tests are psychometrically valid tests. Candidates who pass either of these tests can demonstrate skills necessary to interpret simple to complex matters. They’re also required to adhere to standards of professional conduct and confidentiality designed to ensure that all people involved receive effective communication. It is difficult to know the competency level of non-certified interpreters, thus, a higher risk of miscommunication. The long-term impact of an unqualified interpreter may be detrimental to the life of a deaf individual. State agencies provide essential services to deaf Texans to support their full and equal access to lives of independence in the community and their ability to go to work.

### Cost

This should not have a fiscal note.

### Potential for Success

This will take a small change, a minor administrative rule or policy, it does not require legislation.

### Time

While ODHHS provides a list of recommendations for the qualifications of interpreter in various settings, there is no requirement to follow the recommendation. Thus, interpreter agencies who contract with HHSC/ODHHS are allowed to use uncertified and/or unqualified interpreters.

### GCPD Staff Recommendation

In areas with no advanced or master level interpreters, basic level interpreters are acceptable. GCPD staff recommends that no state agency pay for uncertified interpreters at all.

## 02.05

Establish requirements for certified medical interpreters that are like those for certified court interpreters.

### Impact on Population

Effective communication is critical to the successful delivery of healthcare services. The Joint Commission on Accreditation of Healthcare Organizations—the nation’s oldest and largest standards-setting and accrediting body in healthcare—notes the importance of working to improve communication between healthcare professionals and patients.[[1]](#footnote-1) Successful communication with patients involves a strong interpersonal relationship, recognizing language needs, and an understanding of cultural issues. Effective communication happens when there is a joint understanding of meaning where patients and healthcare providers exchange information, and patients can participate actively in their care, ensuring the responsibilities of both patients and providers are clear. Successful communication takes place only when providers understand their patients, and patients receive accurate, timely, complete, and unambiguous messages from providers in enabling them to participate in their care.[[2]](#footnote-2)

Communication can become difficult for Deaf individuals requiring sign language interpreters. Federal guidance prohibits practices from requiring patients to bring their own interpreters to a healthcare setting, meaning these facilities must be able to provide patients qualified interpreters. It is important interpreters in all settings be proficient, but it is most crucial in a healthcare setting as any misunderstandings may have a direct impact on medical decision making and outcomes. Any sign language interpreters assisting a person who is Deaf or Hard of Hearing must be able to demonstrate essential knowledge, skills, and abilities so that communication is accurate, effective, and impartial. It is also important that specialized vocabulary or terminology or phrases are interpreted correctly to the patient. While [Texas Government Code Chapter 57](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.57.htm) provides that court interpreters be certified in the legal field, there is currently no such requirement for interpreters in a medical setting. Establishing such a requirement would ensure better healthcare outcomes for people who are Deaf or Hard of Hearing.

### Cost

This proposal could be cost-saving to the community and revenue-generating for the State. Because the medical interpreting certification has already been created, requiring this certification would allow the State to generate revenue from the new applicants for the certificate. For the community, effective and accurate communication in a medical setting can lead to less medical errors that can be costly and dangerous.

### Potential for Success

* Has there been a successful Texas bill related to this proposal? The medical interpreting certification already exists in Texas; it just needs to become a requirement.
* Does this proposal have support from the disability community? There is support from both the Deaf community and the interpreting community.

### Time

Many Deaf and Hard of Hearing individuals report lack of qualified interpreters in the medical setting.

### GCPD Staff Recommendation

GCPD has carried this recommendation for multiple sessions without stakeholder response and a legislative sponsor. This is unlikely to progress. We further recommend that the committee members and staff identify stakeholders that are interested in this recommendation and that a bill be developed early enough to make it through legislative council. A small working group of stakeholders from TSID are re-evaluating and strengthening this proposal. Staff recommends updating the background to only apply to hospitals or ambulatory surgery center. States recommend a working group of SMEs continue to develop ideas concepts and support around the idea of medical interpreting.

## 02.06

The Department of State Health Services (DSHS) with the HHSC Office for Deaf and Hard of Hearing Services should continue to formalize and strengthen processes to improve the coordination and timeliness of critical public health information disseminated in ASL.

### Impact on Population

Many deaf individuals have inadequate exposure to health information due to inability to hear health-related messages through TV, radio, and public announcements.

<https://www.bu.edu/sph/news/articles/2018/healthcare-language-barriers-affect-deaf-people-too/>

Language barriers are a [significant healthcare problem](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4566365/)—and this is not just a problem for second-language speakers. Deaf people who communicate using sign language, most commonly American Sign Language (ASL), frequently do not have access to clear and efficient communication in the healthcare system, which deprives them of critical health information and qualified health care. Studies show that deaf patients, compared to hearing patients, [make less frequent visits to their primary care provider](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3073438/) and [make more trips to the emergency room](https://www.sciencedirect.com/science/article/pii/S0749379716305219), which is likely due to the lack of communication access. The lack of health information and communication access in ASL often results in deaf people, [including those who are educated](https://www.researchgate.net/profile/Robert_Pollard_Jr/publication/26241110_Health-Related_Vocabulary_Knowledge_Among_Deaf_Adults/links/00b4952a86fc63b0de000000.pdf), scoring lower in measurements of health literacy and health knowledge.

### Cost

There may be a cost associated to using interpreters, unless there are deaf staff who are available to film this content. There may be cost with video recording and editing.

### Potential for Success

This will require monitoring of critical public health information and important changes to provide the information in ASL via a video recording to be posted at the DSHS website. An example performed by Travis County Services for the Deaf and Hard of Hearing created such a video for their local deaf community - it is a short 3-4 minutes... and a transcript is available in English and Spanish. The video is at the TCSDHH Facebook page: <https://www.facebook.com/permalink.php?story_fbid=4039662456066801&id=145238015509284>

This project took only about 4 hours to script, film, edit, and post. The transcript and the text descriptions in English and Spanish was around another 4 hours. This would not need to occur daily, but when critical public health information is released.

### Time

There is not currently an active disaster or public health emergency, but one could happen at any time and it is important Deaf and Hard of Hearing individuals have access to important information.

### GCPD Staff Recommendation

GCPD staff will attempt to meet with DSHS Public Health Leadership to explore how to fully implement and support this.

## 02.07

Reduce Time to process to fewer than 30 days on average. Improve communication and accountability for STAP Applications for TX residents with communication needs.

* Increase FTE’s
* Designated Office Space
* Invest in infrastructure
* Online Application Process
* Oversight and Accountability

### Impact on Population

This issue affects thousands of TX residents, many of which are the most vulnerable and medically fragile. Over the last 18 months the application process has ballooned from 2 months to process to 11 months to process. So, every single applicant, their family/caregivers, professionals (SLP’s, OT’s, MD’s), and vendors have been affected. Because of the length of time to receive a STAP voucher, everyone involved has suffered greatly. Every day without communication presents significant issues and challenges – some literally life threatening**.**

### Cost

Unknown.

### Potential for Success

States, such as Oregon and Arizona, have similar programs to STAP that operate on a smaller budget and with fewer resources than Texas, yet can process applications within 30 days. These states can be used as a model for Texas’s STAP.

### Time

This is a time sensitive issue for individuals currently waiting more than 10 months for access to communication technology.

# Criminal Justice

## 10.01

There are two steps available: 1) Train law enforcement to call parents before the jailed child with disability is released. 2) Declare by law that age 17 is still a child by all viewpoints.

### Impact on Population

Youth aged 17 with disabilities are occasionally jailed because they temporarily became violent such as hitting their family. Usually, the family has no intention of pressing charges but there is still a few days of being jailed, to work through the process of being released. Also, youth age 17 who repetitively elope have been jailed to ‘teach the youth to not bolt’ although bolting or eloping is actually a reflex to a trigger. For age 17, the jail is for adults.

Once jailed, the child’s pediatrician and family have trouble in getting the jail to provide the necessary medications. Also, when the youth is released, the family is not called, so the youth is alone on the streets unable to find a way to safety. Often sex traffickers wait outside of the jail. The very thing that the family attempted to prevent (being alone on the streets) is caused by the jail’s release. Families meanwhile must organize search teams and write their own media alerts. Local police label the child as a runaway and don’t participate in the search,

Note: Some parents anticipate becoming the child’s guardian and thought they had until age 18 to create the guardianship.

### Cost

If trauma to the child is reduced, there is a savings in Residential Treatment Care.

### Potential for Success

2021: Rep Gene Wu regarding age of majority via HB486, HB487, HB1783, none passed.

2023: Rep Sherman, jails shall notify parents before releasing teens with disabilities, HB3532, not passed.

### Time

This is an urgent issue but does not have a deadline to implementation.

## 10.02

We are proposing public funding for peer support organizations that focus on persons living with mental illness and/or substance use who are justice involved. These teams would generally consist of peer support specialists, employment specialists, and occupational therapists who will work with these individuals as well as judicial and law enforcement personnel.

### Impact on Population

Persons living with mental illness and/or substance use are vastly overrepresented in our courts and jails. While 20% of the American population lives with mental illness at any given time, 44% of those who are justice involved live with mental illness. According to Health and Human Services, 17% of Americans live with substance abuse, while, according to NAMI, 65% of those who are justice involved live with substance use. In addition, 55% of veterans who are justice involved live with mental illness.

This puts a lot of pressure on community resources. In Williamson County, the cost per jail stay can run up to $200 per day depending on medical needs. When you add in the cost of items such as pre-trial detentions, court appointed attorneys, foster care costs, and probation costs, the costs become significant in terms of finances, people, and other resources.

What we are proposing has the goal of reducing the percentage of those living with mental illness and/or substance use who are justice involved down to a percentage more reflective of our society as a whole.

Here is how it works –

1. Team members are present in the courtroom. This may be in the jury box or at the prosecutor’s table for non-jury hearings.
2. The judge, if he or she feels that mental illness or substance use has been a factor for this defendant, introduces the team to the defendant during the hearing.
3. The team then meets with the defendant in the hallway for the first time and begins the process of working with the defendant.
4. The occupational therapist performs an assessment that helps to guide the path forward for the team and defendant. This assessment is also made available to the judge for their information and decision making.
5. Here are some of the areas in which teams can help the defendant:
   1. Engage with mental health professionals and advocate on their behalf.
   2. Help develop natural supports that are more conductive to a better lifestyle. We also help people find the resources they need and engage with those resources, such as transportation and housing.
   3. Help find employment as well as accommodations on the job.
   4. Develop better life and coping skills, including health and wellness education and coaching.
   5. Advocate with the judicial system working with prosecutors and judges as well as with defense attorneys.

The team will provide the judge with regular reports which will allow the judge to make an informed decision about the case.

### Cost

Funding would need to be adequate to fund multiple teams. A good-sized county or city where the majority of these social issues frequently occur would require at least a seven-member team. Smaller cities and rural counties who still need this support may require fewer team members and therefore will need a smaller budget. The estimates below are based on the urban area format.

Salaries -

2 peer support specialists - $45,000 (each) per year - $90,000

2 employment specialists - $50,000 (each) per year - $100,000

1 occupational therapist - $60,000 per year - $60,000

1 recovery coach - $75,000 Per year.

1 manager - $100,000 per year

Administrative costs – Estimated at $75,000 per year.

Total - $500,000 per team

### Potential for Success

This is very feasible. In the beginning, there may be some adjustment difficulties as many cities and counties do not have existing programs in place. The availability of funding would create more organizations to specialize in this service. If funding is appropriated to support this, it might be through a grant program or appropriated directly to the judicial system specifically for this purpose. Given the substantial increase in mental illness and substance use in our population, it would be a wise investment by the state legislature. Not only could this lead to significant savings within the judicial system, but for multiple state and local agencies that work with these individuals. For example, this could lead to a decrease in crime, homelessness, and other social issues.

There has not been recent legislation on this proposal.

### Time

This is not a time-sensitive issue.

# Education

## 03.01

TEA should allow teachers who want to teach children who use sign language to get their credentials by passing one of the following tests:

* The Texas Assessment of Sign Communications (TASC);
* The TASC American Sign Language (TASC-ASL);
* HHSC’s Texas Board for Evaluation of Interpreter certification at Basic, Advanced, Master, Level II, III, IV or V; or
* Sign Language Proficiency Interview, Advanced level or higher.

### Impact on Population

Testing options are limited for Deaf Education teachers who need credentialed by Texas Education Agency (TEA)/State Board of Educator Certification (SBEC) to work with children who use sign language.

Teachers certified prior to Sept 1, 1998 were grandfathered into the system with no test of their signing abilities. According to TEA, this provision was removed in 2009. TASC and TASC-ASL current version have been in use since 2010 and have been through the psychometric process.

According to TEA, TASC or TASC-ASL credential is not required for candidates seeking the Deaf or Hard of Hearing (DHOH) certification only for those who teach deaf education and work with students who use sign language.

If teachers hold deaf education certification from a teacher preparation program, they must have approval from that program to take the TEA/SBEC approved credential (TASC/TASC-ASL) to work with children who use sign language. If a teacher works with hard of hearing students for several years and then decides they want to work with students who sign, they must go back to their teacher preparation program for approval. This delays the process for teachers to work with students who sign.

### Cost

Teachers will have to pay to take the test, but they already do.

Changing the face of the certification will require IT work and include a fiscal impact, but unsure at this time what that would be.

### Potential for Success

Change of rule and procedure to allow teachers testing options. This lessens the workload for SBEC to test teachers in sign language and gives teachers more options to qualify to work with Deaf and Hard of Hearing students who use sign language. Some teachers may already hold one of these other credentials and be able to go straight from obtaining their DHOH certification to the classroom.

### Time

There is currently a special education teacher shortage, and this policy proposal could help alleviate the workforce shortage.

### GCPD Staff Recommendation

GCPD staff have reached out to the original proposer to get an update on the necessity of this proposal.

## 03.02

TEA should require itinerant teachers of the Deaf who work with students who use sign language to pass the TASC, TASC-ASL, or another test recognized by the agency. For teachers who are not credentialed, TEA should create a staff development plan with the State Board of Educator Certification.

### Impact on Population

Some teachers who hold Teacher of the Deaf certification have not tested for sign language competency (ie. Texas Assessment of Sign Communications (TASC), the TASC American Sign Language (ASL).

At the April 2019 GCPD meeting, the committee heard public testimony from a deaf student who claimed her itinerant Teacher of the Deaf could not communicate with her in sign language and had to use an interpreter to relay communications.

### Cost

Teachers will have to pay to take the test.

### Potential for Success

Change of rule and procedure to monitor for Deaf Education certified teachers for TASC or TASC-ASL certification, should require no additional cost to TEA, only rule and/or policy changes.

### Time

Some teachers of the Deaf are not able to provide direct instruction to their Deaf signing students.

### GCPD Staff Recommendation

GCPD staff have reached out to the original proposer to get an update on the necessity of this proposal.

## 03.03

Require a routine audit of teachers with Teacher of the Deaf certification currently working with students who use sign language to ensure teachers have passed the TASC, TASC-ASL, or other test recognized by TEA.

### Impact on Population

Some teachers who hold Teacher of the Deaf certification have not tested for sign language competency (ie. Texas Assessment of Sign Communications (TASC), the TASC American Sign Language (ASL).

At the April 2019 GCPD meeting, the committee heard public testimony from a deaf student who claimed her itinerant Teacher of the Deaf could not communicate with her in sign language and had to use an interpreter to relay communications.

### Cost

Teachers will have to pay to take the test.

### Potential for Success

Change of rule and procedure to monitor for Deaf Education certified teachers for TASC or TASC-ASL certification, should require no additional cost to TEA, only rule and/or policy changes.

### Time

There are some Teachers of the Deaf who currently cannot provide direct instruction to their Deaf signing students.

### GCPD Staff Recommendation

GCPD staff have reached out to the original proposer to get an update on the necessity of this proposal.

## 03.04

Add language to the current rule: An assignment to provide sign language interpreters requires the interpreter hold certification per TAC Rule 89.1131(d) where certified interpreters are available.

### Impact on Population

Interpreters are the link between the deaf world and the hearing world. If there is a language breakdown, there is a learning breakdown (ondeafness.com). The Registry of Interpreters for the Deaf (RID) and Board for Evaluation of Interpreters (BEI) tests are psychometrically valid tests, candidates who pass either of these tests demonstrate skills necessary to interpret simple to complex matters. They’re also required to adhere to standards of professional conduct and confidentiality designed to ensure that all people involved receive effective communication. It is difficult to know the competency level of non-certified interpreters, thus, a higher risk of miscommunication. The long-term impact of an unqualified interpreter may be detrimental to a deaf student’s lifetime success. In the same way, state agencies provide essential services to deaf Texans to support their full and equal access to lives of independence in the community and their ability to go to work.

### Cost

This proposal is not forecasted to have a cost.

### Potential for Success

This will take a small change, a minor administrative rule or policy, it does not require legislation.

### Time

There are currently Deaf and Hard of Hearing students receiving interpreting services for their education by uncertified, and potentially unqualified, interpreters.

### GCPD Staff Recommendation

Staff continue to support this recommendation.

## 03.05

The legislature should increase the state allocation to Regional Day School Programs for the Deaf (RDSPDs) at a level to allow districts to compete with the interpreter market for educational interpreters. The current RDSPD state allocation of $33,133,200 has not changed since 1995, despite the increase in expenses to run the programs and the increase in the number of students served.

### Impact on Population

Language deprivation remains a real problem in deaf children. Linguistic analyses showed that ASL is a language, not just gestures. It uses space, coordinated handshapes and movements, facial expressions, and a unique syntax to build meaning. Researchers also learned that language deprivation delays the development of thinking skills... and if children are deprived from language they will not thrive.

Children who are deaf need qualified interpreters to be successful not only in the educational environment but to transition and succeed in adulthood. Qualified interpreters are one tool to make this happen.

David Myers, Retired Director from the Office for Deaf and Hard of Hearing Services always said, “the teacher is only as good as the interpreter.”

### Cost

This would be an increase in funding for the RDSPDs. However, if Deaf people can obtain better access to education and resources, they will be better able to contribute to the Texas economy.

### Potential for Success

No legislation filed regarding education interpreter pay since [HB 3629](https://capitol.texas.gov/tlodocs/76R/billtext/html/HB03629I.htm) in the 76th Regular session. The bill died in committee.

### Time

There is an ongoing special education teacher shortage, along with an interpreter shortage. Increasing funding for RDSPDs is much needed in combatting these issues, especially when compounded with the fact that RDSPDs have not seen an increase in funding since 1995/1996.

### GCPD Staff Recommendation

Staff continue to strongly support this recommendation and that committee members highly rank this as a policy priority.

## 03.06

Establish a pay rate for certified educational interpreters by rule. The region’s cost of living should be considered when determining the minimum salary for certified deaf education interpreters.

### Impact on Population

In Texas, the Regional Day School Programs for the Deaf (RDSPDs) struggle with recruitment of qualified interpreters. In May 2022, over 90 sign language interpreter vacancies exist in 27 of 53 programs. This issue is not new, the RDSPD’s have struggled to recruit and retain qualified interpreters for over 20 years. GCPD circulated a survey to ~1800 certified interpreters, plus the interpreter training programs. There were 674 responses describing reasons for opting out of K-12 work, from simply no interest in the K-12 environment, to pay and working conditions.

GCPD[Survey Results](https://www.surveymonkey.com/results/SM-9eyZhyHrj_2BF0PbI_2BD7zSig_3D_3D/)

Educational interpreter pay average $27.62 hr. while interpreter working under agencies, freelance, or legal, salaries average $37-$72 hr.

Interpreter’s did not choose or left the profession because:

* lack of support from administration,
* low salaries – educational interpreter pay does not reflect industry standards,
* administration did not understand their role,
* interpreters are not treated as professionals,
* interpreters did not get needed breaks (interpreted classes back to back)
* interpreters are asked to do other things than interpret – such as dealing with a student’s bad behavior, and more.

### Cost

This would be an increase in funding for the RDSPDs. However, if Deaf people can obtain better access to education and resources, they will be better able to contribute to the Texas economy.

### Potential for Success

No legislation filed regarding education interpreter pay since [HB 3629](https://capitol.texas.gov/tlodocs/76R/billtext/html/HB03629I.htm) in the 76th Regular session. The bill died in committee.

### Time

There is an ongoing interpreter shortage. Establishing a pay rate by rule would enable schools to compete with the general market for interpreters. This will lead to better quality educational interpreters for Deaf and Hard of Hearing students in Texas.

### GCPD Staff Recommendation

Staff continue to strongly support this recommendation and that committee members highly rank this as a policy priority.

## 03.07

Education Service Centers (ESCs) should promote the understanding of the complexity of sign language interpreting, the necessity of qualified interpreters for language acquisition, and the communication needs of students who are deaf or hard of hearing to school administrators.

### Impact on Population

Language deprivation remains a real problem in deaf children. Linguistic analyses showed that ASL is a language, not just a bunch of gestures. It uses space, coordinated handshapes and movements, facial expressions, and a unique syntax to build meaning. Researchers also learned that language deprivation delays the development of thinking skills... and if children are deprived from language they will not thrive.

Children who are deaf need qualified interpreters to be successful not only in the educational environment but to transition and succeed in adulthood. Qualified interpreters are one tool to make this happen.

David Myers, Retired Director from the Office for Deaf and Hard of Hearing Services always said, “the teacher is only as good as the interpreter.”

In Texas the Regional Day School Programs for the Deaf (RDSPDs) struggle with retention of qualified interpreters. In May 2022, over 90 sign language interpreter vacancies exist in 27 of 53 programs. This issue is not new. The RDSPD’s have struggled to retain qualified interpreters for over 20 years. Typically, interpreters leave their training programs without certification, they are able to find work in K-12 settings because most other places will not use non-certified interpreters. They become more skilled, and once they do, most leave education for more lucrative work in other fields. GCPD circulated a survey to ~1800 certified interpreters, plus the interpreter training programs. The survey received 674 responses describing reasons for leaving K-12 interpreting work, from pay to working conditions.

Interpreters did not choose or left the profession because:

* lack of support from administration,
* low salaries – educational interpreter pay does not reflect industry standards,
* administration did not understand their role,
* interpreters are not treated as professionals,
* interpreters did not get needed breaks (interpreted classes back to back)
* interpreters are asked to do other things than interpret – such as dealing with a student’s bad behavior, and more.

### Cost

There is potentially a cost to develop and promote materials related to sign language interpretation, its complexity, and the need for qualified educational interpreters.

### Potential for Success

This is something that the Education Service Centers could choose to do administratively without the direction of the legislature.

Currently, this proposal is vague and could benefit from being made measurable, actionable, and sustainable.

### Time

This is an ongoing issue that impacts the quality of education that Deaf children have access to.

### GCPD Staff Recommendation

Staff are neutral on this recommendation.

## 03.08

School districts should develop effective recruitment strategies for interpreters that best fit the local community, which may include:

* incentive programs,
* stipends,
* training opportunities,
* mentoring opportunities,
* reimbursement for further education, and
* visiting ASL programs at local community colleges.

A more detailed description of GCPD’s educational interpreter recommendations can be found on [**the GCPD’s webpage**](https://gov.texas.gov/uploads/files/organization/disabilities/2022EducationalInterpretersReport.pdf).

### Impact on Population

Language deprivation remains a real problem in deaf children. Linguistic analyses showed that ASL is a language, not just a bunch of gestures. It uses space, coordinated handshapes and movements, facial expressions, and a unique syntax to build meaning. Researchers also learned that language deprivation delays the development of thinking skills... and if children are deprived from language they will not thrive.

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In Texas the Regional Day School Programs for the Deaf (RDSPDs) struggle with retention of qualified interpreters. In May 2022, over 90 sign language interpreter vacancies exist in 27 of 53 programs. This issue is not new. The RDSPD’s have struggled to retain qualified interpreters for over 20 years. Typically, interpreters leave their training programs without certification, they are able to find work in K-12 settings because most other places will not use non-certified interpreters. They become more skilled, and once they do, most leave education for more lucrative work in other fields. GCPD circulated a survey to ~1800 certified interpreters, plus the interpreter training programs. The survey received 674 responses describing reasons for leaving K-12 interpreting work, from pay to working conditions.

### Cost

This total cost is unknown.

### Potential for Success

No legislation filed regarding education interpreter pay since [HB 3629](https://capitol.texas.gov/tlodocs/76R/billtext/html/HB03629I.htm) in the 76th Regular session. The bill died in committee.

### Time

There has not been an increase in funding for RDSPDs since 1995/1996 and as a result, they have been struggling with retaining qualified interpreters. This directly impacts the access Deaf students have to their education.

### GCPD Staff Recommendation

Staff recommend giving this policy a low ranking unless it can be made more actionable.

## 03.09

Amend the Texas Education Code to create a procedure for school districts to determine whether an adult student with a disability can provide informed consent for their educational program.

### Impact on Population

Positive impact for adult students with disabilities who lack a legal guardian and do not have the ability to provide informed consent for their educational programs. The appointed educational representative would represent the educational interests of the student throughout the remaining period of the student's eligibility under IDEA.

In the 2018-2019 school year, there were 23,054 students with disabilities ages 18 to 21 attending Texas public schools. Texas does not collect data on how many of these adult students with disabilities need an educational representative.

### Cost

Primary cost factor is additional evaluation of adult student with a disability for consideration of capacity to provide informed consent for his or her educational program and need for an educational representative. Local Education Agencies will need to work with school’s diagnostician to assess the student’s capacity to serve as their own representative. Some school districts may need to contract for these services.

### Potential for Success

* How feasible is this policy proposal?
  + Recommendation is feasible. The Texas Education Agency has indicated willingness to participate in informal discussions with stakeholders in collaborative effort to develop details of appointment procedure.
* Has there been a successful Texas bill related to this proposal? No prior legislative bill.

The State of Texas is not in full compliance with the Individuals with Disabilities Education Act (IDEA) with respect to adult students with disabilities in public school who need the appointment of an educational representative. Texas does not have an appointment process for an educational representative for an adult student with a disability in public school who has neither a legal guardian nor the capacity to exercise the parental special education rights that are automatically transferred to him or her at age 18.

### Time

It is important for Texas to come into compliance with the federal law.

### GCPD Staff Recommendation

GCPD staff are following up with Steven Aleman from Disability Rights Texas on the necessity for keeping or strengthening this recommendation.

## 03.10

Amend Texas Education Code Sec.25.0875 to clarify the prohibited use of informal, undocumented suspensions and certain releases of students with disabilities to parents after school-initiated communication.

### Impact on Population

It is common practice for school personnel to contact parents when their child is having behavior issues at school or if teachers are unsure of how to support students with disabilities. When this communication occurs, the school often requests or encourages the parent to pick up their children before the end of the school day. These early pickups, which are not considered official out-of-school suspensions, disproportionately impact students with disabilities and students of color, excluding children from the classroom and from other important periods of academic and social interaction with teachers and peers. Students, parents, educators, and other advocates are increasingly concerned about this practice for several reasons:

* These school-initiated early pickups are often recorded as unexcused absences, resulting in truancy notices to parents.
* Parent employment is also put at risk from repeatedly taking off work to pick up their child.
* Unrecorded parent pick-ups may allow schools to circumvent federally required evaluations and services for students with disabilities, which are triggered after being removed from class for a certain number of days.
* Since out-of-school suspensions were eliminated for pre-k through 2nd grade students in 2017, parents report that schools are utilizing early pickups instead, which are not documented as official suspensions.
* Early pickups, or shortened school days, deny FAPE to students with disabilities.

### Cost

No known cost.

### Potential for Success

* How feasible is this policy proposal? The recommendation is well supported statewide and would require minimal revision/ changes to current code.
* Has there been a successful Texas bill related to this proposal? [HB 2183](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=HB2183), 86th Texas Legislative Session and [HB 2297](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=HB2297), 87th Texas Legislative Session
* [NDRN Report on Shortened School Days](https://www.ndrn.org/resource/out-from-the-shadows-informal-removal-of-children-with-disabilities-from-public-schools/)

### Time

Students with disabilities miss countless days of instruction and related supports when they are pushed out of schools. Parents’ jobs are put at risk, there are truancy implications, students are not able to access FAPE, and obligations for LEAs to respond to a change in placement are circumvented. This common practice also strains the mental and emotional health of the entire family. This recommendation would eliminate a practice that has existed for decades and is harming students and families.

### GCPD Staff Recommendation

Staff recommend giving this policy strong support by GCPD.

## 03.11

Amend Title 19 Texas Administrative Code §89.1053 to ban prone and supine restraints and prohibit restraint for property damage. Staff who have not been trained in restraints are not allowed to restrain any students, unless there is an emergency as defined by statute and with the following limitation:

* restraint must be limited to the use of such reasonable force as is necessary to address the emergency;
* restraint must be discontinued at the point at which the emergency no longer exists;
* restraint must be implemented in such a way as to protect the health and safety of the student and others; and
* restraint must not deprive the student of basic human necessities.

### Impact on Population

Students with disabilities represent approximately 9.8% of the state’s school population, but they experienced 91% of restraints in Texas’ public schools during the 2018-19 school year (SY), according to an [investigative report from Disability Rights Texas](https://disabilityrightstx.org/wp-content/uploads/2021/01/DRTx-Restraint-Report-FINAL-Dec-7-2020-2.pdf).

Students with disabilities are vastly over-represented in instances of restraints. This recommendation aims to protect the physical, emotional, and mental health of students and families and eliminate these dangerous restraints that have proven deadly.

### Cost

None.

### Potential for Success

The recommendation is informed and responsive to self-advocates, family members, and special education allies who represent hundreds of thousands of students with disabilities across the state. It is well supported statewide and would require minimal revision/changes. Behavior intervention plans, evidence-based de-escalation tools, and other training and support are widely available, effective tools that do not cause serious bodily injury or death.

Has there been a successful Texas bill related to this proposal?

[SB 507, 84th Texas Legislative Session](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=84R&Bill=SB507)

[SB 712/HB 3630, 86th Texas Legislative Session](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=SB712)

[HB 1163, 87th Texas Legislative Session](https://capitol.texas.gov/Search/DocViewer.aspx?ID=87RHB011631B&QueryText=%22supine%22&DocType=B)

### Time

This is an important issue that is currently impacting students with disabilities all over the state of Texas.

### GCPD Staff Recommendation

Staff recommends that committee members highly rank this policy for the next session.

## 03.12

Reform and expand the use of cameras in classrooms to further empower parents and protect students with disabilities to address harmful restraints and reduce injury of students with disabilities. Amend Texas Education Code Sec. 29.022 to:

* require schools to notify parents of cameras in classrooms law;
* extend retention period of camera footage; and
* ease restrictions/challenges many parents face when trying to access the recordings from the school and develop mandatory standards for placement of cameras in self-contained classrooms or isolated spaces on campus.

### Impact on Population

In 2015, the Texas Legislature expanded protection for students with disabilities in public schools by allowing video surveillance in certain special education classrooms. Video recordings have helped to document and verify inappropriate restraints and staff abuse of students with disabilities. Reform and expansion of the cameras in classrooms state law will further empower parents and protect students with disabilities. Improvements in the law are needed because harmful restraints continue to occur and arrests of school employees for attacks and injury of students with disabilities are increasing.

According to data collected by the U.S. Department of Education for the 2017-18 school year, Texas public schools physically restrained 5.177 students with disabilities. In the 2017-18 school year, 486 students with disabilities in Texas schools were subjected to mechanical restraint. Anecdotal examples of abuse in schools:

* Fort Worth ISD staff restrained student with disability who subsequently died (March 2021)
* Killeen ISD teacher assaulted student with disability (April 2021)
* Manor ISD teacher hit student with Autism (November 2021)
* Burleson ISD teacher and aide acted inappropriately with nonverbal students (November 2021)
* Weslaco ISD teacher hit a student with Autism (December 2021)
* San Antonio ISD teacher punches student with a disability (December 2021)

### Cost

The proposed legislative solution with a fiscal note is increasing video recording storage and retention period. Currently, school districts must retain videos for three (3) months. Increasing the storage and retention period to six (6) months might double that cost.

### Potential for Success

* How feasible is this policy proposal? The proposed legislative solutions are specific and responsive to concerns expressed by parents and advocates and have board support in disability community.
* Has there been a successful Texas bill related to this proposal? In 2017, the Texas Legislature amended the cameras in classroom state law. State lawmakers have not filed any bills on video surveillance in recent sessions.

### Time

Students with disabilities are experiencing unsafe learning environments. This proposal would empower parents and protect students.

### GCPD Staff Recommendation

Staff recommend retaining and carrying forward this recommendation.

## 03.13

Expand the Texas Education Agency’s Do Not Hire Registry by amending Tex. Educ. Code, Chapter 22.092, Subchapter C-1 to:

* expand mandatory listing on the Registry of educators who are convicted under Tex. Penal Code Sec. 22.04 (Injury to A Child, Elderly Individual, Or Disabled Individual);
* expand mandatory listing on the Registry of educators who engaged in a physical or mechanical restraint resulting in serious bodily injury or death of a student; and
* protect the safety and welfare of students with disabilities by preventing school districts from hiring teachers and other school employees after another district terminated them for abusing a student.

### Impact on Population

In 2019, the Texas Legislature created the Do-Not-Hire Registry, an official state list of individuals who are ineligible for employment in Texas schools. The purpose of the Registry is to protect the safety and welfare of all students by preventing school districts from hiring teachers and other school employees after another district terminated them for abusing a student. Reform and expansion of the Registry will further protect students with disabilities. Improvements are needed to the Registry because abusive restraints continue to occur and arrests of school employees for attacks and injury of students with disabilities are increasing.

### Cost

Nominal expense to Texas Education Agency for expansion of listings on the Registry.

### Potential for Success

2021, the Texas Legislature amended the Do-Not-Hire Registry to cover private schools. State lawmakers have not filed any bills specific to students with disabilities and the Registry.

The proposed legislative solutions are specific and responsive to concerns expressed by parents and advocates and have board support in disability community.

### Time

Students with disabilities are being put in unsafe learning environments because teachers fired for offenses in one school are being hired at other schools where they continue to do harm.

### GCPD Staff Recommendation

Staff recommend retaining and carrying forward this recommendation.

## 03.14

Texas should transition special education funding from the current placement-based system of funding to a service intensity-based system, correlating funding to the number of services that the school district directly provides to a student with a disability. The premise is that if an LEA must do more for a student with a disability, then it is expending more resources on that student and the state financing system should recognize that and allocate state support accordingly.

### Impact on Population

Current State funding for special education is based upon a label of the classroom or placement assignment, which may or may not capture the true cost of serving each student. Special education is a service, not a place. However, the state special education funding system is based on a student's placement. Special education has evolved over the past quarter century and *where* a student is served is no longer indicative of *how* the student is served. Intensive – and costly – services and supports may just as well occur in a regular classroom as well as in a separate room. Funding should be allocated based on services the student receives, regardless of setting. The state special education allocation formula includes several complicated factors. The student's placement is only the starting point. Also problematic is that each setting, other than mainstream, is based on a contact hour multiplier. The contact hours are limited to 6 hours per day, or 30 hours per week, and are deducted from the student’s proportionate adjusted basic allotment share. Removing contact hours from the calculations would be appropriate to make the system less complicated and easier to understand, and to get rid of the presumption that students with disabilities are only proportional pieces of a whole student since general education support and personnel are no less utilized when the student receives special education services and supports.

Special education has evolved dramatically since 1993. Most students with disabilities are now provided services in the general education classroom setting for most of their instructional day. This type of service, labeled as mainstream, looks very different based on the individual student. Some students receive minimal supports in the mainstream setting while others receive very intensive services and supports such as modified instruction, co-teaching, assistive technology, and adult support. Special education weights must be revised to accommodate the types of services provided in today’s settings.

### Cost

The state should change from a placement-based system to a service intensity-based system. The objective of a service intensity method is to correlate funding to the amount of services and supports that an LEA provides to a student with a disability. In short, an LEA would receive relatively more aid for providing a student with more services and supports. The premise is that if an LEA must do more for a student with a disability, then it is expending more resources on that student and the state financing system should recognize that and allocate state support accordingly.

Texas could accomplish a tiered weighting system based on services, not placements, by replacing the current special education allocation formula with a new formula structure such as the one illustrated below. Each level would have a weight or multiplier that is applied to the state’s adjusted basic allotment to determine the amount of the state’s special education allocation. The size of each weight would be relatively larger in relation to the preceding lower level to account for the increased intensity of special education services. The exact weight multiplier would need to be determined during the commission’s discussions.

|  |  |  |
| --- | --- | --- |
| Special Education Allocation Structure Based on Five Levels of Service Intensity | | |
| Level | Students with disabilities receive specialized instruction, services and supports as  documented in the student’s IEP on average… | Weight Multiplier |
| Level I | less than 20 percent of the instructional day | Adjusted Basic Allotment multiplied by Factor 1 |
| Level II | between 20 but less than 40 percent of the instructional day | Adjusted Basic Allotment multiplied by Factor 2 |
| Level III | between 40 but less than 60 percent of the instructional day | Adjusted Basic Allotment multiplied by Factor 3 |
| Level IV | between 60 but less than 80 percent of the instructional day | Adjusted Basic Allotment multiplied by Factor 4 |
| Level V | more than 80 percent of the instructional day | Adjusted Basic Allotment multiplied by Factor 5 |

In this illustration, the intensity of special education services is measured by time. Units of time could be considered a reliable indicator of how much services schools are giving a student under the IEP. Time is usually recorded in the IEP in the schedule of services. Time is also recorded by many special education personnel when they deliver services for compliance and billing purposes.

### Potential for Success

There were several bills in the 88th Session that would have accomplished this; however, those bills contained other items that were unfavorable to advocates, so the bills died.

### Time

This could help with the special education teacher shortage, education interpreter shortage, and educational diagnostician shortage.

### GCPD Staff Recommendation

Staff strongly endorse this as a smarter way of funding special education..

## 03.15

***Recommendation 3.15.1*:**Establishadoption of a new section to the Texas Education Code Chapter 29 including mandatory transition planning for all students receiving services under Section 504 of the Rehabilitation Act to be implemented by the 2024-2025 school year. For each student with a disability, the Section 504 Committee must include:

* The parent or guardian of the student;
* A representative of the school system (Principal, Vice Principal, Counselor, District 504 Coordinator, Transition and Employment Designee (TED));
* Teacher(s) who are, or will be, working with the student;
* An individual who can interpret the meaning of evaluation data;
* A designated transition specialist;
* At the discretion of the parent, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate;
* A transition vocational rehabilitation counselor; and
* Whenever appropriate, the child with a disability.

***Recommendation 3.15.2*:** The TEA commissioner shall by rule adopt procedures in consultation with the Tri-Agency Workforce Initiative and the Texas Workforce Solutions Vocational Rehabilitation program for compliance with federal requirements relating to transition services for students who are covered under Section 504 of this subchapter. The procedures must specify the way a student’s 504 committee must consider and, if appropriate, address the following issues in the student’s Transition Plan Process:

* appropriate student involvement in the student’s transition to life outside the public school system;
* if the student is younger than 18 years of age, appropriate involvement in the student’s transition by the student’s parents and other persons invited to participate by:
  1. the student’s parents; or
  2. the school district in which the student is enrolled.
* if the student is at least 18 years of age, involvement in the student’s transition to post-secondary education, vocational training or work by the student’s parents and other persons, if the parent or other person:
  1. is invited to participate by the student or the school district in which the student is enrolled; or
  2. has the student’s consent to participate pursuant to a supported decision-making agreement under Chapter 1357 (Supported Decision-making Agreement Act), Estates Code;
* appropriate postsecondary education options, including preparation for postsecondary-level coursework;
* an opportunity to apply for vocational rehabilitation beginning at the age of 14:
  1. By age 14, the student and parents will be provided with information on Pre-Employment Transition Services (Pre-ETS) available for eligible and potentially eligible students through the Texas Workforce Commission Vocational Rehabilitation Services (TWC-VRS)
* an appropriate functional vocational evaluation;
* appropriate completion of necessary evaluations, including those required to receive accommodations for postsecondary education or the workforce;
* appropriate employment goals and objectives;
* an opportunity to participate in an appropriate work-based learning program and paid summer work experience before graduation;
* if the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student’s transition goals and objectives;
* appropriate independent living goals and objectives;
* the use and availability of appropriate:
  1. supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and
  2. supports and services to foster the student’s independence and self-determination, including a supported decision-making agreement under Chapter 1357 (Supported Decision-making Agreement Act), Estates Code.

***Recommendation 3.15.3*:** The commissioner shall require each school district to provide information on the pre-ETS available through the TWC-VRS to all potentially eligible students and parents/guardians on no less than a yearly basis the year the student with a disability becomes age 14.

***Recommendation 3.15.4*:** The commissioner shall require each school district or shared services arrangement to designate at least one employee to serve as the district’s or shared services arrangement’s designee on transition and employment services for students covered under Section 504 under this subchapter. The commissioner shall develop minimum training guidelines for a district’s or shared services arrangement’s designee. An individual designated under this subsection must provide information and resources about effective transition planning and services, including each issue described by Subsection (a), and interagency coordination to ensure that local school staff communicate and collaborate with:

* students covered under section 504 of the Rehabilitation Act under this subchapter and the parents of those students; and
* appropriate local and regional staff of the:
* Health and Human Services Commission;
* Texas Workforce Commission;
* Department of State Health Services; and
* Department of Family and Protective Services.

The commissioner shall review and, if necessary, update the minimum training guidelines developed under Subsection (b) at least once every four years. In reviewing and updating the guidelines, the commissioner shall solicit input from stakeholders.

### Impact on Population

According to the Texas Education Agency, there are currently [401,648 students covered under Section 504 of the Rehabilitation Act](https://rptsvr1.tea.texas.gov/adhocrpt/adspr.html), however, these students are not receiving the necessary transition planning they need to successfully enter postsecondary education and the workforce. The Texas Education Code does not address transition planning for students receiving services under Section 504, leaving these students unaided in the transition process.

The state of Texas is compliant with the requirements for transition services under the IDEA. However, other students with disabilities that substantially limits a major life activity receive no transition support. In an effort to meet the needs of all students with disabilities, the TWC-VRS is actively seeking students served under Section 504 plans to provide Pre-ETS and transition services. Without a required transition plan, Section 504 students are not receiving the support necessary to access and attain post-secondary goals. TWC-VR services can assist students in job skills, help set up accommodations with an employer, and aid in the transition to gainful employment. Services can also provide students attending post-secondary education the support to access Section 504 accommodations through an institution of higher learning. Before graduation, the Section 504 committee can provide the student and family/guardian with information on available resources. The Section 504 plan can also be designed to support post-secondary goals.

### Cost

Unknown.

### Potential for Success

There have not been any legislative bills on this proposal.

### Time

Students receiving services under Section 504 are not receiving needed transition services.

### GCPD Staff Recommendation

Taken together as a package these recommendations (3.15.1 - 3.15.4) could make a substantial impact on the workforce development of high school students with disabilities and their future success. However, the coordination between multiple state agencies and local school districts would require the focused attention of a statute to make this happen. Staff recommend this be referred to TWC Vocational Rehabilitation services for analysis for response. Have TWC VR report to GCPD at an upcoming meeting their comprehensive process for meeting with each Section 504 transition age student in public or private schools.

## 03.16

AmendTexas Education Code Section 21.054 to expand the reading literacy academies to include additional educators in grade 4 and higher.

### Impact on Population

Struggling readers in secondary grades and upper elementary may not have access to teachers who can provide instruction to close the gaps by supporting and teaching foundational reading skills and strategies. Students who graduate without being able to read at the high school reading level will continue to struggle to access post-secondary education and future employment opportunities. The Texas education system is not designed to produce the inequitable results of some students learning to read while others do not. Multitiered Systems of Support (MTSS) are implemented in many schools, but this has not addressed the lack of knowledge in reading instruction in the secondary teacher workforce. The beneficial outcome of this proposed solution is to remediate the learning gaps for struggling readers in the secondary grade levels and to graduate high school students with on-grade or approaching grade-level reading skills.

### Cost

Unknown.

### Potential for Success

There were three bills filed in the 88th Session, but they all died early in the process.

### Time

Students with dyslexia need support from teachers at all levels of their instruction.

### GCPD Staff Recommendation

Staff are neutral on this recommendation.

## 03.17.01 – 03.17.02

***Recommendation 3.17.1:*** Establish a legislative Braille Literacy Study to include participation by the Texas Governor’s Committee on People with Disabilities (GCPD), Texas Education Agency (TEA), Texas School for the Blind and Visually Impaired (TSBVI), Texas State Library Talking Book Program (TSL-TBP), Health and Human Services Commission Early Childhood Intervention Program (ECI) and the Blind Children's Vocational Discovery and Development Program (BCVDD) and other agencies and organizations as necessary to carry out the purpose and functions of this study.

***Recommendation 3.17.2:*** The study shall address:

* the evaluation of the Shortage of Teachers of the Visually Impaired (TVI) and the adequacy of TVI certification requirements, professional training and development and continuing education on braille literacy;
* the issue of TVI’s not retaining Braille competency beyond test for certification and the requiring recertification after a certain number of years;
* the Braille course requirements for TVI’s in the university curriculum;
* early identification of blind children ages birth – three;
* barriers to having the requirement that all doctor’s refer kids to the State’s Early Childhood Intervention Program (ECI) if identified as blind or visually impaired in the same way that Deaf or Hard of Hearing kids are referred;
* the adequacy of braille support for parents of blind children including braille information, resources, technology, children’s books, and parental training;
* discussion of K-12 ARD committee requirements related to Braille and learning medium evaluations, including an analysis of IDEA requirements vs. Texas Education Code;
* optimal alignment and coordination of resources and strategies for braille education and literacy across all applicable state agencies and programs; and
* recommendations for changes to Texas laws, policies, or rules to optimize and increase the braille education for blind and visually impaired Texans.

### Impact on Population

This study could generate long-lasting, sustainable solutions to the problem addressed by the proposal.

### Cost

Unknown.

### Potential for Success

This needs to be established legislatively.

### Time

Students who are blind or have low vision are not learning Braille at the same levels as before. This has a potentially major impact on their future educational attainment.

### GCPD Staff Recommendation

Staff highly endorse this recommendation.

## 03.18

Commissioner rule specifying that “Smart ISS” is a disciplinary removal and is required to be coded as such in PEIMS.

### Impact on Population

Chapter 37.020 states that for each placement in a disciplinary alternative education program, the district must report data related to each incident annually. Under the Individuals with Disabilities Education Act (IDEA) students are required to receive a free appropriate public education.

Attorneys have advocated in Texas the use of “Smart ISS” for students with disabilities. Smart ISS is an idea that is derived from commentary contained in the 1999 and 2006 versions of the final IDEA regulations that state ISS would not be considered true removal days as long as the child is provided the opportunity to 1) continue to appropriately progress in their curriculum 2) continue to receive their IEP services, and 3) continue to participate with nondisabled children to the extent they would have in their usual placement (meaning not a segregated placement for special education students).

The interpretation of this legal guidance has resulted in students with disabilities being assigned placements in a “Smart ISS” that are not coded and reported in the Public Education Information Management System (PEIMS) as required in Chapter 37.020 because administrators are misinterpreting this guidance to mean a placement in Smart ISS does not count as a disciplinary removal. The IDEA commentary is addressing the removal of students from their FAPE, and not directly addressing the status of the disciplinary placement.

This impacts students with disabilities in multiple ways, including missing direct instruction, being out of their IEP-specified placement for periods of time, and not receiving due process protections such as manifestation determination reviews within 10 days of removal from placement. Special education students already perform well under their nondisabled peers as measured in the State of Texas Assessments of Academic Readiness (STAAR). Removals from the general education setting and direct instruction by content area experts are detrimental to closing academic gaps. Further, there is no research supporting that ISS placements effectively change student behavior.

Additionally, special education discipline placements are a component of the Results Driven Accountability (RDA) state system for local education agencies (LEAs) in Texas. Incorrect coding or omissions of PEIMS entries may impact LEAs accountability in the RDA system. Without entering these “Smart ISS” placements in PEIMS, LEAs may have special education served students in discipline alternate placements for extended periods of time with no accountability or oversight by the TEA and RDA special education Review and Support. Further, the lack of reporting disciplinary placements may alter the accurate reporting of significantly disproportionate representation of students with disabilities in discipline alternate placements, federally required elements of the RDA system.

### Cost

No known costs.

### Potential for Success

The rule would provide clarification and guidance to regulations currently in place, with increased specificity regarding special education students and “Smart ISS**.**”

### Time

This is not a time sensitive issue.

## 03.19

Strengthen and enforce Unlicensed Diabetes Care Assistant (UDCA) requirements and training.

### Impact on Population

In schools where a student who has diabetes is enrolled, the function of the UDCA is to help the student with the student’s diabetes management. If a school has a school nurse, they need one UDCA; if the school has no nurse, they need 3 UDCAs. This only applies at a campus where a student with diabetes is enrolled. Under HB 984, training for UDCAs seems to only be required once even though diabetes management is a constantly evolving field.

Because there is a lack of understanding about diabetes management, oftentimes parents are called out of work to come to the school to help their student manage their diabetes. This causes potential problems for parents trying to work to support their families. Having UDCAs who are knowledgeable and have the appropriate training could alleviate this issue.

### Cost

No known cost.

### Potential for Success

During the 79th legislative session, HB 984 passed. This created Unlicensed Diabetes Care Assistants (UDCA). This bill already passed in the 79th session. This would not be creating a new law; it would be strengthening an existing law to better support students with diabetes.

### Time

Students with diabetes are attending schools without the required UDCAs to assist in managing the student’s diabetes.

# Emergency Management

## 04.01

Ensure all state health and human service programs providing services to people with disabilities discuss and assist development of emergency preparedness and evacuation planning.

### Impact on Population

Texas is the second-largest state by geographic area and is the most disaster-prone state in the country. Over the last ten years, Texas has experienced thirteen [FEMA IA disasters](https://www.fema.gov/data-visualization/disaster-declarations-states-and-counties). A total of 334 counties were impacted as a result. In 2017, Hurricane Harvey devastated the state, and it has been called the worst natural disaster in the state's history. Along with hurricanes, Texas also must contend with flooding, often caused by these tropical storms, as well as severe ice storms, tornadoes, wildfires, and drought.

Because of the frequency and severity of disasters, there is an imminent reality these forces will impede community lifelines which are necessary for human health and safety. Energy is not only a community lifeline, but it is also an emergency support function which requires interagency coordination for an effective response in disaster and emergencies according to FEMA Energy Annex[[3]](#footnote-3).

### Cost

No known cost.

### Potential for Success

For each individual touch point (for example, the case manager for an individual in STAR+plus) they should be telling the individuals they can sign up for STEAR, preparing a home readiness kit, etc.

### Time

Disasters continue to occur at increasing rates across Texas, the US, and the world.

### GCPD Staff Recommendation

Staff recommends retaining these recommendations.

## 04.02

The PUC should continue to work in coordination with TDEM to identify all regulatory or legal barriers that limit information sharing between utilities, local offices of emergency management and their representatives as it relates to conducting wellness checks during disasters on medically fragile customers. For example: Require electricity providers and local emergency management to develop inclusive plans for protecting individuals dependent on DME during unplanned power outages. Local Emergency Management could consider providing and conducting training exercises with electric providers’ representatives to assure the safety of critical care and chronic condition individuals during power emergencies. The local utility provider and local emergency management should also consider developing data use agreement templates. See DME Task Force [recommendations provided to the PUC on 07/06/2021](https://interchange.puc.texas.gov/search/documents/?controlNumber=51812&itemNumber=223).

### Impact on Population

Texas is ranked first in the U.S. in the variety and frequency of natural disasters. Flooding, wildfires, tornados, hurricanes, hail storms, sinkholes, erosion and drought all occur in the state. See [https://nisar.jpl.nasa.gov/files/nisar/NISAR\_Applications\_Hazards\_Texas.pdf](https://nisar.jpl.nasa.gov/files/nisar/NISAR_Applications_Hazards_Texas.pdf%20) Texas, the second-largest state by geographic area, is the most disaster-prone state in the country. Over the last ten years, Texas has experienced thirteen FEMA IA disasters. A total of 334 counties were impacted as a result. In 2017, Hurricane Harvey devastated the state, and it has been called the worst natural disaster in the state's history. The Lone Star State has also endured floods, tornadoes, severe ice storms and drought. See <https://www.fema.gov/data-visualization/disaster-declarations-states-and-counties>. Along with hurricanes, Texas also has to contend with flooding, often caused by these tropical storms, as well as tornadoes and wildfires. The dry, flat nature of much of Texas lends itself to both great tornado conditions, and wildfires. This, mixed with coastal storms, has made Texas the leading state in terms of natural disaster frequency. As ocean waters rise and climate change affects regional temperatures, the frequency and severity of these natural disasters seems to be increasing, causing concern over costly and dangerous conditions for Texas State residents. See <https://www.usnews.com/news/best-states/slideshows/the-most-disaster-prone-states-in-the-us?slide=12>

Because disasters are increasing in frequency and severity there is an imminent reality these forces will impede community lifelines which are necessary for human health and safety. Energy is not only a community lifeline, but it is also an emergency support function which requires interagency coordination for an effective response in disaster and emergencies.

This is a serious issue because more people are reliant on life sustaining DME and are choosing to remain integrated into their communities and live in their homes rather than institutions. Without inclusive planning to address the need of power-dependent individuals, these individuals remain at substantial risk for injury when power is lost and remains unavailable in a time of disaster/emergency.

This is a serious issue for people who depend on life sustaining DME. Texas’ population continues to grow, as does the number of individuals who need backup power during an emergency. More people with life threatening health conditions are choosing to live in their homes, rather than institutions, because it is more cost effective and allows them to maintain as much independence as possible. This equates to more people requiring critical assistance during a disaster. As of December 2020, there were 10,530 utility customers on the utilities’ critical care registries.

The proposal should result in better protection of DME-dependent individuals during a disaster and foster inclusive planning practices at the local and state levels. GCPD can see no negative impacts, provided that privacy of individuals is fully protected in the information exchange process.

### Cost

Fiscal note is unknown, however, the Task Force recommends well checks be conducted by CERT members and vetted VOAD members working for the local offices of emergency management. The joint planning effort and information exchange proposed herein should be accomplished in the normal operations of the PUC, TDEM, local utilities, and local offices of emergency management.

### Potential for Success

The statutory authority to make a positive change in emergency preparedness by providing wellness checks on individuals dependent on electricity for serious health conditions already exists for those registered in STEAR (SB 968), of which only 84 STEAR data custodians have been identified in the state. The exchange of information during an emergency can be legally accomplished under existing privacy laws. The challenge is the coordination of local utility policies established at the PUC with the policies of local offices of emergency management and TDEM.

### Time

Disasters are becoming more frequent and more severe.

### GCPD Staff Recommendation

Staff recommends retaining these recommendations.

## 04.03.01 – 04.03.05

***Recommendation 4.3.1*:** The Texas Health and Human Services Commission (HHSC) should assign a state-level data custodian to work with CMS emPOWER Federal partners to access, format, analyze and deliver empower data to local offices of emergency management and/or local health departments before an impending disaster or upon a state or federal disaster declaration. The state data custodian must also respond to an emPOWER data request from a local health department or county office of emergency management by providing data to the jurisdiction in a timely manner upon request.

***Recommendation 4.3.2*:**HHSC should work with CMS emPOWER federal partners to routinely integrate state Medicaid and CHIP data with existing Medicare emPOWER data to provide a more comprehensive data visualization.

***Recommendation 4.3.3*:**HHSC and DSHS should work with the Texas Division of Emergency Management to study the technological, legal, regulatory, and cost feasibility of integrating emPOWER data with STEAR data sets and critical care registries from local power companies to identify individuals more quickly and accurately with life-sustaining power-dependent healthcare needs during a disaster.

***Recommendation 4.3.4*:**State of Texas full-scale emergency exercises should include scenarios that involve the operational use of emPOWER data to respond to exercise participants with access and functional needs who use power dependent DME. Additionally, the state should facilitate the use of emPOWER data in local or regional exercises.

***Recommendation 4.3.5*:**State Emergency Support Function (ESF) planning templates should be updated for inclusive local planning for the operational use of emPOWER data in all phases of emergency management.

### Impact on Population

Texas has the highest number of natural disasters in the nation (363) with many disasters resulting in widespread loss of power. Such disasters have occurred annually throughout the state for more than a decade. Texas is ranked first in the U.S. in the variety and frequency of natural disasters. Flooding, wildfires, tornados, hurricanes, hail storms, sinkholes, erosion and drought all occur in the state. See <https://nisar.jpl.nasa.gov/files/nisar/NISAR_Applications_Hazards_Texas.pdf>

Because disasters are increasing in frequency and severity there is an imminent reality these forces will impede community lifelines which are necessary for human health and safety. emPOWER data can assist with disaster planning operations across a variety of emergency support functions that sustain these community lifelines. Without inclusive planning to address the needs of the community, vulnerable individuals remain at substantial risk for injury in times of disasters and emergencies and EMPOWER data is one option for mitigating the risk.

This data would benefit local jurisdictions in understanding the specific needs of their community and promote inclusive planning practices for the whole community in planning for disasters and emergencies. As well as real-time data to utilize in response and recovery to an event.

### Cost

According to CMS emPOWER, a statewide data set costs $2,000. Costs are unknown for integration of HHSC Medicaid and CHIP data but programming costs may be calculated by analyzing the costs incurred by other states that have already integrated their Medicaid data with emPOWER data. Other data cost factors are unknown at this time.

### Potential for Success

A whole community inclusive planning approach to disaster and emergencies affords alignment of agencies and departments response and recovery efforts. This additional data would supplement standards already operationalized within the whole community all hazards approach and provide a more efficient way to play as well as up to date data to respond.

### Time

Disasters are becoming more frequent and more severe.

### GCPD Staff Recommendation

Staff recommends retaining these recommendations.

## 04.04

Legislation to create a program to ensure emergency backup power to income eligible Texans who are dependent on electrically powered medical devices. Eligibility would be open to Critical Care and Chronic Condition Residential Electricity Customers who meet income guidelines (e.g., 150% of federal poverty level). The Public Utility Commission would develop rules to administer the program. Funding for the program could come from a one-time appropriation of the legislature or via a fee collected by public utilities in the state. Public utilities would recover the amount through electricity delivery rates.

### Impact on Population

Power outages threaten the lives of thousands of Texans who depend upon electricity to power life-sustaining durable medical equipment (DME), such as breathing machines and feeding devices. Outages can thrust these at-risk individuals into life-threatening situations within hours.

Texas’ population continues to grow, as does the number of individuals living in the community with life threatening health conditions who require emergency backup power to ensure no interruption to their life saving equipment. The most recent publicly available data show there are over 10,000 electricity customers in the ERCOT power grid region of the state receiving Critical Care or Chronic Condition residential customer designations. Yet these designations do not prevent loss of power for these at-risk Texans.

Extended power outages caused by weather-related events are a significant and growing issue for Texas. Texas is ranked first in the U.S. in the variety and frequency of natural disasters. Hurricanes, tornados, floods, ice storms, and severe heat and cold can all lead to extended loss of power. Recent history suggests that the frequency and severity of these natural disasters are increasing, resulting in costly and dangerous conditions for Texas residents.

In late 2021 and early 2022, GCPD supported efforts to encourage the Public Utility Commission of Texas to create better policies, programs and information sharing to increase the resiliency of those dependent on life sustaining medical equipment, however no substantial action was taken. Therefore, we seek action from the 88th Legislature to create a program that ensures emergency backup power for income-eligible households with one or members medically dependent on electrically powered devices.

The recent ice storm in Central Texas provides an important reminder that our state is prone to devastating weather events both widespread and locally. Because extreme weather events are increasing in frequency and severity there is an imminent reality that these forces will combine with population increase to seriously fray, if not sever, community lifelines which are necessary for human health and safety. Over 10,000 Texas households are designated Critical Care or Chronic Condition by the Public Utility Commission. While these designations provide additional protections against disconnection for non-payment of electricity bills, they do not prevent loss of power during outages. Federal Health and Human Services Commission (HHSC) emPOWER data show that significantly more Texas households might be eligible for one of these two designations. Without action to boost the resilience of vulnerable individuals in their homes, many Texans will be at substantial risk for injury in times of disasters and emergencies in the future.

### Cost

Battery storage is a cleaner option than diesel generators, and it doesn't pose the risk of inadvertent carbon monoxide poisoning that generators do. Generators can also be impractical for apartment dwellers and difficult to operate or refuel, particularly for older or frail individuals. Battery storage cost varies based on how many hours and how much power the unit is capable of. Given these variations, costs range between $3,500 to $10,000 per unit. If half of the 10,000 currently designated Critical Care and Chronic Condition electricity customers are income eligible, 5,000 customers @ $3,500 = $17.5 million. 5,000 @ $10,000 per unit = $50 million. After this initial expense, ongoing costs would be only incremental as the eligible population grows.

### Potential for Success

Several Texas agencies administer assistance programs that contain elements similar to this emergency backup power proposal. For example, the Texas Department of Housing and Community Affairs operates the Weatherization Assistance Program with funds from the U.S. Department of Energy (DOE), and the U.S. Department of Health and Human Services Low Income Home Energy Assistance Program (LIHEAP). WAP is designed to help low-income customers control their energy costs through installation of weatherization materials and education. The program goal is to reduce the energy cost burden of low-income households through energy efficiency. The WAP is administered through subrecipients, which collectively cover all 254 counties of the state. This emergency backup power proposal builds on the experience of WAP and similar programs to ensure program feasibility.

### Time

Disasters in Texas are becoming more frequent and severe.

## 04.05

Establish a task force regarding the statewide alert system for abducted children and missing persons with disabilities.

The makeup of the task force shall include: a child with a physical disability, a child with a mental illness or intellectual disability, a family member of a person with mental illness or intellectual disability, an employee of a local behavioral health authority, a member of a community resource coordination group as defined by Section 531.151 Government Code, an employee or volunteer of a nonprofit organization that supports the self-advocacy of children, an employee or volunteer of a nonprofit organization that provides services to children with disabilities, an employee or volunteer of a nonprofit organization that provides services to children with mental health needs, a school counselor certified under Subchapter B, Chapter 21, Education Code who has experience in offering trauma-informed care to students, a physician with experience working with patients with disabilities or a psychiatrist, an attorney licensed in this state whose practice includes juvenile justice or family law, an attorney licensed in this state whose practice includes probate or civil jurisprudence, a representative of the Texas Education Agency, a representative of the Health and Human Services Commission, a representative of the Department of Family and Protective Services, a representative of the Department of Public Safety.

The task force shall collect and make recommendations from the following data: disability labels, age, gender, ethnicity, sexual orientation and gender identity, human or sex trafficking risk score calculated using a risk assessment regularly used by law enforcement agencies in this state, urban or rural designation as defined by the US Census Bureau for the person’s residence, opportunity zone as defined by the IRS for the person’s residence, the law enforcement response to the missing person’s report including: if 911 or 311 call was made in relation to the missing person’s disappearance, the 911 or 311 classification applied to the call in the applicable computer-aided dispatch system, including missing, runaway, abducted or kidnapped, the classification of the missing person’s case within any applicable law enforcement database including a jail management system or offender management system, any indication included in the report indicating the mental health condition of the missing person, whether law enforcement agencies in adjoining municipalities or counties were notified of the missing person, and the law enforcement agency’s communication with the missing person’s parent, caregiver or another person who reported the person missing and a description of any trends or patterns in the data analyzed that indicate that a group or subset of missing persons cases are treated differently than others, based on a characteristic of the missing person.

The task force shall compile information regarding each law enforcement agency and agency providing 911 dispatch operations in this state. The information must include: whether the agency has a written mental health policy applicable to alleged victims or offenders, including whether the policy has specific provisions relating to victims or offenders who are children; the number of employees of the agency that have received specialized training in mental health related fields, a description of each training course described by subdivision attended by an employee of the agency, and the frequency with which each employee attended a training course describe.

Based on the result of the study conducted and the information compiled, the task force shall develop recommendations to increase the consistent application of the statewide alert systems for abducted children and missing persons with disabilities, including by standardizing case classifications and other law enforcement procedures for missing persons cases, including missing person cases involving a missing person with a mental illness.

Not later than September 1 of each even-numbered year, the task force shall prepare and submit to each member of the legislature, the Commission on Jail Standards, the Department of Public Safety, The Texas Juvenile Justice Department, the Texas Civil Commitment Office, and the Texas Commission on Law Enforcement a written report that includes the results of the study conducted, the information compiled, and the recommendations developed, and any other legislative or regulatory recommendation. This task force is abolished and this Act expires September 1, 2030.

### Impact on Population

Adults are sometimes challenged to protect children from elopement, so that they are safely found. One of the characteristics of elopement is that there was a trigger followed by the reflex of running. Despite adult diligence, youth become lost in places they don’t usually frequent.

The 2003 Amber alert, also known as Endangered Missing Persons, was expanded in 2011 to include intellectual disabilities of all ages, and autism in 2019, yet there were still disparities that needed to be addressed. For example, a child with Autism would elicit a missing person alert, but a child with ADHD or another type of mental health disability would be considered a runaway.

Some disabilities will elicit a faster response than others, but when it comes to missing children the first 48 hours are said to be crucial to bringing a child home. If children with disabilities are being mislabeled for runaways, then law enforcement agencies are losing crucial hours in finding them.

Regulations were originally designed for typically developing teens. This created a mismatch between what children with disabilities are thought to be capable of vs. what they are actually capable of. We have families whose youth have thus been sex-trafficked while their parents have had to write media alerts and form search parties.

### Cost

The original bill included one FTE for the advisory committee facilitator. 2) For every child who avoids being trafficked, HHSC and DFPS should see reductions in mental healthcare and RTC stays.

### Potential for Success

Children will be found sooner, and sex trafficking will be reduced, providing that police statewide can collect data and be trained and on the same page. Mental health costs will be decreased by examining who is missing but called a runaway.

2003: Senator Zaffirini and Senator Hinojosa created a Tx Amber alert via SB57; enrolled.

2011: Senator Zaffirini and retired legislators added provision for ID via HB1075, enrolled.

2019: Rep Bonnen /Senator Taylor created the age 18-64 CLEAR alert via HB1769, enrolled.

2021: Rep Reggie Smith proposed adding mental health via HB377; not heard in committee.

2023: Rep Stucky/Senator Parker, created a 100-mile alert radius via HB3556, to Governor.

2023: Sen Hancock/Rep Klick, created training for law enforcement via HB2429, to Governor.

2023: Rep Oliverson/Sen Hughes, created a 200-mile radius for alerts, added report timelines, added mental, behavioral, DD to cases considered to be high risk via HB2660, to Governor.

2023: Rep Sherman proposed a task force regarding missing children with disability, HB3330.

### Time

Children with disabilities who elope are currently considered runaways.

# Employment

## 05.01

Ensure that at the point an individual with a disability is moved from a sheltered workshop environment to integrated community-based employment, the integrated employment will be considered work-based learning to provide the necessary long-term support, to include job coaching, to safeguard and allow for a successful integrated community employment outcome. Within available funding sources, continue to expand long-term supported employment services in other regions based on the model pilot program from the Gulf Coast Workforce Region.

### Impact on Population

Nearly 85% of adults with IDD are not employed even though a majority of people with IDD report wanting to work. Texas’ community-based employment assistance and supported employment services through the 1915c Medicaid waivers are extremely underutilized compared to day habilitation services. Furthermore, Texas conducted interviews of individuals with IDD receiving both residential and nonresidential services through Texas’ community-based Medicaid waivers and found individuals with IDD were not receiving the employment related assistance and support they wanted and needed to obtain competitive, integrated employment.

The Texas service system also includes the practice of paying subminimum wages to individuals with disabilities in sheltered workshop settings. Efforts are needed to support the elimination of the practice of paying individuals with disabilities a subminimum wage through a transition into integrated employment and exploring more opportunities.

If an individual with IDD does not have a 1915c Medicaid waiver, and they have exhausted their supported employment services through VR at TWC, services currently do not exist to continue providing supported employment—even if the individual still requires supported employment to maintain competitive, integrated employment. This poses a significant barrier to long-term employment for individuals that require continued support while on the job. Additionally, it lies in stark contrast to TWC’s employment first policy. A majority of states already fund supported employment follow-along services for individuals with IDD.

### Cost

Unknown.

### Potential for Success

There has been a pilot program, but it has yet to be expanded.

### Time

Texans with IDD who require long-term supported employment services to continue competitive, integrated employment will have access to supported employment follow along services which will help ensure they are employed long-term, leading self-directed lives and breaking the cycle of poverty.

### GCPD Staff Recommendation

The outcome of the pilot project did not satisfy our expectations for quality, scope, or replication across the state. Staff do not recommend carrying this forward. However, staff recommend developing a new policy for TWC-VR, to extend employment services for people with IDD that receive supported employment. Further, when this individual's job is at risk, they receive rapid eligibility determination for services.

## 05.02

Implement recommended best practices to strengthen disability-related accessibility and employment practices that can lead to increased hiring and retention of employees with disabilities as follows:

* State agencies should continue to recruit qualified job applicants with disabilities and consider setting aside a centralized agency job accommodation fund for employees with disabilities who need accommodations.
* State agencies should partner with Texas Workforce Commission’s Vocational Rehabilitation program if job retention services are needed.
* State agencies should have a written reasonable accommodation policy and procedure that includes the interactive process.
* All State agencies should designate a Title II ADA Coordinator and comply with notice requirements.
* State agencies should ensure they have a process in place for handling general disability-related complaints and disability discrimination complaints.
* Develop and share common training resources on disability awareness, etiquette, and effective communications in state government.

### Impact on Population

As of June 2021, the unemployment rate of people with disabilities was about twice that of people without disabilities (11% vs. 5.9%) and the Employment-to-Population ratio of people ages 16-64 with disabilities just under half that of people without disabilities for the same age range (31.5% vs. 72.6%). Clearly there is a large gap that needs to be shrunk. Closing this gap is not simply an issue of policy, but directly beneficial to organizations that employ people with disabilities. Research from Accenture found that organizations that have a strong commitment to disability inclusion outperform their peers. Thus, the State as a whole and its individual agencies will directly benefit by hiring and retaining qualified staff with disabilities but will also demonstrate the win-win proposition to the private sector. This action is known as “State as a Model Employer.” However, the CSG Work Matters report found that 46% of individuals with disabilities found it difficult or impossible to complete online job applications.

### Cost

This could be cost-saving in the long run as accessible hiring practices allow for employers to hire the most qualified candidate.

### Potential for Success

* How feasible is this policy proposal?
  + Administratively? Affected agencies may perceive these policy changes to be significant additional work,
* Has this been done in other states successfully? Washington enacted House Bill 1636 in 2015, requiring all state agencies with 100 or more employees to provide an annual report to the legislature with data related to the percentage of individuals with disabilities in the agency’s workforce, including the number of new hires employed from the Division of Vocational Rehabilitation services or the Department of Services for the Blind. The legislation also requires that each covered agency report to the legislature regarding opportunities for internships that would have the possibility of leading to permanent placement in entry-level positions.

### Time

There is a staffing shortage that could be solved by tapping this pool of candidates.

### GCPD Staff Recommendation

Staff recommend retaining these recommendations while working more closely with TWC-VR to implement them without legislation.

## 05.03

The GCPD recommends an expansion of direct hire staffing services under the State Use Program to be offered to state agency customers. WorkQuest should open this new line of service with the approval of the Texas Workforce Commission. Pursuant to [Texas Government Code Sec. 656.024](https://statutes.capitol.texas.gov/Docs/GV/htm/GV.656.htm), WorkQuest direct hire providers will ensure that jobs have been posted and advertised with the state agencies for at least 10 working days prior to servicing job orders for internal positions. The nonprofit service provider would also be responsible for ensuring that the candidates apply through the agency’s hiring portals to ensure a consistent and fair hiring process for the State of Texas government agency. The GCPD recommends adding a purchasing provision that directs agencies to first inquire about “direct hire” services from a WorkQuest CRP before going to the open market. In purchasing, these services are often found under commodity code “961-30.” Executive-level hiring may be exempt from this requirement.

### Impact on Population

St. Vincent DePaul Rehabilitation Service of Texas, Inc DBA Peak Performers requested open records from all state of Texas government agencies regarding spend, 962-S3, DIR ITSAC, and all other temporary staffing services utilized. All agencies reported back to us individually. In the time period of 09-2016 – 07–2021, according to what each of the agencies reported to us, $636 million dollars spent on temporary staffing is going outside the program—a program that should be “must use.”

HHSC, for example, is the largest state agency and accounts for 48% of all staffing money spent by all state agencies. In this time period, about 10% of all temp staffing spend went through WorkQuest. HHSC spent about $87 million dollars on office/professional temp staffing services, a category for which 962-S3 was specifically designed, and yet only spent $30 million through WorkQuest on these staffing services.

Some smaller agencies, such as Commission on State Emergency Communication, are not utilizing the program at all. While they spent $1.7 million on staffing services during that time period, 0% went to WorkQuest.

The problem is systemic enough that Teacher Retirement System released an open market RFP for “Temporary Staffing Services” on 5/18/22. All for staffing job descriptions that could be handled through the 962-S3 contract.

We believe that most state agencies lack training and accountability for usage of the program. Often, they are seeking to procure things quickly or making inaccurate assumptions about what kinds of professionals can be hired through the temporary staffing contract. Purchasers may not realize the legal requirements to use this contract when possible, the economic advantages for doing so (already pre-negotiated market rates), and the range of staffing options available through it: administrative assistants, accountants, attorneys, help desk support, financial analysts, customer service representatives, business analysts, and more (over 900 classifications).

### Cost

Based on the average hourly income for people in Texas and the amount of money going outside the program ($636 million) and factoring in program expenses paid to WorkQuest and its nonprofit partner, we estimate that if the program were to see full utilization, it would create between 5,000-10,000 jobs per year for Texans with disabilities.

Also, these are competitively paying jobs—for example, our average hourly wage last year was $24 / hour.

Finally, keep in mind that rates charged by WorkQuest are deemed market competitive by the Texas Workforce Commission and issued with oversight to ensure 1) competitive wages are paid through the program and 2) state agencies are getting market comparable rates through this program. So, this would come at no market significant additional cost to state agencies and create thousands of jobs for people with disabilities.

### Potential for Success

This program is already being utilized to some extent. A fix like this will not happen overnight and requires that state agencies are informed at all levels how to utilize the program and then account for each time a staffing project falls within scope and is not utilized.

[Purchasing from People with Disabilities webpage](https://www.twc.texas.gov/programs/purchasing-people-disabilities#:~:text=Governing%20Laws%20%26%20Rules-,About%20the%20Program,in%20useful%2C%20productive%20employment%20activities).

### Time

There is a workforce shortage that could be alleviated by this program.

### GCPD Staff Recommendation

Staff recommends retaining this recommendation for legislative action.

## 05.04

Enhanceaccountability for program usage and better training to ensure state agencies are informed at all levels about the State Use Temporary Staffing Services Program through WorkQuest and how to utilize the program and then account for each time a staffing project falls within scope and is not utilized.

* A portion of funds collected by TWC from the State Use program should be invested to better market the State Use Temporary Staffing Program and WorkQuest.
* On an annual basis, all state agencies should report their utilization of WorkQuest temporary staffing services relative to their use of other temporary staffing agencies to the Texas Workforce Commission.

### Impact on Population

Recommend increased accountability to drive usage of the State Use Purchasing program for people with disabilities, particularly as it relates to temporary staffing. (962-S3) as well as additional training to all state agency purchasing departments.

Texas has the most robust state use purchasing program of all states within the State Use Programs Association (SUPRA) network, but it is still underutilized compared with what it could be. Here in Texas, we have a golden opportunity to lead the nation in hiring people with disabilities.

As an example of past success, Peak Performers, a community nonprofit service provider in the program, put about 1,200 professionals to work last year with a disability. We believe that there is an opportunity for administrative policy change to drive utilization of this program even more and help more people with disabilities get jobs.

### Cost

Based on the average hourly income for people in Texas and the amount of money going outside the program ($636 million) and factoring in program expenses paid to WorkQuest and its nonprofit partner, we estimate that if the program were to see full utilization, it would create between 5,000-10,000 jobs per year for Texans with disabilities.

Also, these are competitively paying jobs—for example, our average hourly wage last year was $24 / hour.

Finally, keep in mind that rates charged by WorkQuest are deemed market competitive by the Texas Workforce Commission and issued with oversight to ensure 1) competitive wages are paid through the program and 2) state agencies are getting market comparable rates through this program. So, this would come at no market significant additional cost to state agencies and create thousands of jobs for people with disabilities.

### Potential for Success

This program is already being utilized to some extent. A fix like this will not happen overnight and requires that state agencies are informed at all levels how to utilize the program and then account for each time a staffing project falls within scope and is not utilized.

### Time

There is a workforce shortage that could be helped by use of this program.

### GCPD Staff Recommendation

Staff recommendation retaining this recommendation.

# Health

## 06.01

Increase the number of slots available to be served by the Deaf Blind with Multiple Disabilities (DBMD) Waiver by 200 for the next biennium.

### Impact on Population

By increasing the number of waivers, people who are deafblind and their families will have the needed support to develop appropriate and consistent delivery of services for their loved one. With more individuals accessing the DBMD program there comes the increased opportunity for independence and community engagement. This could lead to more fulfilled lives, educational opportunities and more rewarding family relations and friendships.

### Cost

Yes, it will have a fiscal impact. However, due to the low incidence of occurrence, and the majority of the individuals being school age, they will not full waiver services for a number of years. Once they graduate from the school system, they will need full DBMD services. If the interest list is increased an additional 100 individuals per year, by the time these children age out of school, the DBMD program will be able to support them.

### Potential for Success

Due to the low incidence of occurrence compared to the greater population this will have an immaterial impact to the state budget as a whole.

Bills to increase slots for the DBMD waiver have passed the Texas Legislature previously.

### Time

There are currently hundred of individuals on the waitlist, some who have been on the waitlist for over 10 years.

### GCPD Staff Recommendation

Staff recommend retaining this proposal.

## 06.02

Fund a substantial increase in community attendant care wages and benefits competitive with prevailing market wages at a level necessary to attract and retain personal care attendants covered by state Medicaid waiver programs while facilitating consumer-directed care. The legislature should develop a methodology for periodic rate increases based on increased cost of living.

### Impact on Population

This will have a hugely positive impact on the community. Publicly funded community attendants provide vital personal services in home and community-based service programs for persons with disabilities and Texans who are older. Community attendants are essential to the long-term services and support system by supporting people with disabilities and older Texans, enabling them to live in the community and avoid more costly institutions or hospitalizations. Texas is facing a critical crisis-level shortage within the community attendant labor force and will be unable to meet growing statewide demands.

### Cost

There will be a fiscal note.

### Potential for Success

The legislature passed a raise for personal care attendants, but because of how the money was allocated, this resulted in a overall loss of wages for attendants and individuals lost services. It is possible there will be legislators who will want to fix this issue due to the ongoing crisis.

### Time

This has reached crisis levels.

### GCPD Staff Recommendation

The legislature addressed this in the 88th session but did not solve it. Staff continue to support this recommendation.

## 06.03.01 – 06.03.05

***Recommendation 6.3.1***: To ensure that the information captured on the STAR-Kids Screening Assessment Instrument (SK-SAI) is both accurate and complete, the beneficiary and his or her parents or guardians should be involved in completing and reviewing the assessment instrument together with the managed care organizations before it is submitted to Texas Medicaid Healthcare Partnership (TMHP).

Denial notice forms do not explain why the beneficiary does not need the level of care provided in a nursing facility or why the beneficiary is no longer eligible for MDCP, despite being eligible in the past, and no change in the medical necessity criteria. 42 CFR 431.210(b) requires that denial notices explain the specific reason for the decision. Also, 42 CFR 431.210(c) requires denial notices include the “specific regulations that support, or the change in federal or state law, that requires the action.” TMHP’s notices failed to cite any regulations. Such non-specific denial notices encourage arbitrary denial decisions. This process was modified by HHSC on January 1, 2019.

***Recommendation 6.3.2***: HHSC should require TMHP to issue non-form letter denials that (1) provide specific reasons for the denial, including reasons why the beneficiary does not need the level of nursing care that would be provided in a nursing facility and why the individual beneficiary no longer meets medical necessity for Medically Dependent Children Program (MDCP); and (2) include the “specific regulations that support, or the change in federal or state law, that requires the action.”

***Recommendation 6.3.3***: HHSC should issue ascertainable standards (i.e., written guidance) on the meaning of the medical necessity criteria and train Texas Medicaid Healthcare Partnership (TMHP) reviewers on these standards.

***Recommendation 6.3.4***: HHSC should instruct Texas Medicaid Healthcare Partnership (TMHP) to follow the guidance on parents and guardians in assessing medical necessity and increase transparency on testing of SK-SAI.

***Recommendation 6.3.5***: HHSC should release all information, subject to any restrictions under state and federal law (such as HIPAA), related to how the STAR-Kids Screening Assessment Instrument (SK-SAI) was tested for inter-rater reliability and validity, and all statistics for the denial rate on renewals.

### Impact on Population

The eligibility process used by Texas Medicaid to determine continued medical necessity/eligibility for the Medically Dependent Children Program (MDCP) has several key problems that has resulted in skyrocketing denial rates for the program during the renewal process: 2.6% in 2014-2015 to 10.7% in July 2017, the last known date for which HHSC released statistics on MDCP denials. The stated goal of MDCP is “to provide support services that help prevent unnecessary placement of an individual in a long-term care facility and to support de-institutionalization of individuals who reside in nursing facilities.” Under Texas Rule 19.2401, to meet medical necessity, the child or young adult must (1) have a medical condition of sufficient seriousness that exceeds the routine care which may be given by an untrained person; and (2) require licensed nurses’ supervision, assessment, planning, and intervention that are available only in an institution.

MDCP and nursing facility admissions have the same eligibility/ medical necessity criteria. Yet, while nursing facility populations are not reassessed annually and permanent medical necessity for nursing facility admission is deemed after six (6) months, the majority of children and young adults on MDCP who have chronic disabilities and health conditions are assessed annually for continued eligibility for MDCP.

The Managed Care Organization (MCO) assessing MDCP eligibility began using a new assessment instrument, the STAR-Kids Screening Assessment Instrument (SK-SAI), which includes a Nursing Care Assessment Module (NCAM), used to identify a beneficiary’s need for skilled nursing services. Once completed, the SK-SAI is forwarded to the Texas Medicaid Healthcare Partnership (TMHP) where TMHP nurse reviewers and medical directors use portions of the SK-SAI—primarily the NCAM—to determine eligibility for MDCP. If a TMHP medical director determines that the beneficiary no longer meets eligibility for MDCP, TMHP notifies the beneficiary that he or she has 14 business days to submit additional information supporting continued eligibility. If no additional information is submitted, or TMHP deems that the additional information does not support continued eligibility, TMHP issues a notice denying eligibility for MDCP. It appears that deficiencies within the process used by Texas Medicaid that appears responsible for the rise in denials for MDCP at renewal.

Prior to the transition to STAR-Kids and the use of the new assessment instrument (SK-SAI), renewal denial rates for children and young adults on MDCP during their annual reassessments was 2.6% (2014-2015) and 3.13% (2015-2016). In 2017, following the transition of MDCP beneficiaries to STAR-Kids, the percentage of beneficiaries being denied renewal for MDCP skyrocketed to 11.58% for February 2017 through May 2017. For June 2017, the denial rate was 14.1%, and for July 2017, the denial rate was 10.7%.

### Cost

Unknown.

### Potential for Success

There has not been a bill related to this proposal in recent sessions. HHSC has also not indicated they will be addressing this proposal.

### Time

Families are being denied and are not provided with information to help them understand their denial or the process.

### GCPD Staff Recommendation

Staff recommend a different path be identified to solve this issue.

## 06.04

Support the establishment of a Family Licensed Health Aide (FLHA) program by removing the prohibitive language, permitting families/parents to become paid caregivers for their children under the Texas home health benefit. This would be supported through legislative action. GCPD further recommends that legislation that include a statement that participation in this model is up to the family and the MCO cannot pressure a family to participate.

### Impact on Population

* ***Improved access to care***–The nursing shortage crisis has created an access-to-care barrier, and unfortunately the nursing shortage has no end in sight.  Allowing family members to be trained, certified caregivers for their loved ones helps solve the staffing crisis that often has families receiving partial care or experiencing extended facility/NICU stays pending arrangement of home nursing.
* ***Improved quality of care***–No one can bring the same level of passion and attention to caregiving as a parent or family member can for their own child. Parents, family members, and legal guardians not only provide the highest quality of support, but also ensure an on-going continuity of care. The current Private Duty Nursing model yields inconsistent care, recurring missed shifts, perpetual staff turnover, and increased re-hospitalizations which cost the state on average $4,264 per day.[[4]](#footnote-4)[1]

The Family Licensed Health Aide (FLHA) program will add another nurse-staffing option to the existing Texas benefit structure. With Board of Nursing approved principles of delegation, home care agencies would allow a parent, family member or legal guardian to become paid Certified Nursing Assistants (CNA’s). This allows these groups to provide skilled services for their loved one directed by a Physician and operating under the supervision and guidance of a Registered Nurse.

In addition to the improved access to care, the improved quality of care, and the reduction in costs to the state, this program provides a level of stability and empowerment to these families that often end up living on the edge. With inconsistent nursing care, family members are frequently tasked with taking on the duties of their child’s unfulfilled care, which causes the need to constantly leave their job or call in with last-minute emergencies. This essentially makes these parents un-hirable or unemployable because they are viewed as unreliable workers. This forces families to become single-income-households or parents to leave the workforce altogether, which inevitably leads to these families requiring greater support from state programs. With inconsistent care, a lack of resources, and stress caused by instability in the household, it is unfortunate that the child is the one who is left with the most suffering.

### Cost

It would save the state money by using a CNA for Private Duty Nursing instead of a nurse. A reimbursement for a nurse is higher than it is for a CNA. For example, a CNA visit rate is $46.09 a visit or $23.05 an hour. Private Duty Hourly Nursing rates depending on acuity of care and discipline range from $33.16 an hour to $52.12 an hour.

### Potential for Success

This model offers cost savings to the state, not only from decreased costs associated with hourly compensation, but also with more consistent staffing. Additionally, evidence shows significant impact on decreased hospitalization rates. For families with medically fragile children, 80% end in divorce. One of the parents ends up on government assistance since they must quit their job to care for their child, often due to lack of nurse staffing. By training the parent and employing the parent as a can, the parent can come off government assistance. The agency provides a livable wage and full benefits package to the parent as an employee. This model also adds more CNAs to the workforce in Texas. A CNA is entry level nursing position, which also establishes a career ladder for these parents. In CO and NH, we have seen Family CNAs pursue more advanced nurse and therapist degrees once they are introduced to the healthcare field. Also, the Family CNAs can work for other facilities or homecare agencies. This program offers a solution for the nationwide aide and nursing shortage we are facing.

Some agencies oppose this model because they are worried it will affect their revenue. It will decrease their revenue but increase their gross margin. They will be able to staff more cases, have greater consistency in care, promote better patient outcomes, and see a significant decrease in missed shifts. Some parents are worried that Managed Care Organizations (MCOs) will make all PDN children go to this model. To combat this fear, we suggest putting in a legislation statement that says participation in this model is up to the family and the MCO cannot pressure a family to participate. It will have tremendous positive impact on the Private Duty Nursing (PDN) community, just as we’ve seen in CO, as it will add more caregivers, offering parents more choice. Ultimately, this legislation would be adding more CNAs to the labor market, which benefits the entire healthcare system.

### Time

Many families experience job los and poverty because they cannot find or afford adequate care for their loved ones. This proposal would allow those families to meaningfully contribute to the workforce, learn a new skill, and take care of their loved ones.

### GCPD Staff Recommendation

Staff recommend continuing support for this initiative.

## 06.05

The HHSC Rate Analysis Division should proactively engage with audiologists and other stakeholders to review the Medicaid rates for hearing aid fitting and related procedures to ensure the rate is sufficient:

* evaluate the reimbursement process to implement timely payment and reimbursement to providers; and
* compare Medicaid rates to other state agency rates for hearing aid dispensing, fitting, maintenance, evaluation, etc. including Texas Workforce Commission Vocational Rehabilitation Services rates.

### Impact on Population

Prior to 2006, adult Medicaid recipients could receive hearing aids (HAs) every six years and children Medicaid recipients received HAs through PACT, the Program for Amplification for Children in Texas. After 2006, HAs adult benefits were terminated. Between 2009 and 2013, both adults and children were able to receive 2 HAs, accessories, and replacement devices.

The Office of the Inspector General (OIG) issues a rule requiring HAs billing at the lowest actual acquisition cost, invoice, or published fee. Providers bill according to the HHSC fee schedule, many times higher than acquisition cost. The OIG sought to recoup the difference or disallow payments.

In 2013, difficulties began with delayed and denied reimbursement, recouped reimbursement, and rate reductions in other services (including fitting, evaluations, etc.). TAA surveyed providers that year (126 responses) and results showing 73% of audiologists accepting Medicaid are unlikely/definitely not to continue accepting Medicaid if reimbursement drops below $400. The reimbursement fee includes all the appointments necessary to see and follow up with patients for the length they have the HAs.

The 2014 TAA survey resulted in 37% of providers discontinue dispensing HAs through Medicaid, 20% have limited or are considering limiting the number of Medicaid patients they can accept per month. Providers reported the numbers of children and infants served yielded a 92% and 91% decrease respectively. The 2017 survey indicated 43% of providers no longer see Medicaid patients, 38% discontinued dispensing HAs through Medicaid, 5% are still enrolled in Medicaid but will not accept new patients, and 6% froze provision of services to established patients. This has resulted in an 80-83% decrease in patients receiving services.

A lengthy approval process involving audiologist, ENT, and primary care physician, and significant staff resources are required for pre-approval process. Even with proper approval, denials are constant. Limited access to adequate providers leads to limited access to services for individuals with disabilities.

The cost for 1 child with hearing aids and proper follow-up care for 3 years = $3,500. The Medicaid Reimbursement Rate for the same services over 3 years = $1,750.

This does not include the staff cost to receive pre-authorization and reimbursement.

### Cost

Unknown budget costs.

### Potential for Success

Requires rule change and revaluation of reimbursement rates. HHSC has the technical expertise to take on the project. Will help with meeting the needs of Medicaid eligible constituents.

### Time

There is a dearth of providers in Texas. There are some areas where people must travel 200 miles to see a provider.

### GCPD Staff Recommendation

Staff recommend continuing support for this initiative.

## 06.06

HHSC should evaluate the adequacy of its Medicaid provider network throughout the state to ensure sufficient geographical coverage and timeliness of audio logical services.

### Impact on Population

Prior to 2006, adult Medicaid recipients could receive hearing aids (HAs) every six years and children Medicaid recipients received HAs through PACT, the Program for Amplification for Children in Texas. After 2006, HAs adult benefits were terminated. Between 2009 and 2013, both adults and children were able to receive 2 HAs, accessories, and replacement devices.

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This does not include the staff cost to receive pre-authorization and reimbursement.

### Cost

Unknown budget costs.

### Potential for Success

Requires rule change and revaluation of reimbursement rates. HHSC has the technical expertise to take on the project. Will help with meeting the needs of Medicaid eligible constituents.

### Time

There is a dearth of providers in Texas. There are some areas where people must travel 200 miles to see a provider.

### GCPD Staff Recommendation

Staff recommend continuing support for this initiative.

## 06.07

Form an advisory coalition with subject matter experts from HHSC’s Early Childhood Intervention Program (ECI), the Texas Workforce Commission (TWC), and the Texas Education Agency (TEA) to study and make recommendations on pre-service and annual professional development opportunities for providers on supporting children with developmental delays and disabilities, supporting early childhood mental health, and other related topics.

### Impact on Population

An advisory coalition could provide sustainable solutions to the shortages and gaps in these services.

### Cost

Unknown.

### Potential for Success

There has not been a bill in recent session on this proposal, but it may be accomplished voluntarily by the identified agencies.

### Time

Children with disabilities are not being identified or properly supported in the early childhood setting, which can cause significant delays in development.

### GCPD Staff Recommendation

GCPD staff recommend inviting TWC staff to present at a future GCPD quarterly meeting on their childcare grants and explore the possibility to align grant requirements with these policy objectives.

## 06.08

Strengthen relationships between ECI and childcare providers to improve referrals to critical early interventions for babies and toddlers with disabilities.

### Impact on Population

Parents of children with disabilities face significant barriers to obtaining and maintaining high quality, reliable, inclusive child care; resulting in parents dropping out of the workforce, family isolation, turning to unregulated care, and a missed opportunity to connect with other programs like Early Childhood Intervention (ECI). Currently child care providers only account for 2 percent of referrals to ECI, and many ECI providers across the state report challenges being able to serve children in their natural environment because they are denied opportunities to work with children who are in child care settings during the day.

Babies and toddlers are missing out on the safe, inclusive, early opportunities that they deserve, largely because child caregivers are not aware of the requirements under the Americans with Disabilities Act (ADA) or how to support children with disabilities in care. Child caregivers would benefit from training on working with children with disabilities and supporting early childhood mental health. There is a wealth of free training opportunities available in Texas.

### Cost

No known cost.

### Potential for Success

These recommendations reiterate what has already been established under federal law. All resources and/or requirements cited in the above recommendations already exist and are available at no cost to child care providers. Additionally, inclusive child care programs are thriving across the state and can serve as successful models.

### Time

Early childhood is a critical time period and referrals to early interventions are key to development.

### GCPD Staff Recommendation

Recommendation 6.8 - 6.11 are all related and receive the same staff recommendation. Staff recommends retaining this recommendation while working toward administrative solutions that do not require legislation to implement the goals of this policy.

## 06.09

Ensure child caregivers are aware of ECI services and know how to refer children for an ECI screening.

### Impact on Population

Parents of children with disabilities face significant barriers to obtaining and maintaining high quality, reliable, inclusive child care; resulting in parents dropping out of the workforce, family isolation, turning to unregulated care, and a missed opportunity to connect with other programs like Early Childhood Intervention (ECI). Currently child care providers only account for 2 percent of referrals to ECI, and many ECI providers across the state report challenges being able to serve children in their natural environment because they are denied opportunities to work with children who are in child care settings during the day.

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### Cost

No known cost.

### Potential for Success

These recommendations reiterate what has already been established under federal law. All resources and/or requirements cited in the above recommendations already exist and are available at no cost to child care providers. Additionally, inclusive child care programs are thriving across the state and can serve as successful models.

86th - [HB 4450](https://capitol.texas.gov/tlodocs/86R/billtext/pdf/HB04450I.pdf#navpanes=0) (Gonzalez, Mary) /SB1817 (Zaffarini) - Ensure child care providers are well educated on Early Childhood Intervention (including what ECI is, how to identify missed milestones, how to refer, and clarify that ECI can take place in child care centers). The bill also reiterates that childcare providers cannot discriminate against children with disabilities.

### Time

Early childhood is a critical period and referrals to early interventions are key to development.

### GCPD Staff Recommendation

Recommendation 6.8 - 6.11 are all related and receive the same staff recommendation. Staff recommends retaining this recommendation while working toward administrative solutions that do not require legislation to implement the goals of this policy.

## 06.10

Require childcare providers to develop a discipline policy that is made available to all families.

### Impact on Population

Families often report that their children with a disability have been suspended or expelled from childcare, however there is no reporting requirement for these discipline practices, making it difficult to articulate the true extent of the problem.

Families of children with disabilities regularly report challenges finding and maintaining care. Analyses also show that the childcare crisis disproportionately affects children with disabilities. Furthermore, childcare providers in Texas are currently permitted to elect whether they provide care to children with disabilities, or report that they would like more consultation/training on mental health and working with children with disabilities.

### Cost

No known cost.

### Potential for Success

These recommendations reiterate what has already been established under federal law. All resources and/or requirements cited in the above recommendations already exist and are available at no cost to childcare providers. Additionally, inclusive childcare programs are thriving across the state and can serve as successful models.

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### Time

Early childhood is a critical time and referrals to early interventions are key to development.

### GCPD Staff Recommendation

Recommendation 6.8 - 6.11 are all related and receive the same staff recommendation. Staff recommends retaining this recommendation while working toward administrative solutions that do not require legislation to implement the goals of this policy.

## 06.12

Amend HHSC Medicaid Managed Care contracts to require that should the MCO be unable to provide access to the appropriate specialist within 30 days, then the member will be allowed to go out of network with the MCO covering all costs incurred. If the primary care physician (PCP) cannot provide routine care in 14 days, then the member will be allowed to go out of network with the MCO covering all costs incurred. If the PCP cannot provide urgent care in 1 day, then the member will be allowed to go out of network with the MCO covering all costs incurred.

This would enhance the feasibility for the MCOs to provide timely and quality healthcare to Texans with Disabilities and provide relief to the already stressed provider network. No additional costs shall be incurred to the state, as TMPH would pay the physician and related hospital or DME costs, after which time TMHP would be reimbursed by the specific MCO. This would greatly improve working relationships with providers.

### Impact on Population

There has been increased difficulty with MCOs providing an adequate provider base, especially for specialists and sub-specialists. For example, an adult with a 70-degree spinal curvature was not given referral to a specialist that accepted Medicaid for over three years. This proposal would mean fewer critical hospitalizations, patients with disabilities can return to work more quickly, 1115 providers will find financial relief; and public education will experience fewer critical care situations.

### Cost

No additional costs incurred, as TMPH would pay the physician and related hospital or DME costs, after which time TMHP would be reimbursed by the specific MCO. This would greatly improve working relationships with providers.

### Potential for Success

This would enhance the feasibility for the MCOs to provide timely and quality healthcare to Texans with Disabilities. This would provide relief to the already stressed provider network.

### Time

There is a serious shortage in coverage the impacts individuals needing acute or specialized care.

### GCPD Staff Recommendation

Staff considers these sound policy recommendations but recommend building a large coalition of advocates to ensure this is successful next session.

## 06.13

Texas and HHSC should explore ways to enhance opportunities for mental health professionals to access training to increase the number of evidence-based practitioners in the state.

### Impact on Population

Texas is home to several populations who historically have high rates of PTSD—it ranks second in the nation for the number of human-trafficking victims; resettles more refugees than any other state; has a high population of unaccompanied child migrants; and has one of the largest populations of military service members and is the second most populated state of military veterans. These populations experience high rates of trauma, and in a state with an already critical shortage of mental health professionals, their ability to find appropriate treatment is low.

### Cost

Unknown.

### Potential for Success

It may be difficult to do something that could be considered expanding Medicaid; however, it is also an issue that greatly impacts all Texans. This proposal would require a change in the Medicaid state plan. It would also support the creation of policy to provide evidence-based PTSD treatment training statewide.

### Time

This issue is currently affecting individuals with PTSD who cannot access evidence-based care.

### GCPD Staff Recommendation

Staff recommends doing more research on this recommendation. Staff are in communication with HHSC about this recommendation.

## 06.18.01 – 06.18.03

***Recommendation 6.18.1:*** To protect the best interests of children parented by people with disabilities or children who could be parented by people with disabilities Texas must use procedural safeguards adhering to the ADA and respect the due process and equal protection rights of parents by ensuring:

1. a parent’s disability is not a basis for denial or restriction of visitation or custody in family or dependency law cases when the visitation or custody is determined to be otherwise in the best interest of the child.
2. a prospective parent’s disability is not a basis for the denial of participation in public or private adoption when the adoption is determined to be otherwise in the best interest of the child.
3. an individual’s disability is not a basis for denial of foster care or guardianship when the appointment is determined to be otherwise in the best interest of the child.

***Recommendation 6.18.2:*** Where a parent or prospective parent’s disability is alleged to have a detrimental impact on a child, the party raising the allegation should bear the burden of proving by clear and convincing evidence that the behaviors are endangering or will likely endanger the health, safety, or welfare of the child. If this burden is met, the parent or prospective parent must have the opportunity to demonstrate how supportive parenting services can alleviate any concerns that have been raised. The court may require that such supportive parenting services be put in place, with an opportunity to review the need for continuation of such services within a reasonable period.

***Recommendation 6.18.3:*** If a court determines that a disabled parent’s right to custody, visitation, foster care, guardianship, or adoption is to be denied or limited, the court must make specific written findings stating the basis for such a determination and why the provision of supportive parenting services is not a reasonable accommodation that must be made to prevent such denial or limitation.

### Impact on Population

Approximately 4.8 million families in the United States (based on average 5-year 2010-14 estimates) have a parent or grandparent with a disability with children under the age of 18.

### Cost

Unknown.

### Potential for Success

There are 20 states in the country that have passed similar legislation. However, no bill was filed during the last session, and no efforts appeared to be made by the organization that brought this recommendation to GCPD.

### Time

This is model parents’ rights legislation and has been done in many other states.

### GCPD Staff Recommendation

GCPD staff are neutral on this recommendation.

## 06.19

Support the growth in independent living services for Texans with vision loss age 55 and older through targeted investments in caseworkers. To strengthen training through community providers for the blind, Texas should establish and fund five to six senior vision loss training center pilot programs in major cities throughout the state to offer day-time classes teaching independent living skills in an apartment-style setting to older adults diagnosed with severe vision loss. This program will allow them to travel each day from their homes to the classes, promoting their learning of how to live with vision loss. These programs’ curriculum content shall include:

* orientation and mobility – in and out of the home;
* personal care and grooming;
* cooking and house cleaning;
* communication skills: reading, writing, telephone, computer;
* home safety: lighting, organizing, labeling, and marking;
* shopping and managing money;
* library services; and
* adaptive aids.

### Impact on Population

The prevalence of blindness and visual impairment among people 65 years of age and older, according to the U.S. Census, (American Community Survey), is estimated to be about 7.6%. This means that there are currently more than 288,000 Texans, aged 65 and older, who experience some level of severe vision loss, and this number will increase by the same 60% over the next 15 years – to over 460,000 individuals by 2035.

### Cost

The average annual cost for nursing home care is about $47,000 for a semiprivate room, according to North Texas Aging and Disability Center and Genworth Financial Inc.

By comparison, providing in-home independent living services and adaptive aids to an older adult losing their vision costs less than one tenth that amount.

### Potential for Success

Through a proposed shift in funding realignment the TWC will add 23 more independent living (IL) specialist to its OIB program by 2025. This expanded funding will make it possible for TWC to serve some 2500 additional older Texans each year who are experiencing vision loss.

However, the reality is that even a staff of 39 IL specialists simply cannot provide needed direct service to a quarter million visually impaired older adults in 254 counties throughout the state.

### Time

Unavoidably, everyone is getting older. And, unavoidably, many people will experience a loss of vision.

### GCPD Staff Recommendation

There has been great progress on this policy proposal through the Older Individuals who are Blind program, but it can still use more support to expand to the levels recommended.

## 06.20

HHSC should task the Statewide Behavioral Health Coordinating Task Force with studying ways to increase the availability and awareness of high-quality, comprehensive care for people with mental health (MH) diagnosis and IDD. This should include:

* examining how to increase workforce capacity through training and other incentives;
* increasing cross-agency collaboration and developing a more wholly integrated system of care for people with IDD;
* expanding trauma-informed care training; and
* evaluating the impact of using intelligence quotient (I.Q.) thresholds as exclusionary criteria for access to MH and/or IDD services.

### Impact on Population

There are several possible explanations about why people with IDD suffer disproportionately with mental health conditions. They might experience more stress related to frustrating social challenges. Limited language abilities could make it difficult to communicate feelings and needs. People with IDD are also at a higher risk of experiencing trauma such as physical, emotional and sexual abuse, neglect, bullying, and unnecessary restraints. These inherent challenges and high incidents of trauma create a unique susceptibility for the development of mental health conditions.

Access to quality treatment continues to be a problem. Significant workforce shortages of MH/IDD specialists, as well as limited knowledge and training for MH and IDD professionals creates a substantial barrier. We need stronger efforts to capitalize on the expertise in both fields and establish a seamless, comprehensive, and integrated system of care for this population.

Without this integrated, expert care, uninformed providers and caregivers often attribute challenging behaviors to disability and fail to adequately evaluate for underlying medical or mental health conditions. There is a lack of cross agency and department coordination because of limited knowledge and training. Local mental health centers and the local authorities for IDD services are typically co-located, but service coordination and provision are siloed making it difficult for individuals with IDD to access mental health services.

To make matters worse, our overall research about people at the intersection of MH and IDD is sorely lacking. This sparse data leads to confusing or inappropriate assessments and evaluations, which make the standard criteria for mental illness difficult to obtain. Important too, may be the necessity of modifying current mental health diagnostic criteria for this population.

Another important factor in providing quality treatment is understanding the significance of trauma. Attention has recently been given to the impact of trauma and the need for trauma- informed care for both child welfare/juvenile systems as well as adult criminal justice systems. The legislature has mandated trauma training in both these systems, but despite the fact that people with IDD experience high rates of trauma and institutionalization, Texas has not yet prioritized trauma-informed care for this vulnerable population.

### Cost

No known cost.

### Potential for Success

These recommendations are feasible because the framework already exists. Gaps in care can be easily resolved through better community outreach, improving internal policies at State agencies, and strengthening collaboration between providers, both public and private. Training resources could be made at no additional costs, and creative workforce incentives would encourage medical professionals to specialize in MH/IDD care.

[HB 4183](https://capitol.texas.gov/BillLookup/history.aspx?LegSess=86R&Bill=HB4183)- Relating to addressing adverse childhood experiences and developing a strategic plan to address those experiences. *(left pending)*

[SB 239](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=84R&Bill=SB239)-Relating to student loan repayment assistance for certain mental health professionals.

[HB 3116](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=HB3116)-Relating to the establishment of a task force to conduct a comprehensive study on best practice standards for the detention of persons with intellectual and developmental disabilities.

[SB 292](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=85R&Bill=SB292)- Relating to the creation of matching funds grant program for a community collaborative to reduce recidivism, arrest, and incarceration of individuals with mental illness. **(Does not include measures for individuals with intellectual disabilities.)**

[HB-906](https://capitol.texas.gov/BillLookup/history.aspx?LegSess=86R&Bill=HB906)-Relating to the establishment of a collaborative task force to study certain public school mental health services.

### Time

“The rate of mental health conditions for those with IDD is two to three times higher than that of the general population. Approximately 30-50% of children with IDD might also have mental health conditions, according to research in the Journal of Intellectual and Developmental Disability. That’s more than the average for all other children.” (navigatelifetexas.org)

### GCPD Staff Recommendation

Staff are neutral on this policy recommendation.

## 06.21

HHSC should work with the leads of each state hospital redesign to create a specialty services unit for people with intellectual and developmental disabilities (IDD) to divert people from hospital emergency departments and jails.

### Impact on Population

People with intellectual and developmental disabilities (IDD) experiencing mental health crises are extremely limited in terms of accessing psychiatric hospitalization and treatment. Creating a dedicated IDD Specialty Services Unit as a part of the statewide State Hospital Redesign that could be replicated across the state hospital system would provide a strong start to creating a robust network of appropriate treatment options for people with IDD and mental health diagnoses.

### Cost

Unknown.

### Potential for Success

This proposal was made when the state hospital redesign was still ongoing. Now that the redesign has ended, GCPD staff is in communication with HHSC on other ways to meet the spirit of this proposal.

### Time

There is a dearth of culturally competent treatment facilities available for people with IDD experiencing serious mental health crises. Anecdotally, law enforcement and other crisis mental health professionals report being unable to find private psychiatric hospitals that will accept people with IDD experiencing a mental health crisis. This means individuals often wind up remaining in emergency department beds or being transferred to jail- both inappropriate settings for an individual experiencing a mental health crisis. Additionally, Austin State Hospital (ASH) and North Texas State Hospital (NTSH) appear to be the only two state hospitals out of ten that have a specialty services unit that mentions treating people with IDD.

### GCPD Staff Recommendation

Staff are waiting on a response from HHSC.

## 06.22

* Revise TAC §260.203, §259.307, §259.355, TxHmL Billing Requirements 3410(b)(c)(d), and HCS Billing Requirements 3420(b)(c)(d) to remove the prohibition on allowing family members, including spouses and parents, to be the paid personal care attendant.
* Make the PHE flexibility currently set to end on August 31, 2024 that allows family members, including spouses and parents, to be the paid personal care attendant permanent.

### Impact on Population

The US is experiencing an attendant shortage that is becoming a crisis. Starting during the COVID-19 pandemic, families have been unable to find reliable, well-trained personal care attendants to care for their family member. Families report struggling to find attendants willing to work for the rate set by Medicaid. When families are able to find someone, the attendant is unreliable and does not show up on time or at all. Due to this, family members often lose their jobs as they are unable to leave their family member unattended.

### Cost

This should be cost-generating for the state as family members will be able to contribute to the Texas economy.

### Potential for Success

According to CMS, Texas implements a 1915(k) Community First Choice state plan program that provides personal care and similar services, which are most often provided by family members. There is no prohibition on the use of parents or other legally responsible individuals in the CFC program. It is state choice to recognize parents in this way and something Texas can decide to change.

Difficulties: Some members of the Texas Legislature disagree with allowing family members to be paid. Some legislators believe the family members should just do the work for free.

Successes: Many stakeholder groups have advocated for this allowance, including PPAT, Texas P2P, and EveryChild, Inc. The solution itself is a practical one that responds to the current crisis creatively. This would keep families together and can potentially reduce a family’s reliance on other state programs.

In addition to the improved access and quality of care, and the reduction in costs to the state, this program provides a level of stability and empowerment to these families that often end up living on the edge of poverty. With inconsistent attendant care, family members are frequently tasked with taking on the duties of their child’s unfulfilled care, which causes the need to constantly leave their job or call in with last-minute emergencies. This essentially makes these parents un-hirable or unemployable because they are viewed as unreliable workers. This forces families to become single-income-households or parents to leave the workforce altogether, which inevitably leads to these families requiring greater support from state programs. The inconsistent care, a lack of resources, and stress caused by instability in the household, results in greater adverse health impacts on these medically fragile children.

### Time

Many families are struggling with finding quality, reliable caregivers for heir family members.

## 06.23

Change “Interest List” to “Wait List” in Government Code for Medicaid Waiver Programs under Texas Health & Human Services Commission.

### Impact on Population

The 1915(c) Medicaid waivers call the wait list an interest list. This is does not comply with plain language best practices and can cause confusion.

### Cost

No known cost.

### Potential for Success

HCBS waiver programs were introduced in the 1980s as an optional Medicaid benefit allowing states to choose to provide long-term services and supports (LTSS) in community-based settings. Throughout the country, the demand for these services often outweighs the availability. If it is necessary to defer the entrance of individuals to a waiver, the state must have policies that govern the selection of individuals for entrance to the waiver when capacity becomes available. Page 6 While the Centers for Medicare and Medicaid Services (CMS) provides states guidance, states have autonomy to manage their waiting or interest lists. \*Texas uses the term interest list because qualification and eligibility statuses are unknown at the time the individual is placed on a list. However, most reports used the term wait list. CMS indicates these policies should be based on objective criteria and applied consistently in all geographic areas served. CMS is careful to limit their guidance to the way states establish criteria for selection of entrants into the waiver and does not dictate state strategies for managing a wait list. This flexibility allows states to design an interest list management system targeted for their states unique populations and geographic areas.

<https://www.hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2020/medicaid-waiver-programs-interest-list-study-sept-2020.pdf>

### Time

This is not a time sensitive issue.

## 06.24

Allow intervener services for individuals in the 1915(c) waivers while the individual is hospitalized.

### Impact on Population

Currently, an individual on a 1915(c) waiver who enters the hospital loses access to their intervener services. An intervener is a service provider with specialized training and skills in deafblindness who, working with one individual at a time, serves as a facilitator to involve an individual in home and community services and activities, and who is classified as an Intervener, Intervener I, Intervener II, or Intervener III in accordance with Texas Government Code §531.0973. An intervener provides services tailored to the unique needs of the individual. Because the services are so tailored to the individual, they cannot be performed by an unfamiliar service provider. In a setting like a hospital, the individual may not be used to the environment and need a lot of support from their intervener, especially considering how many service providers come in and out of a hospital room in each visit. It is important for the health, wellbeing, and safety of the individual that they are able to use their intervener services.

If an individual is able to keep using their intervener services while hospitalized, it could:

* prevent medical errors due to miscommunication.
* reduce the anxiety and fear an individual may be experiencing because they are hospitalized. This could reduce aggressive behaviors and protect the individual and the service providers.

### Cost

This could save money for members of the community by reducing medical errors and trauma.

### Potential for Success

[CFR §441.301(c)(5)](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.ecfr.gov%2Fcurrent%2Ftitle-42%2Fchapter-IV%2Fsubchapter-C%2Fpart-441%2Fsubpart-G&data=05%7C02%7Crebecca.lopez%40gov.texas.gov%7Cc90dbe3bc7534988a94d08dc183cad23%7C54cb5da6c7344242bbc25c947e85fb2c%7C0%7C0%7C638411896107660256%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=yk9OturOORPuYSZDrME3x4D1LNJwACQJ4UdMPZzwXKo%3D&reserved=0)is the federal law that prohibits receiving waiver services while a person is hospitalized.

CMS currently has proposed rules on allowing certain services while an individual is hospitalized.

### Time

This is not a time sensitive issue.

## 06.25

When payment rates for specific services within the 1915(c) waivers are raised, such as rates for personal care attendants, the total budget for the waiver should also be raised.

### Impact on Population

Rates for specific services have increased while the total allowed budget has stayed the same which forces individuals to cut the amount of each service they receive. For the Deaf-Blind with Multiple Disabilities Waiver, the total budget (or cost cap) for someone in the waiver is $114,736.07. The payment rate to receive personal attendant services rose from $8.11 to $10.60. If an individual was receiving 20 hours of personal attendant services at $8.11, it would cost $162.20 per week. With the new rate, the individual would only be able to receive 15 hours and 18 minutes for the same cost. To continue to receive 20 hours, the cost would be $212.00 each week. The individual must decide whether to lose almost 5 hours of services per week or pay $50 more per week on that service. If the individual chooses to continue to receive 20 hours of personal attendant services, they will need to adjust the other services they receive to stay within the total budget.

Texas, along with the rest of the country, has seen costs of living and inflation steadily rising. To continue to attract the best providers to provide services to individuals in the Medicaid waivers, the payment rates for these services need to reflect the rising costs of living. To truly make meaningful adjustments to the payment rates for services provided through the waivers, the total budget for the waivers needs to be adjusted in tandem.

This impacts individuals in the waivers, especially those who are already using the majority of their allowed budget prior to the rate increases.

### Cost

Unknown.

### Potential for Success

If a total budget is not raised, only specific rates are increased, the net increase is 0. By raising the budget total, the intent of the payment rate increases can be realized**.**

### Time

Many individuals are now having to cut services because of this issue.

## 06.26

HHSC shall explore the feasibility of using the 3% that Managed Care Organizations return back to GR to fund this benefit: A Medicaid dental benefit for any adult with a disability receiving Medicaid that covers preventive as well as urgent dental care needs in a manner appropriate to an individual’s specific disability.

### Impact on Population

A Texas Health Institute study issued October 2018 reports that “the American Dental Association estimates the average cost of a regular, preventive dental visit is between $180 and $211. They further estimate the annual cost of providing dental coverage in Medicaid is between $822 and $856 per member.” In comparing preventive versus emergency room costs the study offers the following data: there were 122,096 emergency room visits in Texas for non-traumatic dental conditions in 2016. 25,647 of these visits were made by Medicaid recipients (21% of total ER visits) with an average charge of $1,692.25 per individual and a total charge of $43.4 million. 700 of these visits (15% of total ER visits) required inpatient admissions with an average charge of $42,726.27 and a total charge of $29.9 million. Total costs in 2016 for emergency room visits for Medicaid recipients was more than $73.3 million. “This describes significant differences in costs based upon the treatment setting.”

Source: Ankit Sanghavi, BDS, MPH, Gourav Patil, MPH, MBBS, Sean Boynes, DMD, MS, Eric Tranby, PhD, Avery Bow, Vu Diep (2018). *Emergency Department and Inpatient Hospitalization for Non-Traumatic Dental Conditions in Texas*. Accessed on October 19, 2018: <https://www.texashealthinstitute.org/oral-health.html>

A 2015 University of Washington study of 20–29 year-olds, who account for more emergency room (ER) toothache visits than other age group, revealed that toothache was the fifth most common reason for all ER visits by this group. Researchers cited a 6.1% average annual increase in ER visit rates for toothache among 20-29 year olds during 2001-2010, compared to 0.3% for back pain and 0.8% for all causes of ER visits. During 2009-2019, an estimated 3.02 million total ER visits were for toothache (2.8% of ER visits) where 42% of the visits were made by 20-29 year olds. While it was the third most common reason for ER visits for those individuals with no insurance, it was the fifth most common reason among Medicaid patients.

Source: Charlotte W. Lewis, MD, MPH, Christy M. McKinney, PhD, MPH, Helen H. Lee, MD, MPH, Molly L. Melbye, DDS, MPH & Tessa C. Rue, MS (2015). *Visits to US Emergency Departments by 20 to 29 Year-olds with Chief Complaint of Toothache during 2001–2010*. Accessed from PMC US National Library of Medicine, National Institutes of Health on October 18, 2018: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4418214/>

An analysis commissioned by the [National Association of Dental Plans (NADP)](https://www.nadp.org/PressReleases/PressReleasesArchive/2017/11/23/nadp-analysis-shows-adults-with-medicaid-preventive-dental-benefits-have-lower-medical-costs-for-chronic-conditions) disclosed that preventive dental care was shown to reduce overall medical costs 31 to 67 percent for patients diagnosed with seven chronic health conditions as follows:

* Coronary heart disease: 67% lower
* Diabetes: 36% lower
* High Blood Pressure: 31% lower
* Angina: 45% lower
* Other Heart Disease: 45% lower
* High Cholesterol: 43% lower
* Asthma: 37% lower

Thus, analysis results “suggest that policies and programs within Medicaid that encourage recipients to receive preventive dental care have the potential to dramatically reduce the health care costs associated with these conditions” and that “without preventive dental services provided as a benefit to adult Medicaid recipients, there is a potential for higher health costs as patients lack an important component of their health care needs.” The analysis also points out that in addition to increased health costs for chronic conditions, Medicaid patients who do not have dental care coverage “are more likely to visit hospital emergency rooms rather than lower cost community health centers or private offices” for their dental needs. This is reflected in the doubling or emergency room visits for dental issues during the years 2000-2010.

In consideration of the above, an Adult Medicaid dental care benefit targeting adults with disabilities is proposed for the following reasons: (1) Many adults with disabilities are typically unable to fully take care of their dental needs without expert care. For instance, some adults with physical disabilities may not have the fine motor skills to hold a toothbrush properly or manage their routine oral hygiene, thus allowing cavities or dental disease to develop. An individual with IDD who is unable to articulate pain associated with dental issues may manifest behavioral issues in reaction to dental pain or be unable to eat foods necessary for nutritional adequacy, thus creating a risk to their overall health. (2) Dental health impacts the whole person. The effects of limited access to routine dental care may impair an adult's overall physical health (increased risk of heart disease/ stroke, dementia, respiratory problems, diabetes, obesity, infertility, pregnancy complications, or cancer), psychological and social functioning (loss of self-esteem and communication by avoiding conversations or laughing/smiling due to tooth loss), and employability. (3) Preventive dental care can save money in the long run. Dental visits to emergency rooms made by adult Medicaid recipients are typically for a chronic dental condition. Preventive care will not only help reduce the average cost per person for adult dental care (now covered only under emergency room visits averaging over $400 per visit), it will allow for a cost effective proactive approach to adult dentistry in general. A program of adult preventive dentistry will enable more individuals to receive routine basic services such as **regular checkups, regular cleanings, x-rays, and general oral health management that helps deter more serious dental problems that develop because of delays in treatment that end up requiring costlier treatment protocols. (4) Dental treatment received from emergency rooms are contributing to the current public health crisis: an opioid epidemic.** Because emergency room staff tend to lack expertise in dental care, most treatment they provide is limited to palliative care. [An Oregon Health and Science University Report](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4386544/) **disclosed that opioid analgesics (painkillers) were the most frequently dispensed medication for emergency room dental visits. Opioids were found to have been dispensed for 56% of the dental visits made to the emergency room.**

### Cost

FY 23 program costs and offsets are based on LBB assumptions of 450,000 enrollees with 39% of beneficiaries visiting the dentist annually.

Total Potential Program Offsets = $95,402,233 (money saved)

Program Costs Total = $26,676,000

Federal Share = $16,219,008; State Share = $10,456,992

### Potential for Success

This has already passed the 87th Legislature ([SB 1648](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=SB1648)), but it is not funded.

### Time

Unaddressed dental issues can lead to severe and life-threatening health conditions.

# Housing

## 07.01

Promote adoption of accessible, affordable, and transit-oriented housing in Texas communities through the sharing of information on local visitability ordinances and best practices for the development of accessible single-family homes and duplexes.

### Impact on Population

* People with disabilities: Disability prevalence statistics can range anywhere from 10 to 20 percent of the overall population.[[5]](#endnote-1) Reduced structural barriers in housing will help people with disabilities lead more independent lives and more fully participate in their communities.
* Older adults: Visitability would provide the basic accessibility features needed by older individuals with mobility impairments to stay in their communities. By 2030, one in five Americans will be age 65 or older, a doubling of this population age group from 35 million to over 72 million people in the 20 year period from 2010 to 2030.[[6]](#endnote-2) Surveys have consistently shown that older adults have an overwhelming desire to age-in-place where they have established community ties and memories over the years.[[7]](#endnote-3) According to a 2014 AARP survey, almost 80% of adults 45 and older state would like to stay in their homes for as long as possible as they age.[[8]](#endnote-4)
* Young families: Young families with babies in strollers can enter and leave their homes easily and visit friends without the worry of lifting a stroller up and down steps.
* Growing families: Hauling bags of groceries up the front steps and into the house is no problem for large or growing families.
* Families with elderly family members or relatives: Elderly family members or visiting relatives don’t have to worry about those challenging front porch steps leading up to the front door or maybe having no access to a downstairs bathroom when they visit.
* People Re-locating/ Movers: Less hassle in moving boxes and house-hold belongings.
* Delivery Drivers or Couriers: Large items can easily be left on the front entryway.

### Cost

This could be cost-saving because it would allow more people to age in place.

### Potential for Success

* How feasible is this policy proposal?
  + Legislatively? This is not likely to be successful in the Texas Legislature.
  + Administratively? This could be accomplished by municipalities.

### Time

Affordable and accessible housing is an ongoing crisis.

### GCPD Staff Recommendation

Staff feel this is a very important issue, but not one that the Texas Legislature is supportive of. GCPD Staff should continue to promote this to municipalities.

## 07.02

GCPD will study strategies and “solutions that work” from other states or local communities that have expanded community-based housing options for people with disabilities and ensures long-term housing affordability.

### Impact on Population

Low-income people with disabilities wishing to live independently may have the potential for more opportunities for securing affordable accessible housing.

Individuals with disabilities whose sole source of income is SSI/SSDI are competing with the general public for low-income affordable housing. Sometimes individuals with disabilities cannot compete successfully with the general population in first come-first serve situations due to disadvantages resulting from a lack of English proficiency, mobility issues or inaccessible websites so that affordable housing locations becomes saturated with general low-income individuals rather than those who are disabled.

### Cost

Unknown.

### Potential for Success

* Has there been a successful Texas bill related to this proposal? The city of Houston has seen success with “Housing First.”
* Has this been done in other states successfully? Utah, along with other states, have successfully implemented “Housing First” policies.

### Time

Accessible and affordable housing is an ongoing crisis.

### GCPD Staff Recommendation

This recommendation needs to be improved to be more specific, actionable, measurable. This recommendation would benefit from interagency input.

## 07.03

TDHCA should create a public awareness campaign to ensure people with disabilities looking for accessible housing are able to find what they need, including individuals that assist the public in locating housing (e.g., apartment locator services, real estate agents, etc.).

### Impact on Population

Even though both the FHA and TDHCA require multi-family complexes to meet accessibility standards people with disabilities have difficulty finding accessible units. Individuals with disabilities are not aware of the TDHCA search engine and those who are find those who do have found it not accessible.

### Cost

Unknown.

### Potential for Success

* How feasible is this policy proposal?
  + Administratively? Because this does not need to be done through the Texas Legislature, TDLR may choose to do this.
* Has there been a successful Texas bill related to this proposal? No.

### Time

Accessible and affordable housing is an ongoing crisis.

### GCPD Staff Recommendation

Staff recommend keeping this as a low priority.

# Transportation

## 09.01

Strengthen enforcement of accessible parking laws as follows:

* Strengthen language in Texas Transportation Code, Title 7. Vehicles and Traffic, Subtitle H. Parking, Towing, and Storage of Vehicles - Chapter 681, Privileged Parking, Section 681.010 – Enforcement so that it is unequivocal in its mandate for all individuals with enforcement responsibilities to enforce accessible parking laws (i.e., change “may” to “shall” or “must”).
* Bolster language in enforcement responsibilities as they apply to accessible parking on private property or areas of public accommodation.

### Impact on Population

The Committee found that enforcement of current accessible parking laws was a leading concern to Texans with disabilities. This theme was common in comments received at a public hearing on accessible parking as well as from survey responses from individuals with disabilities. In an open-ended question where survey respondents could share information on any concern they had about accessible parking, enforcement was the topic that generated the most responses for this question (13.7% or 269 responses of 1959 responses received for this question). In addition to conveying an overall general need for enforcement of current accessible parking laws, survey responses shared a perception of general reluctance by both law enforcement officers and/or private property owners/managers to enforce accessible parking laws including those times when they tried to report real-time violations to local authorities. More information can be found in the [GCPD Review of Accessible Parking for Persons with Disabilities](https://gov.texas.gov/uploads/files/organization/disabilities/GCPD_Report_85th_TxAccessibleParking__final_110116.pdf).

### Cost

This proposal could increase state revenue by enforcing violations and fines.

### Potential for Success

There have been no successful Texas bills on this topic, but it has been accomplished in other states:

* [Alabama Code § 32-6-233.1(b)](http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/32-6-233.1.htm) - Any authorized municipal, county, or state law enforcement officer may go on private property to enforce this section.
* [Missouri Revised Statute § 301.143.7](http://www.moga.mo.gov/mostatutes/stathtml/30100001431.html) - Law enforcement officials may enter upon private property open to public use to enforce the provisions of this section and section 301.142, including private property designated by the owner of such property for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142.
* 625 Ill. Comp. Statute 5/11-1301.3(c-1) - Any person found guilty of violating the provisions of subsection (a-1) a first time **shall** be fined $600. Any person found guilty of violating subsection (a-1) a second or subsequent time **shall** be fined $1,000
* [Kansas Statute § 8-1,130a(a](http://rvpolicy.kdor.ks.gov/Pilots/Ntrntpil/IPILv1x0.NSF/698490e1288fdf7086256524007f6168/774935b28cc205f686257868005c9aca)) - Any person who utilizes any accessible parking identification device issued to another person . . . shall be guilty of an unclassified misdemeanor punishable by a fine of not less than $100 nor more than $300.

### Time

This is not a time sensitive issue.

### GCPD Staff Recommendation

Staff recommendation retiring this recommendation.

## 09.02

Control accessible parking placard fraud and abuse through administrative remedies, such as:

* coordinating with the Department of Motor Vehicles, county tax assessor collectors, and the Department of State Health Services cross-checking of current disability placard holder lists against the state registry for death records and cancelling any placard for an individual identified as deceased and explore tracking of parking placards by the Department of Motor Vehicles with a unique identifier (Texas driver license or state identification number); and
* coordinating with local law enforcement to enforce accessible parking placard fraud and abuse.

### Impact on Population

Disabled parking placard fraud and abuse is a prevalent problem nationwide. It not only denies legitimate placard holders’ access to needed accessible parking spaces, it also costs our towns and cities millions of dollars in lost parking revenues each year.

### Cost

Potential for substantial increase in revenues for local jurisdictions from uncollected parking meter fees and fines from placard violators**.**

### Potential for Success

This has not been implemented by any state agencies on a voluntary basis. This has also not been included in a bill in the 88th session.

### Time

This is not a time sensitive issue.

### GCPD Staff Recommendation

Staff recommends giving this a low priority or recommend that it be retired. Staff will reach out to impacted state agencies and ask one final time if it would be possible to implement administratively.

## 09.03

In coordination with the Texas Department of Motor Vehicles and county tax assessor-collector offices, develop statewide public awareness on accessible parking and its impact on Texans with disabilities through public awareness campaigns.

### Impact on Population

Surveys conducted by GCPD reflect that the public perceives there is a shortage of accessible parking spaces at both local businesses and medical facilities. News reports and audits from around the country show that parking fraud and abuse not only denies access to accessible parking spaces by legitimate placard holders but adds to the growing shortage of current accessible parking spaces as our population ages and more people acquire or are diagnosed with mobility disabilities.

### Cost

There will be costs associated with developing a public awareness campaign.

### Potential for Success

Public education and awareness will help reduce accessible parking fraud and abuse. Examples of successful public awareness campaigns including an accessible parking campaign from another state:

* ["Think of Me, Keep it Free"](http://coloradodisabilitycouncil.org/thinkofmekeepitfree/) - accessible parking campaign (Colorado)
* ["Don't Mess with Texas"](http://dontmesswithtexas.org/the-campaign/) - anti-litter campaign (Texas)
* ["Click It or Ticket"](http://www.nhtsa.gov/nhtsa/ciot/index.html) – seat belt campaign (National)

### Time

This is not a time sensitive issue.

### GCPD Staff Recommendation

Staff will implement this as time and resources allow and further recommend that this policy proposal be retired.

## 09.04

Change the language in the Transportation Code from “Handicapped Parking” to “Accessible Parking” to align with the spirit of Texas Government Code, Chapter 392, Person First Respectful Language Initiative.

### Impact on Population

Person first language focuses on the individual not the disability. The Committee believes the term “accessible parking” better describes the function of the parking space rather than using the outdated statutory term “handicapped parking.” Using the term accessible parking will serve as a reminder to the public that the parking is intended as an accommodation for people with disabilities. It eliminates generalizations and stereotypes.

### Cost

No known cost.

### Potential for Success

There has not been recent legislation on this proposal.

### Time

This is not a time sensitive issue.

### GCPD Staff Recommendation

Staff recommend retaining this policy proposal with a low priority. Staff recommend changing the word "Disabled Parking" to "Accessible Parking."

## 09.05

Amend [Transportation Code § 681.011 Offenses; Presumption](http://www.statutes.legis.state.tx.us/Docs/TN/htm/TN.681.htm) to permit alternative sentencing which includes:

* required education classes on disability awareness and accessible parking with a reduced fine upon completion of said education;
* community service/restitution requirements at a nonprofit organization that serves persons with disabilities or any other community restitution that may sensitize the violator to the needs and obstacles faced by persons with disabilities; and
* the development of standardized required education classes on disability awareness and accessible parking by the Texas Department of Motor Vehicles to fulfill the requirements of recommendation 9.5(a).

### Impact on Population

Education and sensitivity training may reduce repeat violations.

### Cost

Exact costs are unknown, but there may be costs associated with developing the training and education classes.

### Potential for Success

Example of state that provides alternative sentencing:

* [Washington Rev. Code § 46.19.050(12) Community restitution](http://apps.leg.wa.gov/RCW/default.aspx?cite=46.19.050). For second or subsequent violations of this section, in addition to a monetary penalty, the violator must complete a minimum of forty hours of: (a) Community restitution for a nonprofit organization that serves persons with disabilities or disabling diseases; or (b) Any other community restitution that may sensitize the violator to the needs and obstacles faced by persons with disabilities.

### Time

This is not a time sensitive issue.

### GCPD Staff Recommendation

Staff recommend retaining this recommendation and reserving it for a future transportation subcommittee project to develop a standardized sensitivity training course that may be used by courts for alternative sentencing. GCPD will explore partnerships with other agencies on this goal.

## 09.06

Redefine the van accessible requirements in the Texas Accessibility Standards (TAS) for medical and rehabilitation facilities to significantly increase the number of van accessible spaces.

* Optimal placement shall include a mix of van accessible and accessible spaces for equitable access to the closest accessible path of travel.
* Changes shall be implemented in the manner of the least cost.

Pending approval of this recommendation TDLR shall add an ADVISORY MEMO into the TAS to update this requirement.

### Impact on Population

Hospital Outpatient, Rehabilitation Facility, and Outpatient Physical Therapy Facilities already require between 10-20% more accessible parking spaces due to the nature of business. Angled parking and shared access aisles will assist in making this goal possible.

### Cost

Unknown.

### Potential for Success

There has not been recent legislation on this policy proposal.

### Time

This is not a time sensitive issue.

### GCPD Staff Recommendation

Staff recommend retaining this at a moderate level of priority and be clarified that this shall only implemented with new construction or reconstruction.

## 09.07

Consider expanded statutory authority in Human Resources Code, Title 7, Chapter 115.009 to grant additional authority to the GCPD to:

* provide education, training, and assistance to law enforcement agencies on accessible parking enforcement; and
* work with other state agencies to provide public education and awareness on accessible parking issues and compliance with accessible parking laws.

### Impact on Population

The education function is in keeping with current responsibilities of GCPD.

### Cost

No known cost.

### Potential for Success

There have been no bills filed in recent sessions to address this proposal.

### Time

This is not a time sensitive issue.

### GCPD Staff Recommendation

Staff recommend retiring this policy proposal.

## 09.08

Amend Section 681.0032 of the Texas Transportation Code to include Texas Centers for Independent Living, day habilitation, and senior activity centers or other organizations that provide independent living services.

### Impact on Population

The 27 Texas Centers for Independently Living and other organizations that provide individuals with disabilities accessible transportation are currently unauthorized to obtain and use an accessible parking placard. This creates logistical and safety concerns for individuals with disabilities when a closer space is necessary to fulfill work or personal obligations. This issue has been highlighted over several years with many failed administrative solution attempts.

Organizations that provide accessible transportation for individuals with disabilities to live independently and thrive in their community of choice do not have access to accessible parking placards. The Texas Transportation Code provides for accessible parking placards to:

1. Individuals with a disability (Driver License or Identification Card number required);
2. Individuals who are applying on behalf of an individual with a disability and who regularly assist individuals with a disability (Driver License or Identification Card number of assisting driver required); or
3. The administrator or manager of an institution licensed to transport individuals with a disability defined under Section 681.0032 of the Transportation Code (which is a license for residential facilities).

The current law only allows for a van or bus operated by residential institutions, facilities, and residential retirement communities licensed under the Health and Safety Code where individuals with a disability or seniors live to obtain an accessible parking placard. Current law does not allow Centers for Independent Living or other nonprofits who regularly provide accessible transportation for individuals with a disability to obtain an accessible parking placard so that they may work, thrive, and play in the community independently. It is a third degree felony for non-residential institutions or persons not authorized to use an accessible parking placard.

### Cost

The recommendation may provide a positive fiscal impact to the State of Texas. While accessible parking placards are no cost to individuals with permanent disabilities, individuals with temporary disabilities and institutions may be charged five dollars. Hence, Centers for Independently Living would pay the required accessible parking placard fee. Additionally, individuals with disabilities would more likely be able to receive the necessary supports and services to live independently and out of State-supported institutions (i.e. Diversion).

### Potential for Success

The implementation of this recommendation is feasible. While an amendment of administrative rule or policy may be typically more feasible, amending the necessary transportation statutes and rules may be the most feasible through the Texas Legislature.

Other legislative history and general information regarding accessible parking occurred in the 81st Texas Legislative Session, 2009, with the creation of the Texas Department of Motor Vehicles and include:

* House Bill 400 allows a grace period for a person cited for illegally parking a vehicle with an expired disabled parking placard by obtaining a valid placard within 20 working days or before your first court date to have the citation dismissed House Bill 618 exempts a vehicle with a specialty license plate for recipients of the Air Force Cross or Distinguished Service Cross, the Army Distinguished Service Cross, the Navy Cross, the Medal of Honor, or the Legion of Merit medal from parking fees collected through a meter charged by a governmental authority other than the federal government, when the vehicle is being driven by or for the transportation of the person who registered the vehicle.
* House Bill 965 entitles a veteran to register, for the person's own use, any number of motor vehicles for which the registrant may be issued specialty license plates for disabled veterans and disabled parking placards.
* House Bill 2020 authorizes a vehicle to be parked for an unlimited period in a parking space or area designated for the disabled if the vehicle displays license plates issued by another state of the United States indicating that the owner or operator of the vehicle is a disabled veteran of the United States armed forces.
* House Bill 3095 simplifies enforcement and increases the fines for illegally parking in disabled parking spaces from $250 minimum to $500 maximum, to a minimum of $500 and a maximum of $750. With each offense the fines increase and community service is added.
* House Bill 3593 authorizes a person entitled to license plates for disabled veterans to elect to receive standard license plates at the same cost as the disabled veteran license plates.

### Time

This is not a time sensitive issue.

### GCPD Staff Recommendation

Staff recommend retaining this policy proposal with a moderate to high level priority. Matt will research the language of the policy proposal for ways to prevent unintended fraud.

## 09.09

Transportation Network Companies (TNCs) and the Texas Legislature should further study how public and private driver incentives can lower the cost of owning and operating a WAV to provide expanded access to passengers who use fixed-frame wheelchairs.

### Impact on Population

Since 2010, a number of private TNCs have entered the transportation services market by offering on-demand travel options that use an application on a person’s mobile phone using technology to “order” transportation services, and highly automated private ride service. The most recognized TNCs are Uber and Lyft.

The vehicles used by TNCs are commonly personal cars or sedans owned by the drivers or are leased from the TNC. This transportation service model has several levels of service with different prices, however, there is no option for an accessible vehicle for customers who use fixed-framed wheelchairs.

There are few, if any, Wheelchair Accessible Vehicle (WAV) that can transport customers who use fixed-framed wheelchairs. During the 85th Legislative Session (2017), H.B.100 recommended a study by which the TNCs would develop pilot projects with accessible services in one of the top four cities with the largest market share over a two-year period and report to the Legislature by January 2020. TNCs have expanded rapidly without required accessibility standards. HB 100 removed all local/municipal regulation of TNCs and elevated to state level and the Texas Department of Licensing and Regulation (TDLR).

This has led to complaints of discrimination, such as refusing service based on disability, and a reduction in WAVs, largely because taxi companies that previously were required to provide this service have had their fleets shrink.

### Cost

Unknown.

### Potential for Success

There has not been a bill related to this policy proposal since the 85th session.

### Time

This issue has become exacerbated with the expansion of TNCs.

### GCPD Staff Recommendation

Staff recommend retaining this proposal with one of the highest priorities addressing an unsolved transportation issue.

## 09.10

Amend Texas Transportation Code Sec. 502.061(a) by adding the following health professions as allowable verifiers: Speech Language Pathologist, Occupational Therapists, Audiologists, School Psychologists, and Diagnosticians. Amend Texas Transportation Code Sec. 502.061(b) by removing “The department may not provide to the Department of Public Safety information that shows the type of health condition or disability a person has.”

### Impact on Population

By allowing those professionals to verify an individual’s disability, more people with disabilities will be able to access this program. Striking the sentence from (b) will allow peace officers who pull over a vehicle registered under this program to know the specific type of communication impediment and therefore which are the best strategies to use when communicating with the individuals in the vehicle. Currently, it will only show “communication impediment” which could vary from Deafness to Autism.

This is a systemic issue as it affects everyone enrolled in this program.

### Cost

There are no expected costs to these amendments.

### Potential for Success

* Samuel Allen Law ([SB 976](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=SB976)) passed in the 86th Session. This established the Driving with Disability program.
* [SB 2304](https://capitol.texas.gov/BillLookup/History.aspx?LegSess=88R&Bill=SB2304), passed in the 88th Session, requires public and open-enrollment charter schools to give information to students with disabilities on this program.

### Time

This is not a time sensitive issue.

1. The Joint Commission (2011) *R3 Report Issue 1: Patient-Centered Communication*. Accessed November 13, 2020: <https://www.jointcommission.org/standards/r3-report/r3-report-issue-1---patient-centered-communication/> [↑](#footnote-ref-1)
2. The Joint Commission (2010). *Advancing Effective Communication, Cultural Competence, and Patient- and Family-Centered Care: A Roadmap for Hospitals*. Accessed on November 13, 2020: <https://www.jointcommission.org/-/media/tjc/documents/fact-sheets/patient-centered-communications-1-24-20.pdf?db=web&hash=2ACF2A285B1DAEA84089A74B448E8205> [↑](#footnote-ref-2)
3. [Emergency Support Function #12 – Energy Annex (fema.gov)](https://www.fema.gov/sites/default/files/2020-07/fema_ESF_12_Energy-Annex.pdf) [↑](#footnote-ref-3)
4. [1] American Academy of Pediatrics [↑](#footnote-ref-4)
5. Harding, *loc. cit.*, <http://www.aarp.org/home-garden/livable-communities/info-08-2008/2008_14_access.html> [↑](#endnote-ref-1)
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