

FINAL REPORT (JUNE 1, 2017): BILLS THAT DID NOT PASS

Unless stated otherwise, when reviewing the list below please know the following:

- Companion bills listed also did not pass.
- It is possible bills that did pass were amended with provisions from one or more of the bills listed below. Although every effort was and has been made to ensure such action was not inadvertently overlooked, if errors are found such will be shared with PPAT members.

SB 1414

Schwertner: Relating to a recipient's disenrollment from a Medicaid managed care plan.

If passed, the bill would have amended the Government Code to allow a recipient enrolled in a managed care plan to disenroll from that plan and enroll in another managed care plan at any time for cause in accordance with federal law.

SB 51

Zaffirini: Relating to financial eligibility for the Texas Home Living (TxHmL) waiver program.

SB 52

Zaffirini: Relating to the reimbursement of providers for the provision of certain home tele-monitoring services under Medicaid. [Companion: [HB 1950](#) Laubenberg, Jodie]

SB 498

Zaffirini: Relating to the use of person first respectful language instead of the term "ward."

NOTE: SB 498 passed the Senate and House Judiciary & Civil Jurisprudence Committee, but failed to pass to 3rd reading on the House Floor. 72 yeas; 73 nays.

HB 850

Turner, Chris: Relating to an exemption from ad valorem taxation of a portion of the appraised value of certain real property used to provide housing to certain individuals with disabilities.

Similar to HB 1328 (also by Turner, filed during 84th Session, left pending in Calendars Committee), the bill proposes that "A person is entitled to an exemption from taxation of a portion, expressed as a dollar amount, of the appraised value of real property that the person owns and that is used as: **a group home operating under a Section 1915(c) waiver program; or an ICF/IID if at least 95% of the facility's residents are recipients of medical assistance under Chapter 32, Human Resources Code.**

The bill requires the comptroller of public accounts to adopt rules for the administration of the bill's provisions, including rules prescribing the application form and specifying the 12-month period for which the costs are used to determine the amount of the exemption. **The bill applies only to a property tax year that begins on or after January 1, 2020.**

If passed the bill would have become effective January 1, 2018, but only if the constitutional amendment (HJR 52 below) authorizing the legislature to exempt from property taxation a portion of the market value of certain real property used to provide housing to certain individuals with an intellectual disability or related conditions **was approved by the voters.**

HJR 52

Turner, Chris: Proposing a constitutional amendment authorizing the legislature to exempt from ad valorem taxation a portion of the assessed value of certain real property used to provide housing to certain individuals with disabilities.

HB 3633

Price: Relating to cost reporting requirements for ICFs/IID and HCS group homes and providers.

In brief, the bill proposed that providers of ICFs/IID and HCS group home programs be required to submit a financial statement, detailing certain cost information to HHSC no later than December 1 of each odd-

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numbered year. HHSC would be required to review the submitted statements to evaluate the facility's or provider's compliance with an incentive program established by Human Resources Code §32.028(g) [*an incentive program that applies only to nursing homes*]. By rule, HHSC would be required to designate small, medium and large classes of providers, and by January 1 of each even-numbered year randomly select 10 facilities and providers to validate their financial statements from the preceding fiscal biennium. Selected facilities and providers would be required to hire additional staff to meet critical deadlines, contract with a CPA and submit to HHSC program costs along with the audit report produced by the CPA. HHSC would be required to review the audits no later than August 31 of each even-numbered year and submit a report to the legislature based on those audits.

HB 3711

Sheffield: Relating to prevention of and response to communicable diseases in certain long-term care facilities, specifically **NHs, ALs & ICFs/IID**

- ◆ Requires DSHS to establish a regional advisory committee in each public health region to monitor antimicrobial stewardship in the above named facilities.
- ◆ Specifies that the infection prevention and control program of **each ICF/IID, NH and ALF must** include: (1) monitoring of key infectious agents, including Amultidrug-resistant organisms; and (2) procedures for making rapid influenza diagnostic tests available to facility residents.
- ◆ Requires the facilities to provide educational materials to their employees regarding: immunizations, including risks posed to facility residents by employees who are not immunized; and the availability of specific immunizations; and, upon request, provide current influenza and pneumococcal vaccination data of a facility's personnel to a public health official, facility resident, and resident's family member.

HB 3244

Nevarez: Relating to a salary bonus for public school teacher who completes certain autism training.

HB 1008

Alonzo: Study on early detection and early intervention for children with autism spectrum disorders.

HB 1928

Nevarez: Relating to content requirements for an individualized education program developed for a public school student with autism or another pervasive developmental disorder.

HB 4044

Cortez: Relating to the application of discipline to certain students with autism or another pervasive developmental disorder.

HB 11

Price: Relating to consideration of the mental health of public school students in school planning, educator training requirements, curriculum requirements, educational programs, state and regional programs and services, and health care services for students.

SB 545

Lucio: Relating to information regarding autism spectrum disorders.

In brief requires DSHS to make available information regarding autism spectrum disorders that includes: (1) information addressing physical, developmental, educational, and psychosocial outcomes, behavioral safety concerns, life expectancy, clinical course, and intellectual and functional development for individuals with an autism spectrum disorder; (2) information regarding available treatment options for individuals with an autism spectrum disorder; (3) contact information for national and local autism spectrum disorder education and support programs, services, and organizations, including organizations in Houston, Dallas, San Antonio, and Austin, and information hotlines, resource centers, and clearinghouses; and (4) any other information. The bill also specifies requirements of the information provided and requires that the information be posted on DSHS webpage) and that certain healthcare providers (those who diagnose the disorder, or test or cause for a test to be administered) also share the information.

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SB 1997

Watson: Relating to establishing a pilot program for professional support service provider services for persons who are deaf-blind.

HB 1206

Shaheen: Relating to allowing Medicaid MCOs to adopt their own drug formularies.

SB 2165

Zaffirini: Relating to DH services for individuals with IDD; imposing and administrative penalty.

- Requires HHSC to establish by rule a registration process by which a DH provider may register with the commission if the DH provider can demonstrate that it follows safety guidelines and minimum service requirements that must require that the setting and services meet the federal requirements under 42 CFR Sections 441.301 (c) (4) and 441.530 (a).
- Requires that a Medicaid waiver provider must: a) make a good faith effort to provide employment or DH services to a Medicaid waiver participant who wishes to participate in employment services or DH; b) NOT contract with a DH provider unless the DH provider is registered; and c) **develop and implement a procedure so a Medicaid participant may pool Medicaid funds dedicated for day services as a group.**
- HHSC may impose an administrative penalty against a provider who violates this section.
- A Medicaid participant's service planning team shall inform the person that employment services or day habilitation services are optional and the participant can choose to participate or not.
- A DH provider **may NOT provide services at the same location** as a sheltered workshop or an employment setting in which persons are paid less than minimum wage.
- **An employer of record of a Medicaid waiver participant may not provide DH to the person.**

SB 2022

Zaffirini: Relating to competitive and integrated employment of persons with disabilities.

[Companion [HB 2732](#) - Lucio]

SB 1111

Rodriguez: Relating to employment of certain persons with disabilities. [Companion [HB 3929](#) – Lucio]

SB 210

Kolkhorst: Relating to required repeal or amendment of two state agency rules before adopting new state agency rule that increases costs to regulated persons. [Companion [HB 4245](#) (Guillen) identical]

NOTE: As reported in the list of bills that passed, [HB 1290](#) (Roberts), which was similar, but not identical to SB 210 or HB 4245, did pass and has been sent to the Governor.

HB 1133

Sheffield: Relating to the reimbursement of prescription drugs under Medicaid and CHIP.

SB 2023

Zaffirini: Relating to the implementation of the community living options information process (CLOIP) for residents of certain facilities [defined as a facility **with at least nine beds** that is licensed under Chapter 252, Health and Safety Code, and is operated by a private entity; i.e., **an ICF/IID with at least 9 beds.**]

SB 2024

Zaffirini: Relating to personal needs allowance for persons in a home and community-based waiver.

HB 23

Huberty: Relating to a grant program to fund innovative programs for public school students with autism

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HB 3533

Raymond: Relating to inspection procedures in certain long-term care facilities and the creation of a long-term care legislative oversight committee. **Applies to ICFs/IID, ALs and NHs**

ICF/IID Surveyor Processes

- ◆ HHSC must have specialized staff conduct ICF/IID inspections, surveys, or investigations. If a commission employee who conducts an inspection, survey, or investigation of a facility is a health care professional licensed in this state, an officer or employee of the facility may require the commission employee to provide proof of licensure before the commission employee conducts the inspection, survey, or investigation.
- ◆ HHSC must require that the inspection form include: (1) a brief description of the evidence that supports a finding of a violation; and (2) the name and title of the person who found each violation.
- ◆ HHSC must adopt rules to ensure inspections, surveys, and investigations are uniformly conducted and consistently interpreted and enforced.
- ◆ An additional inspection, survey, or investigation may not be conducted during an additional exit conference or used to retaliate against an ICF/IID for filing a complaint against HHSC/surveyor, or requesting an administrative hearing to contest a finding of a violation.
- ◆ HHSC may not require the ICF/IID, through an inspection, survey, or investigation or the final official statement of violations, to take any action that conflicts with a written order of a physician and for which proof of such is evidenced.

Note: Concerning the above survey processes, the bill as filed included the following three provisions: **a)** A municipal fire marshal may grant a waiver for a violation of a life safety requirement or fire safety standard cited in HHSC's final official statement of violations after an inspection, survey, or other investigation conducted under Chapter 252 if the fire marshal finds that: (1) the ICF/IID met all applicable life safety requirements and fire safety standards at the time the facility was initially licensed; and (2) the waiver will not have an adverse effect on individuals' health and safety; **b)** An ICF/IID granted the above waiver is not required to include the waived violation in its plan to correct violations cited during a survey or investigation; and **c)** HHSC must have specialized staff conduct ICF/IID inspections, surveys, or investigations. The staff may not conduct these functions unless he/she is a health care professional licensed in this state. **The committee substitute removed the above provisions. Changes were not made to other sections of the bill.**

Legislative Oversight Committee

The bill requires establishment of the above-referenced committee which is to be composed of two members of the senate; one public member appointed by the lieutenant governor; and two members of the house; one public member appointed by the speaker.

Committee Purpose and Functions

- ◆ Receive, review, and comment on rules related to ICFs/IID, ALs and NHs proposed by HHSC
- ◆ Review recommendations for legislation proposed by HHSC or the AG relating to these programs
- ◆ Hear (may) complaints regarding an operational dispute and make recommendations to HHSC
- ◆ Issue process to compel the attendance of witnesses and the production of documents it may need.
- ◆ Monitor (may) effectiveness and efficiency of the ICF/IID, NH and AL regulatory system, and propose (may) legislation related to these programs.
- ◆ Review current regulatory and enforcement system of the above programs, the standards for including a facility in the STAR+PLUS Medicaid managed care program; and the effectiveness of the STAR + PLUS Medicaid managed care program in reducing preventable acute care costs.

SB 1927

Kolkhorst: Requiring HHSC to evaluate and implement changes to Medicaid program to make it more cost-effective, increase competition among providers, and improve persons' health outcomes.

- Establish a range of rates within which a MCO must bid during a competitive bidding process to contract with HHSC to arrange for or provide a managed care plan.

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- Assess the feasibility and cost-effectiveness of contracting with MCOs to arrange for or provide managed care plans to recipients throughout the state instead of on a regional basis.
- A MCO participating in Medicaid must share with HHSC money recovered by the MCO as a result of a fraud investigation of or a recoupment of an overpayment or debt from a network provider or recipient.
- To the extent funds are appropriated,
 - identify and evaluate barriers preventing Medicaid recipients enrolled in the STAR+PLUS Medicaid managed care program or a **home and community-based services waiver program** from choosing the consumer directed services (CDS) option and develop recommendations for increasing the percentage of Medicaid recipients enrolled in those programs who choose CDS; and
 - study the feasibility of establishing a community attendant registry to assist Medicaid recipients enrolled in the community attendant services program in locating providers.
- Conduct study of the provision of **dental services to adults with disabilities under Medicaid program**.
- Evaluate delivery models for the provision of services under the Medicaid program based on: cost-effectiveness; competition among providers; and health outcomes for Medicaid recipients as calculated using a clinically based risk adjustment methodology.
- Not later than December 1, 2018, HHSC shall submit a report to the governor, the LBB Board, and the appropriate standing committees of the senate and the house of representatives containing the results of the evaluation conducted under Subsection (a) of this section, including: a summary of previously submitted reports relating to alternative delivery models for the provision of services under the Medicaid program; and a summary of efforts undertaken by HHSC to make the current delivery models as effective as possible and an assessment of any cost savings achieved by and any improved health outcomes that have resulted from the current delivery models.

NOTE: Passed Senate and House Human Services 'formal' meeting on May 16. The bill was to be set on the May 23rd House Calendar, but was pulled down for reasons not yet known. As noted on the list of bills that passed, **HB 3295** (which did pass) was amended on the Senate Floor to include the two highlighted provisions above.

SB 2214

Schwertner: State fiscal matters related to health and human services and state agencies administering health and human services programs.

Applies to a state agency receiving appropriations in **Article II** of the budget. Notwithstanding any other state law, the state agency to which this law applies is authorized to reduce or recover expenditures by:

- (1) consolidating any reports or publications the agency is required to make and filing or delivering any of those reports or publications exclusively by electronic means;
- (2) extending the effective period of any license, permit, or registration the agency grants or administers [\[covered, in part at least for certain LTC Medicaid programs, via HB 2025 which passed\]](#);
- (3) contracting with another governmental entity or private vendor to carry out any agency duties [\[addressed, in part, in the Cost Containment Rider in SB 1\]](#);
- (4) **adopting additional eligibility requirements** for persons who receive benefits under any law the agency administers to ensure that those **benefits are received by the most deserving persons** consistent with the purposes for which the benefits are provided;
- (5) providing that any communication between the agency and another person and any document required to be delivered to or by the agency, including any application, notice, billing statement, receipt, or certificate, may be made or delivered by e-mail or through the Internet [\[directed in HB 630 and HB 462 that passed\]](#) and
- (6) **adopting & collecting fees or charges** to cover costs agency incurs performing its lawful functions.
- (7) **modifying and streamlining processes used in:** a) **the conduct of eligibility determinations for programs** under Chapter 62, Human Resources Code (CHIP); Chapter 31 Human Resources Code (Medicaid program); Chapter 33, Human Resources Code (SNAP); and Chapter 533 (Texas Medicaid program) by or under the direction of HHSC; b) provision of services under DFPS, DADS, children and other persons with disabilities under HHSC, and other services provided or programs operated by HHSC or a health and human services agency defined under Section 531.001, Government Code.

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NOTES: a) SB 2214 did not pass (was never even heard in the Senate Committee to which it was first referred). As noted in the bill's summary on page 5 via text in blue and brackets, several of the provisions were addressed, in part, through bills that did pass. b) It is important to note that the Cost Containment Rider in SB 1 includes language similar to several of the provisions in SB 2214 as well as provisions in SB 2213 (Huffman), which also did not pass. As the result, it is assumed HHSC could move forward with the provisions in both bills through **the directive in the Cost Containment Rider that requires HHSC to implement additional initiatives and programmatic efficiencies it identifies.**

SB 2021

Zaffirini: Relating to wage requirements for community rehabilitation programs participating in the purchasing from people with disabilities program. [Companion [HB 2409](#) - Raney]

SB 602

Hinojosa: Relating to establishment of a restructuring commission to evaluate the SSLCs.

In brief, and given declining populations, rapidly increasing costs, and inconsistent quality of care, the bill establishes the SSLC Restructuring Commission to develop recommendations on the number and location of SSLCs needed in Texas and submit to the key state elected leadership not later than 12/1/2018. The 86th Legislature is charged with reviewing the Restructuring Commission's report and voting, via legislation, on whether to accept its recommendations for closure(s). The bill caps the number of closures at 5. Proceeds from the closure of any SSLC, including the sale or lease of a center's facilities or other property, are only be appropriated for services for persons with IDD. If the 86th Legislature passes legislation to close one or more SSLCs, HHSC must develop a closure plan for each SSLC to be closed that provides for the closure(s) not later than August 31, 2023.

SB 455

Zaffirini: Relating to the operations of the Employment-First Task Force.

Extends the duration of the task force from 2017 to 2021 to allow more time for the task force to achieve the goals laid out for it in the authorizing legislation of 2013. It also requires the task force to provide guidance and assistance to state agencies regarding the implementation of Employment First policies and would reflect organizational changes within current member agencies.

NOTE: This bill passed the Senate and the House Human Services Committee, but did not pass to 3rd reading on the House Floor. See votes below.

RV# 1694 — Unofficial Totals: 64 Yeas, 82 Nays, 2 Present, not voting

Yeas - Allen; Alonzo; Alvarado; Anchia; Arévalo; Bernal; Blanco; Canales; Coleman; Collier; Cortez; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Farrar; Frank; Gervin-Hawkins; Giddings; González; Gooden; Guerra; Guillen; Gutierrez; Hernandez; Herrero; Hinojosa; Howard; Huberty; Israel; Johnson, E.; Johnson, J.; King, T.; Klick; Larson; Longoria; Lucio; Martinez; Minjarez; Moody; Muñoz; Neave; Nevárez; Oliveira; Ortega; Paddie; Perez; Pickett; Price; Raymond; Reynolds; Rodriguez, E.; Rodriguez, J.; Romero; Rose; Thierry; Thompson, S.; Turner; Uresti; Vo; Walle; White; Wu

Nays - Anderson, C.; Anderson, R.; Ashby; Bailes; Bell; Biedermann; Bohac; Bonnen, D.; Bonnen, G.; Burkett; Burns; Burrows; Button; Cain; Capriglione; Cook; Cospers; Craddick; Cyrier; Dale; Darby; Dean; Elkins; Faircloth; Fallon; Flynn; Frullo; Geren; Goldman; Gonzales; Hefner; Holland; Hunter; Isaac; Keough; King, K.; King, P.; Koop; Krause; Kuempel; Lambert; Landgraf; Lang; Laubenberg; Leach; Lozano; Meyer; Miller; Morrison; Murphy; Murr; Oliverson; Parker; Paul; Phelan; Phillips; Raney; Rinaldi; Roberts; Sanford; Schaefer; Schofield; Schubert; Shaheen; Sheffield; Shine; Simmons; Smithee; Springer; Stephenson; Stickland; Stucky; Swanson; Thompson, E.; Tinderholt; VanDeaver; Villalba; Wilson; Workman; Wray; Zedler; Zerwas

Present, not voting – Kacal (C); Mr. Speaker; Absent, Excused - Metcalf