



Hogg Foundation for Mental Health

ADVANCING RECOVERY AND WELLNESS IN TEXAS

Texas 83rd Legislative Session:

Summary of Mental Health-Related Legislation

The 83rd Texas legislative session saw a restoration of funds for a number of critical health and human service programs. The Department of State Health Services (DSHS) received a sorely needed investment of nearly \$350 million above last biennium's budget for a variety of new and expanded mental health services. Many of DSHS's exceptional item requests were incorporated into SB 1, including funds for infrastructure repairs, services targeting people on the waiting list for community-based mental health treatment and a supportive housing program for people with serious mental illness. Legislators also appropriated funds to DSHS over and above the agency's initial request. Some of the new and expanded projects include a public awareness campaign, an initiative to assist Texas veterans, state-wide expansion of the Youth Empowerment Services waiver, a jail-diversion pilot program in Harris County, and a grant program for local collaborative projects.

While additional state funds and any accompanying federal match represent an important step forward, legislators failed to pass any Medicaid expansion initiatives -- likely the biggest opportunity of the 83rd legislative session for promoting access to care. The Texas Health and Human Services Commission (HHSC) estimated that an investment of \$1.34 billion over the next three years to expand Medicaid under the guidelines of the Affordable Care Act (ACA) would have pulled down an additional \$23.94 billion in federal funds for low-income Texans.¹ Foregoing this opportunity leaves many low-income, childless adults with mental health conditions without needed medical care. Additionally, due to language in the ACA, these individuals are likely not eligible for the insurance subsidies.

Mental Health Funding

Dept. of State Health Services (DSHS) Mental Health Strategies	Current Budget for 2012/2013 Biennium	SB 1 2014/2015 Biennium	Difference
B.2.1 Mental Health – Adults	\$553,129,071	\$664,999,081	\$111,870,010
B.2.2 Mental Health – Children	\$153,465,918	\$200,976,804	\$47,510,886
B.2.3 Community Mental Health Crisis	\$164,953,850	\$221,182,624	\$56,228,774
B.2.4 NorthSTAR Behavioral Health	\$225,224,965	\$226,593,318	\$1,368,353
B.2.5 Substance Abuse Prevention/Treatment	\$283,285,699	\$315,625,153	\$32,339,454
C.1.3 State Mental Health Hospitals	\$783,400,983	\$835,796,441	\$52,395,458
C.2.1 Community Mental Health Hospitals	\$107,406,192	\$153,140,973	\$45,734,781
Total	\$2,270,866,678	\$2,618,314,394	\$347,447,716*

*Includes new and expanded projects and adjustments to baseline budgets.

Summary of Funding for New and Expanded Projects²

Description of New/Expanded Item	Appropriated Funds
Exceptional Item 1a. Cameras – Funds for cameras at state hospitals to increase patient safety.	CAP Authority
Exceptional Item 1b. Victory Field – Funds to renovate Victory Field at North Texas State Hospital's Vernon Campus to relocate adolescent forensic program.	\$4,429,436
Exceptional Item 1c. Resident Stipends – Provides resident stipends for resident physicians to complete a portion of training in the Texas public mental health system.	\$2,000,000
Exceptional Item 4. Hospital Facilities – bonds – Funds the repair and renovation of aging state hospital facilities and their infrastructure.	\$10,000,000
Exceptional Item 6b. Adult Waiting List – Fully funds services for adults on the waiting list for community-based services as of May 2012.	\$46,103,128
Exceptional Item 6c. Children Waiting List – Fully funds services for children on: 1) the waiting list for community-based mental health services as of May 2012 and 2) the waiting list for the Children with Special Health Care Needs program.	\$2,095,600
Exceptional Item 7a. Substance Abuse Capacity Expansion – Allows DSHS to serve more people with substance abuse conditions.	\$4,941,828
Exceptional Item 7b. Substance Abuse Provider Rates – Increases rates for providers of substance abuse services.	\$10,696,479
Exceptional Item 7c. Set asides for DFPS Clients – Creates additional capacity to serve individuals referred to DSHS for substance abuse services from DFPS.	\$10,136,707
Exceptional Item 8a. Oxford Housing – Supportive housing program for people with substance abuse conditions.	\$1,140,000
Exceptional Item 8b. Relinquishment Prevention – Funds 10 beds in private residential treatment centers (RTC) for young people who are at risk of being relinquished to state custody in order to receive mental health services.	\$2,056,262
Exceptional Item 8c. Rental Assistance and Intensive Community Supports – Supportive housing for people with serious mental illness who are homeless or at-risk of homelessness. Provides state general revenue match for Medicaid state plan amendment that will allow DSHS to provide intensive mental health services in combination with affordable housing.	\$24,840,940
Hospital Repairs (HB 1025) – Funds for necessary repairs at state psychiatric hospitals.	\$20,000,000
Public Awareness Campaign – Funds for a campaign to raise awareness of mental health conditions and the need for early identification and treatment.	\$1,600,000
Prevention and Early Identification – Funds to support DSHS's effort to provide early identification and prevention-focused treatment.	\$5,000,000
Crisis Services – Additional funds for crisis services.	\$25,000,000
Mental Health Treatment – non-waiver – Funds to expand capacity to account for expected increase in demand for services.	\$20,000,000
Youth Empowerment Services (YES) Waiver Expansion – Funds statewide expansion of the YES waiver, a program that provides intensive community behavioral health services to young people with serious emotional disturbance,	\$58,611,348
Collaborative Projects – Grant program for public-private partnerships seeking support for projects that serve people experiencing homelessness in the 5 largest metropolitan areas of Texas. The collaborative entity must provide matching funds to secure state money.	\$25,000,000
Underserved – Local Mental Health Authorities – Funds for underserved populations in LMHA catchment areas throughout Texas.	\$17,000,000
Underserved – NorthSTAR – Funds for underserved populations in counties under NorthSTAR.	\$6,000,000

Veterans Initiative – Funds for a program serving veterans that emphasizes peer support and access to other mental health professionals.	\$4,000,000
Harris County Private Psychiatric Beds – Funds six civil psychiatric beds for people with mental illness requiring inpatient treatment of no longer than 90 days.	\$2,400,000
Harris County Jail Diversion Pilot Program – Funds to support the creation of a local mental health jail diversion pilot program.	\$10,000,000
Jail-Based Competency Restoration Pilot Programs – Funds up to two jail-based competency restoration pilot programs to serve people who are incompetent to stand trial due to a mental health condition (SB 1475).	\$3,050,250

Mental Health Riders

Health and Human Services Commission (HHSC) Mental Health Riders	
Rider 68	Health Homes Health Teams State Plan Amendment Allows HHSC to apply for approval of a State Plan Amendment to authorize Medicaid reimbursement for patient-centered care to individuals who are chronically homeless.
Rider 82	Statewide Mental Health Service Coordination Directs HHSC to allocate one full-time equivalent (FTE) executive-level position, directly reporting to HHSC's executive commissioner, to consult with state agencies and local governments to oversee mental health coordination statewide.
Rider 87	The Center for Elimination of Disproportionality and Disparities (CEDD) Allocates funds to the CEDD to advise each agency involved in health and human services, education, juvenile justice, child welfare and mental health on the implementation of cultural competency trainings and development of community partnerships to support delivery of culturally competent services.
Dept. of State Health Services (DSHS) Mental Health Riders	
Rider 43	Mentally Ill Offender Screening Directs DSHS and community centers to identify, collect and report data on individuals in the criminal justice system with mental health conditions. Requires reporting to the Legislative Budget Board.
Rider 58	Behavioral Health Data Collection and Reporting Directs DSHS to improve the measurement, collection and reporting of outcome data for individuals who are medically indigent and individuals enrolled in Medicaid receiving publically funded behavioral health services. Requires the commission to conduct a comparative analysis of publicly funded behavioral health systems in Texas that serve medically indigent persons and Medicaid clients, and submit a report on the study findings to the Legislative Budget Board and the governor.
Rider 66	Outpatient Competency Restoration Pilot Programs Directs DSHS to allocate \$4 million in both FY 2014 and FY 2015 to support existing outpatient competency restoration pilot programs.
Rider 70	Local Service Area Planning Directs DSHS to allocate funds to develop performance agreements with LMHAs that address priorities identified through local community needs assessments and expressed in local service plans.
Rider 74	Contingency Rider for SB 1475 Appropriates \$1,307,250 for FY 2014 and \$1,743,000 for FY 2015 to implement the provisions of SB 1475, relating to jail-based restoration competency pilot programs.
Rider 78	Mental Health Outcomes and Accountability Requires DSHS to withhold 10 percent of the quarterly allocation of General Revenue funds for LMHAs to be used for performance based incentive payments. Payment of funds is contingent on achievement of outcome targets set by the department.

Rider 79	Mental Health Appropriations and the 1115 Medicaid Transformation Waiver Requires DSHS to provide \$183,223,978 in General Revenue funds to be used to draw down additional federal funds through the 1115 transformation waiver and other federal matching programs.
Rider 80	1915(c) Youth Empowerment Services (YES) Waiver Expansion Directs HHSC and DSHS to initiate expansion of the 1915(c) YES waiver statewide during the 2014-2015 biennium, contingent on approval from CMS.
Rider 81	Home and Community-Based Services Appropriates funds to develop a Home and Community-Based Services (HCBS) program for adults with complex needs and extended or repeated stays in state inpatient psychiatric hospitals and directs DSHS to seek federal approval for a Medicaid 1915(i) State Plan Amendment to allow federal financial participation in the HCBS program.
Rider 83	State Hospital Long-Term Plan Requires DSHS, in conjunction with DADS, to develop and implement a 10-year plan for the provision of psychiatric inpatient hospitalization to persons served by DSHS. Stipulates what must be considered in the planning process and includes reporting requirements.
Rider 84	Mental Health Children: Prevention and Early Identification Services Directs DSHS to distribute funds through a request for proposals to educate school staff and community members in an evidence-based curriculum focused on awareness of risk factors leading to emotional disturbance or severe mental illness and appropriate interventions.
Rider 85	Mental Health Program Allocation Requires DSHS to appropriate \$43 million in General Revenue over the 2014-2015 biennium to LMHAs and NorthSTAR for the expansion or improvement of community mental health services statewide.
Rider 86	Mental Health Program for Veterans Appropriates \$5 million to DSHS to expand the Mental Health Program for Veterans.
Rider 87	State Hospital Oversight Staffing Requires DSHS to provide a report on data regarding staff turnover at state hospitals and to recommend interventions.
Rider 88	The University of Texas Harris County Psychiatric Center Allows DSHS to spend \$1.2 million in General Revenue to fund six additional civil beds for persons requiring longer-term treatment not exceeding 90 days.
Rider 90	Healthy Community Collaborative Directs DSHS to allocate up to \$25 million to fund grants that serve persons experiencing homelessness and mental illness in a maximum of the five most populated urban municipalities.
Rider 92	Community Mental Health Services Wait List Funding Requires DSHS to appropriate \$48,198,728 to eliminate waiting lists.
Rider 95	Harris County Jail Diversion Pilot Program Requires DSHS to allocate \$5 million for FY 2014 and FY 2015 to implement a mental health jail diversion pilot program in Harris County.
Dept. of Family and Protective Services (DFPS) Mental Health Riders	
Rider 31	CPS Staffing Requires DFPS to provide a recruitment and retention activities report to the LBB, governor and legislatures with jurisdiction over health and human services.
Rider 38	Contingency Rider for HB 915 Appropriates \$500,000 in General Revenue funds for FY 2014 and FY 2015 to implement the provisions of HB 915, relating to the administration and monitoring of certain medication provided to foster children.
Dept. of Aging & Disability Services Riders (DADS) Riders - The following riders impact people dually diagnosed with intellectual disabilities and mental/behavioral health challenges.	
Rider 14	Nursing Facility Beds for Medicaid Eligible Veterans Expresses intent of the Legislature and DADS that, contingent upon a request from the Texas Veterans Land Board, DADS will ensure sufficient certified beds to accommodate the requirements of a program that allows Medicaid eligible veterans to reside in State Veterans Homes.

Rider 16	Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID) Standards Directs DADS to appropriate up to \$5 million in any unexpended funds for the purpose of complying with ICF-IID standards for residential, non-residential, and community based intellectual disabilities services.
Rider 30	Person-Centered Care Pilot Project for Nursing Facilities Directs DADS to allocate an amount not to exceed \$250,000 to implement a person-centered care pilot project modeled on the Rhode Island State Department of Health's Individualized Care Pilot Project that uses the nursing facility inspection process to improve staffs' knowledge and implementation of person-centered practices. DADS must submit a report on the pilot project no later than August 31, 2015.
Rider 39	State Supported Living Center (SSLC) Long-Term Plan Directs DADS, in coordination with DSHS, to develop a 10-year plan for the provision of services to individuals residing in SSLCs, considering cross agency issues impacting both SSLCs and state hospitals.

Health Care Legislation

Legislators continued efforts to move from a fee-for-service model to managed care models of service delivery. SB 7 (Nelson) requires the re-design of Texas's system for acute and long-term services for people with intellectual and developmental disabilities by, among other changes, establishing timelines for IDD services to be incorporated into the state's managed care system. Additionally, SB 58 (Nelson) moves targeted case management and rehabilitative services for Medicaid eligible people with mental health conditions under a managed care model and encourages greater integration of physical and behavioral health services. As stated above, legislative efforts to expand the Medicaid eligible population as permitted under the Affordable Care Act were not successful.

Passed	Author(s) and Description	Summary
SB 7	Nelson – <i>Relating to improving the delivery and quality of certain health and human services, including the delivery and quality of Medicaid acute care services and long-term services and supports.</i>	<ul style="list-style-type: none"> • Provides direction on the re-design of the system of acute care services and long-term services and supports for individuals with intellectual and other developmental disabilities – including options for expanding the use of managed care for the provision of services. • Requires HHSC to provide all Medicaid acute care services through the most cost effective capitated managed care program (including services for people receiving 1915(c) Medicaid waiver services who were previously exempt from managed care). • Directs HHSC to develop a cost-effective Medicaid state plan option for the delivery of basic habilitation and attendant services for people with disabilities that maximizes federal funding. This option is available through the Affordable Care Act. • Requires HHSC to expand STAR+Plus statewide. • Carves nursing facility services into the STAR+Plus managed care program. • Creates a new STAR Kids Medicaid managed care program for children with disabilities. • Creates a number of new advisory committees including: STAR+Plus Quality Council, STAR Kids Managed Care Advisory Committee, Intellectual and Developmental Disabilities System Re-design Advisory Committee. • Requires significant new data collection and reporting. • Subject to availability of federal funds, requires development of comprehensive functional assessment and resource allocation process. • Requires exploration of new housing options for individuals with disabilities. • Subject to availability of federal funds, requires development of specialized training programs addressing the mental health needs of individuals with IDD and the establishment of one or more behavioral health intervention teams. Training must include trauma-informed care. • Includes numerous changes to quality improvement programs, performance measures and quality-based payment systems. • Clarifies that LMHAs are permitted to provide services to individuals with mental health conditions other than schizophrenia, bipolar disorder and major depression. <p>Note: SB 7 is complex and includes many details and directives. The above is simply a snapshot of what the bill is intended to do.</p>

SB 45	Zaffirini – <i>Relating to the provision of employment assistance and supported employment to certain Medicaid waiver program participants.</i>	<ul style="list-style-type: none"> Requires HHSC to provide employment assistance and supported employment to participants in the following Medicaid waiver programs: the community based alternatives program, the Community Living Assistance and Support Services program, the Deaf-Blind with Multiple Disabilities program, the Home and Community-based Services program, the Medically Dependent Childrens program, the STAR + PLUS Medicaid managed care program, the Texas Home Living program and the Youth Empowerment Services program.
SB 58	Nelson – <i>Relating to delivery of and reporting on mental health, behavioral health, substance abuse and certain other services.</i>	<ul style="list-style-type: none"> Directs HHSC to integrate physical health services and behavioral health services (including targeted case management and rehabilitative services) into managed care. Must be completed by September 1, 2014. Establishes a Behavioral Health Integration Advisory Committee charged with addressing the planning and development needs of the behavioral health services network established under the bill. Allows the establishment of up to 5 community collaboration grants in the state’s most populous municipalities. Grants are intended to establish or expand community collaborations that bring public and private sectors together to provide services to people experiencing homelessness and mental illness. Contributions from collaboratives must equal the amount of the grant provided under SB 58. Directs HHSC and DSHS to establish and maintain a public reporting system providing performance and outcome measures relating to the provision of mental health and substance abuse services. <p>Note: SB 58 as originally filed only included the provisions relating to integrating physical health and behavioral health into managed care. The community collaboratives and public reporting provisions were initially separate bills. The community collaborative grants are also addressed in DSHS rider #90.</p>
Failed to Pass		
SB 41	Zaffirini – <i>Relating to the administration and provision of consumer-directed services under certain health and human services programs.</i>	<ul style="list-style-type: none"> Would have required HHSC to expand consumer-directed service delivery options across programs (including community-based mental health services) and expand the types of services eligible for consumer direction.
HB 3376	Turner – <i>Relating to expanding eligibility for medical assistance to certain persons under the federal Patient Protection and Affordable Care Act and ensuring the provision of quality care and the effectiveness of the medical assistance program.</i>	<ul style="list-style-type: none"> Would have allowed Texas to expand its Medicaid program in accordance with eligibility criteria outlined in the Patient Protection and Affordable Care Act. Would have required the Commissioner of HHSC to seek a waiver from federal requirements to allow implementation of cost-sharing obligations for newly eligible individuals.
HB 3791	Zerwas – <i>Relating to a “Texas solution” to reforming and addressing issues related to the Medicaid program, including the creation of an alternative program designed to ensure health benefit plan coverage to certain low-income individuals through the private marketplace; authorizing a fee.</i>	<ul style="list-style-type: none"> Would have required HHSC, along with other state agencies, to operate the state’s Medicaid program as a block grant program, if the federal government ever permitted block grant funding. Would have required HHSC in consultation with the Texas Department of Insurance to negotiate with the federal government for flexibility in designing a program based in the private health insurance market for individuals under 133 percent of the federal poverty level and not otherwise eligible for Texas’s current Medicaid program.

General Mental Health-Related Legislation

The 83rd legislative session saw legislators emphasizing the importance of many mental health issues including access to quality services, the rights of individuals living with mental illness and the lack of mental health professionals throughout Texas, particularly in rural parts of the state. As of July 2013, 198 of Texas's 254 counties were designated as health professional shortage areas for mental health.³ HB 1023 (Burkett, Alvarado) is one attempt to remedy this shortage and promote access to care.

Passed	Author(s) and Description	Summary
SB 34	Zaffirini – <i>Relating to the administration of psychoactive medications to persons receiving services in certain facilities.</i>	<ul style="list-style-type: none"> Limits the administration of psychoactive medication to people with intellectual disabilities, (receiving voluntary or involuntary residential care services), to the following conditions: 1) consent has been obtained, 2) a medication-related emergency exists, 3) medication is authorized by an individual appointed by the court to consent to treatment, or 4) a court orders the administration of psychoactive medication after holding a hearing to determine whether the individual has the capacity to consent to treatment.
HB 1023	Burkett, Alvarado – <i>Relating to recommendations by the Health and Human Services Commission or a designated health and human services agency regarding mental health workforce shortages.</i>	<ul style="list-style-type: none"> Requires HHSC or another state agency designated by the commission to use existing information to study and make recommendations regarding mental health workforce shortages in Texas. Requires HHSC to submit a report to the offices of the governor, lieutenant governor, speaker of the house and standing legislative committees no later than September 1, 2014 including specific recommendations to alleviate the mental health workforce shortages.
HB 3793	Coleman – <i>Relating to powers, duties and services of entities serving counties and county residents.</i>	<ul style="list-style-type: none"> Requires DSHS to ensure that LMHAs incorporate jail diversion strategies into their disease management practices. Requires DSHS to plan for the proper and separate allocation of outpatient community-based services and state hospital beds for individuals who seek services voluntarily or are under involuntary civil commitment and individuals under forensic commitment. DSHS must meet with an advisory panel at least monthly to develop the plan and must update the plan biennially. Requires DSHS, through contractual arrangements with LMHAs, to develop a broad base of local community outpatient mental health service providers and inpatient mental health facilities. Establishes two grant programs to provide mental health first aid training to interested individuals and educators throughout Texas.
Failed to Pass		
HB 868	Villareal, Burkett – <i>Relating to exceptions to mental health information disclosure prohibitions.</i>	<ul style="list-style-type: none"> Would have permitted the disclosure of confidential information by a mental health professional to a patient's immediate family or to an identifiable group of persons if the patient communicated to the professional an explicit threat and the mental health professional determined that the individual intended to carry out that threat. Disclosure would only be permitted when necessary to protect the health and safety of the patient or an identifiable group of persons.

Mental Health Code Legislation

In September 2012, Texas Appleseed published a report highlighting the fact that, despite clinical developments and dramatic changes to the public mental health system, Texas's Mental Health Code has not been substantially revised in over 25 years.⁴ The report laid out a number of recommendations for improving the Texas Mental Health Code specifically provisions relating to voluntary and involuntary commitments. Many of these recommendations were proposed during the 83rd legislative session and two bills – SB 718 (West) and HB 1738 (Naishtat, Burkett) – were signed into law.

Passed	Author(s) and Description	Summary
SB 646	Deuell – <i>Relating to court-ordered outpatient mental health services.</i>	<ul style="list-style-type: none"> • Requires a judge ordering outpatient mental health services to identify a person responsible for the implementation of a plan for the provision of those services. This plan must be incorporated into the court order. • Allows individuals who are subject to a court order for outpatient mental health services to petition the court for specific enforcement of that order. • The court may not compel compliance with the program contained in the court order, but may set a modification hearing and issue an order for temporary detention if the court receives information that an individual is not complying with an order. • Not later than December 1, 2016 the Department of State Health Services shall submit a report to the legislature with information about people receiving court-ordered outpatient mental health services and the effectiveness of those services.
SB 718	West – <i>Relating to voluntary and involuntary mental health services.</i>	<ul style="list-style-type: none"> • Allows a person 16 years of age or older to request outpatient mental health services by filing a request with an administrator where outpatient services will be delivered. • Clarifies that for a person 16 years of age or older and younger than 18 years of age, the person's parent, managing conservator or guardian can consent to admission to an inpatient facility or consent to outpatient mental health services on the person's behalf. • A state agency acting as guardian or managing conservator of a person younger than 18 years of age may request inpatient or outpatient mental health services on behalf of that person, but if the person does not consent they can only be admitted for services by a court order, emergency detention or an order for protective custody.
HB 978	Raymond – <i>Relating to the transportation of certain patients to a mental health facility.</i>	<ul style="list-style-type: none"> • Rearranges the list of parties that a judge can designate as responsible for the transportation of an individual under emergency detention or an order for protective custody so that relatives and other responsible persons are the last resort for transportation.
HB 1738	Naishtat, Burkett – <i>Relating to the emergency detention by a peace officer of a person who may have a mental illness, including information provided to the person subject to detention and a standard form of notification of detention to be provided to a facility by the peace officer.</i>	<ul style="list-style-type: none"> • A peace officer who takes an individual into custody under emergency detention shall immediately inform that person of the reason for detention and their right to be informed by a staff member of the mental health facility of their rights within 24 hours after admission. The bill details these rights and gives the Executive Commissioner of HHSC the authority to prescribe the manner by which the person is informed of their rights. • Requires peace officers to file a notification of detention with the mental health facility. The bill contains the standard notification of detention form. The mental health facility shall temporarily accept the individual and may not require the peace officer to fill out any additional forms.
Failed to Pass		
SB 36	Zaffirini – <i>Relating to the detention and transportation of a person with a mental illness.</i>	<ul style="list-style-type: none"> • Would have clarified the definition of "hazardous weather" and required the sheriff or other office holder to document certain information relating to people held in jails or other similar detention facilities under emergency detention or order of protective custody during hazardous weather situations. • Would have limited restraint of an individual under emergency detention or order of protective custody during transportation to methods that permit the individual to sit in an upright position without difficulty.
SB 250	West – <i>Relating to the requirement of using certain technology to conduct certain mental health hearings or proceedings.</i>	<ul style="list-style-type: none"> • Would have permitted teleconference hearings for civil commitment only when the individual was in the same location as his/her attorney for the hearing or proceedings.

SB 937	West, Zaffirini – <i>Relating to the authority of a peace officer to apprehend a person for emergency detention and the authority of certain facilities to temporarily detain a person with a mental illness.</i>	<ul style="list-style-type: none"> • Would have stipulated the conditions under which a hospital or emergency department could temporarily hold (up to 4 hours) a person who voluntarily sought treatment at a facility and later requested to leave or lacks the capacity to consent to treatment.
HB 1947	Burkett, Naishtat, N. Gonzalez – <i>Relating to the criteria for commitment of a person with mental illness.</i>	<ul style="list-style-type: none"> • Would have changed the definition of “gravely disabled” for the purposes of emergency detention and civil commitment.
Other bills that failed to pass related to the Mental Health Code: HB 245 (Menendez), HB 1856 (Burkett), HB 2618 (Naishtat), HB 3731 (Coleman)		

Criminal Justice Legislation

Legislators also addressed a number of mental health concerns within the criminal justice system during the 83rd legislative session. SB 1475 (Duncan) authorizes the creation of up to two pilot programs that will deliver competency restoration services in county jails for people who would otherwise receive those services in state hospital settings. SB 1003 (Carona) is an attempt to shed light on Texas’s use of administrative segregation in both juvenile and adult correctional settings. Administrative segregation is a disciplinary strategy in which incarcerated individuals who are considered dangerous to themselves, other inmates or staff are held in an isolated cell for up to 23 hours a day. People with mental health conditions are overrepresented in this population and the practice itself can have long-term effects on an inmate’s mental health.⁵

Passed	Author(s) and Description	Summary
SB 213	Whitmire, Nichols – <i>Relating to the continuation and functions of the Texas Board of Criminal Justice and Texas Department of Criminal Justice, and the Windham School District and to the functions of the Board of Pardons and Paroles and the Correctional Managed Health Care Committee.</i>	<ul style="list-style-type: none"> • Extends Sunset Review of the Texas Board of Criminal Justice and the Texas Department of Criminal Justice (TDCJ) to 2021. • Makes numerous changes to reentry and reintegration service delivery by TDCJ and related agencies. For individuals seeking parole, the department is now required to develop and submit an individual treatment plan to the Board of Pardons and Paroles before the board considers the inmate’s release. Also requires local Community Justice Assistance Departments to utilize the risk and needs assessment instrument developed by TDCJ upon placement of an individual in a community supervision program. • Changes composition of Correctional Managed Health Care Committee to include two licensed mental health professionals appointed by the governor. • Gives TDCJ the authority to establish a managed health care provider network of physicians and hospitals to provide health care to people confined by TDCJ and sets out requirements for these contracts. <p>Note: SB 213 is complex and includes many details and directives. The above is simply a summary of the mental health aspects of the bill.</p>

SB 1003	Carona – <i>Relating to a review of and report regarding the use of adult and juvenile administrative segregation in facilities in this state.</i>	<ul style="list-style-type: none"> • Requires the Texas Juvenile Justice Department (TJJD) to collect data about the number of placements in disciplinary seclusion lasting at least 90 minutes. • Subject to the availability of funds from gifts, grants and donations, the Criminal Justice Legislative Oversight Committee shall appoint an independent third party to conduct a review of adult and juvenile administrative segregation practices. • If awarded funds, the third party shall provide a report no later than December 31, 2014 with findings and recommendations to reduce the administrative segregation population, divert adults and juveniles with mental illness from administrative segregation and decrease the length of time adults and juveniles spend in administrative segregation.
SB 1185	Huffman – <i>Relating to the creation of a mental health jail diversion pilot program.</i>	<ul style="list-style-type: none"> • Creates a mental health jail diversion pilot program in Harris County that will serve no fewer than 500 or more than 600 individuals.
SB 1475	Duncan – <i>Relating to a jail-based restoration of competency pilot program.</i>	<ul style="list-style-type: none"> • Authorizes the provision of competency restoration services in a jail-based competency restoration pilot program for individuals who otherwise would be committed to a mental health facility or residential care facility for those services. • Authorizes DSHS to contract with public or private providers of jail-based competency restoration services for pilot programs in up to two counties. • The Executive Commissioner of DSHS shall establish a stakeholder workgroup to participate in the development of rules for the pilot program. • Sets out conditions for the operation of a jail-based competency restoration pilot program, including: (1) requirement of two full psychiatric evaluations not later than the 21st day and 55th day of participation in the pilot program, (2) reporting requirements upon psychiatrist's determination of competency restoration or that the individual is unlikely to be restored, (3) requirements upon failure to restore competency within 60 days.
HB 705	Howard, Schaefer, Hughes, Moody, Toth – <i>Relating to the definition of emergency services personnel for purposes of the enhanced penalty prescribed for an assault committed against a person providing services in that capacity.</i>	<ul style="list-style-type: none"> • Amends the definition of "emergency services personnel" to include "emergency room personnel." Assault against emergency services personnel is a 3rd degree felony, rather than a Class A misdemeanor.
Failed to Pass		
HB 37	Menendez – <i>Relating to ensuring the continuation of certain public benefits, including medical assistance, for individuals after release from confinement in a county jail.</i>	<ul style="list-style-type: none"> • Would have automatically reinstated Medicaid enrollment upon release of an individual from county jail, provided the individual's eligibility certification period had not lapsed. Medical assistance is temporarily suspended when an individual is incarcerated in a county jail on accusation or conviction of an offense. • Would have required county sheriffs to notify certain federal government agencies associated with the Medicaid program.
HB 1070	Allen – <i>Relating to the expunction of certain alcohol and drug related offenses following successful treatment in rehabilitation.</i>	<ul style="list-style-type: none"> • Would have given individuals placed under arrest for alcohol and drug-related offenses the ability to petition a district court to have all records and files related to the arrest expunged contingent on the individual's completion of a number of conditions.
HB 1109	Burkett, Rose – <i>Relating to peace officer interaction with persons with mental illness.</i>	<ul style="list-style-type: none"> • Would have required peace officers to attempt to determine if a person involved in an emergency call situation had a mental illness and would have clarified the options available to peace officers upon responding to these calls.

HB 3532	Rose – <i>Relating to resuming a criminal case after a defendant is determined to be competent to stand trial.</i>	<ul style="list-style-type: none"> • Would have required the court to notify attorneys representing defendants within 24 hours after the defendant had been returned to jail after receiving competency restoration services. Would have required attorneys to meet with these defendants within three days. • Would have required criminal proceedings to begin within 14 days after the court’s determination that a defendant had been restored to competency.
HB 3765	Coleman – <i>Relating to the insanity defense in a criminal case.</i>	<ul style="list-style-type: none"> • Would have made it an affirmative defense to any prosecution that an individual did not “appreciate,” rather than “know,” that their conduct was either legally or morally wrong.

Juvenile Justice Legislation

Just two years after the creation of the Texas Juvenile Justice Department (TJJD), legislators appear to be pushing forward with an attempt to rely less on state-run facilities for housing juvenile offenders and to increase utilization of local resources. SB 511 (Whitmire) allows Travis County to commit young people who would otherwise be eligible for placement in a state-run facility to county-run post-adjudication facilities. Many advocates remain concerned about the availability of quality programs and services through local juvenile probation departments.

Passed	Author(s) and Description	Summary
SB 393	West – <i>Relating to the criminal procedures related to children who commit certain Class C misdemeanors.</i>	<ul style="list-style-type: none"> • Allows a defendant who at the time of conviction of a Class C misdemeanor is at least 10 years old and younger than 17 years old to discharge the fine and costs by performing community service or by receiving tutoring. • Refers young people facing Class C misdemeanor charges to juvenile court if a previous complaint was dismissed because of a determination of mental illness, disability or lack of capacity. • Requires courts to dismiss a complaint if the court determines that there is probable cause to believe that a young person facing potential Class C misdemeanor charges lacks capacity to understand the proceedings or lacks substantial capacity to either appreciate the wrongfulness of the conduct or to conform their conduct to the requirements of the law.
SB 511	Whitmire – <i>Relating to the commitment of certain juveniles to local post-adjudication secure correctional facilities in certain counties and to the release under supervision of those juveniles.</i>	<ul style="list-style-type: none"> • Allows Travis County to commit young people who would otherwise be eligible for commitment to state-run juvenile justice facilities to post-adjudication secure correctional facilities that are operated by or under contract with the juvenile board or local juvenile probation department.
SB 1356	Van de Putte – <i>Relating to human trafficking and its victims and the care of juveniles who have experienced traumatic events.</i>	<ul style="list-style-type: none"> • Requires the board of TJJD to implement and oversee trauma-informed care training for juvenile probation officers, juvenile supervision officers and court-supervised community-based program personnel. • Requires TJJD to evaluate the practices of juvenile probation departments for the early identification of young people who are victims of sex trafficking.
HB 144	Raymond – <i>Relating to a mental examination of a child subject to the juvenile justice system.</i>	<ul style="list-style-type: none"> • Adds chemical dependency as a condition for which an individual can receive an examination by a disinterested expert. • Allows parents and guardians to request evaluations for mental illness, intellectual disability and chemical dependency.
Failed to Pass		
HB 917	Walle – <i>Relating to education and training for certain school district peace officers and school resource officers.</i>	<ul style="list-style-type: none"> • Would have required officers to complete a 24-hour or longer education and training program approved by HHSC in order to continue service as a school district peace officer or school resource officer for longer than a 90-day period.

SB 1706	Rodriguez – <i>Relating to mental health in juvenile cases.</i>	<ul style="list-style-type: none"> • Would have allowed a young person determined unfit to proceed in juvenile court proceedings as a result of mental illness or intellectual disability to be placed in an inpatient psychiatric facility or a facility designated by DADS on application by the child’s parent or guardian for a period not exceeding 90 days.
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Child Welfare

A 2011 United States Government Accountability Office report indicated that 32.2 percent of children in Texas’s foster care system were prescribed psychotropic medications, compared with just 7.1 percent of children in the general population.⁶ In response to this report and a lawsuit regarding the effects of psychotropic medications on permanency planning, a number of bills demanding greater oversight and accountability were proposed during the 83rd legislative session. HB 915 (Kolhkorst) adds to an ongoing effort to end the overprescription of psychotropic medications by making critical changes to Texas’s Family and Government codes. Additionally, in an attempt to prevent parental relinquishment of a child to the department in order to obtain intensive mental health services, Senator Zaffirini authored SB 44 requiring the state to discuss the option of joint custody with parents considering relinquishment, conduct a study and develop recommendations to prevent relinquishment, and collect and report relinquishment data.

Passed	Author(s) and Description	Summary
SB 44	Zaffirini – <i>Relating to maintaining and reporting certain information regarding certain child abuse or neglect cases and the provision of mental health services for children in those cases.</i>	<ul style="list-style-type: none"> • Charges the Council on Children and Families with making recommendations for preventing the practice of putting names on the central abuse and neglect registry when child relinquishment is solely for the purpose of obtaining mental health services. • Requires the Department of Family and Protective Services (DFPS) to consider and inform parents (if in the best interest of the child) of the option of joint conservatorship when a child is relinquished to access mental health services. • Requires DFPS and DSHS to jointly study, develop and implement (at the discretion of the Commissioner) changes needed to prevent child relinquishment. • Requires annual reporting and data collection.
SB 49	Zaffirini – <i>Relating to transitional living assistance and appropriate care settings for children with disabilities who reside in general residential operations.</i>	<ul style="list-style-type: none"> • Requires health and human service agencies to presume that children with developmental disabilities residing in general residential operations (GROs) licensed by DFPS are eligible for community services as defined by the state Promoting Independence Plan.
SB 421	Zaffirini – <i>Relating to the Texas System of Care and the development of local mental health systems of care for certain children.</i>	<ul style="list-style-type: none"> • Directs the expansion of the Texas System of Care Consortium to have responsibility for and oversight of state systems of care and to develop local systems of care to address the needs of minors who are receiving residential mental health services or at risk of institutionalization. • Modifies the composition of the consortium to include youth and families. • Requires the consortium to submit a report to the legislature and Council on Children and Families that includes outcomes and recommendations for strengthening local systems of care.
HB 748	Raymond – <i>Relating to a waiver allowing DFPS to use certain federal funds to test innovation strategies in child welfare programs.</i>	<ul style="list-style-type: none"> • Requires DFPS to actively pursue a waiver to allow the department to use federal funds to conduct demonstration projects that reduce time a young person spends in foster care, increase the well-being of infants, children and youth, prevent child abuse and neglect, and prevent the reentry of children into foster care.

HB 915	Kolkhorst – <i>Relating to the administration and monitoring of health care provided to foster children.</i>	<ul style="list-style-type: none"> • Requires guardians and attorneys <i>ad litem</i> to review medical care provided to a child and to obtain the child's opinion of the medical care they've received during certain proceedings. Attorneys <i>ad litem</i> have the additional responsibility of advising a young person at least 16 years of age of their right to request that the court authorize the young person to consent to all medical care. • Adds that a court, during permanency planning and placement review hearings, must (1) review medical care that the young person has received, (2) elicit the young person's opinion of that care, (3) determine if appropriate psychosocial therapies, behavior strategies and other non-pharmacological interventions have been rendered to the person receiving psychotropic medications, and (4) determine if the young person has been seen by the prescribing physician at least once every 90 days for review. • Requires that all transition plans for young people receiving medication exiting the foster care system contain provisions to assist the young person in managing the use of medication. • Establishes requirements for obtaining valid consent to psychotropic medication from a young person in the foster care system. • Requires DFPS to notify parents of children in the foster care system of the initial prescription of psychotropic medications as well as any change in dosage.
Failed to Pass		
HB 473	Turner – <i>Relating to the provision under the medical assistance program of certain medications to children younger than five years of age.</i>	<ul style="list-style-type: none"> • Would have required HHSC to ensure that a managed care organization providing prescription drugs under Texas's Medicaid program obtain prior authorization before providing antipsychotic or neuroleptic medication to a child younger than 5 years of age. • Sets out criteria that HHSC and managed care organizations would have had to consider before authorizing the prescription of antipsychotic and neuroleptic drugs.
HB 1143	Strama – <i>Relating to certain assessments for children in the conservatorship of the state.</i>	<ul style="list-style-type: none"> • Would have required a comprehensive psychosocial assessment, including a screening for trauma, no later than 45 days after a young person enters the conservatorship of DFPS.

Education

Legislators passed a number of bills aimed at identifying students experiencing mental health challenges and providing preventive treatment through school-based initiatives. SB 460 (Deuell) will help train new teachers to better identify mental health conditions and, where appropriate, intervene or notify the child's parent or guardian. SB 831 (Taylor) offers school districts a variety of more systemic approaches to identifying children with behavioral health conditions but does not go so far as to require their implementation. Public education received some of the deepest funding cuts during the 82nd legislative session and only a portion of those funds were restored in 2013.

Passed	Author(s) and Description	Summary
SB 460	Deuell – <i>Relating to training for public school teachers in the detection and education of students at risk for suicide or with other mental or emotional disorders and the inclusion of mental health concerns in coordinated school health efforts.</i>	<ul style="list-style-type: none"> • Requires educators to receive instruction on detecting mental or emotional disorders in students as part of training for an education certificate. The instruction will be developed by a panel of experts appointed by the Board of Educator Certification and will include information on the characteristics of mental and emotional disorders, intervention strategies, educational techniques and appropriate methods on notifying a child's guardian.

SB 831	Taylor – <i>Relating to a list of mental health, substance abuse and suicide prevention programs that may be selected for implementation by public schools.</i>	<ul style="list-style-type: none"> Requires DSHS to provide a list of recommended best-practice based programs in mental health promotion, positive youth development, substance abuse prevention and intervention, early mental health intervention and suicide prevention for implementation in public elementary, junior high, middle and high schools throughout Texas. Directs DSHS to coordinate with the Texas Education Agency (TEA) and regional education service centers to annually update the list of programs and make the list publically available.
SB 914	Lucio – <i>Relating to a behavior improvement plan or a behavioral intervention plan adopted for certain students with an individualized education program.</i>	<ul style="list-style-type: none"> Allows the committee that develops an individualized education program for a student enrolled in a school district's special education program to determine whether a behavior improvement plan or a behavioral intervention plan is appropriate for the student. If the committee determines that a behavior improvement plan or a behavioral intervention plan is appropriate for the student, it will be included as part of the student's individualized education program and provided to each teacher responsible for educating the student.
HB 617	Rodriguez, Ratliff, Gonzales, Alvarado, Lucio – <i>Relating to transition and employment services for public school students enrolled in special education programs.</i>	<ul style="list-style-type: none"> Directs the commissioner of TEA to require all school districts to identify at least one employee to serve as the district's designee on transition and employment services for students in special education programs. The designated employee is required to provide information and resources about effective transition planning and services and interagency coordination to ensure that local school staff communicate and collaborate with students enrolled in special education programs and their parents and with local and regional staff of various state health and human services agencies. Requires the commissioner to develop minimum training guidelines for the designated employee. Requires TEA in collaboration with HHSC to develop a transition and employment guide by September 1, 2014 for students enrolled in special education and their parents.
HB 1952	Thompson – <i>Relating to professional development training for certain public school personnel regarding student disciplinary procedures.</i>	<ul style="list-style-type: none"> Directs principals, or administrators who oversee student discipline, to attend professional development training at least once every three years that includes training relating to the distinction between a discipline management technique used at the principal's discretion and the discretionary authority of a teacher to remove a disruptive student.
Failed to Pass		
HB 280	Lucio – <i>Relating to the use of public school counselors' work time.</i>	<ul style="list-style-type: none"> Would have required the board of trustees of each school district to adopt a policy requiring school counselors to spend no more than 10 percent of their total work time on duties that are not components of the counseling or guidance program. Time spent on administering assessments or interpreting data from assessments is not considered counseling or guidance time.

For More Information

For additional information about this report, please contact Colleen Horton, program officer, at colleen.horton@austin.utexas.edu. To review actual legislation, go to www.capitol.state.tx.us.

¹ Dunkelberg, Anne. (2013, February 21). *Medicaid Expansion Resource Guide: All the Latest on the Costs and Benefits for Texas*. Retrieved from http://forabettertexas.org/images/HC_2013_02_PP_MedicaidExpansion.pdf

² Lakey, David & Wheller, Bill. (2013, February 13). Presentation to the House Appropriations Committee: Article II Subcommittee.

³ Health Resources and Services Administration. (accessed 2013, July 23). Health Professional Shortage Areas (HPSA) and Medically Underserved Areas/Populations (MUA/P). <http://hpsafind.hrsa.gov/HPSASearch.aspx>.

⁴ Texas Appleseed. (September 2012). Updating the Texas Mental Health Code: A Response to Decades of Dramatic Change in Texas' Mental Health System. Retrieved from http://www.texasappleseed.net/index.php?option=com_docman&task=doc_download&gid=855&Itemid=

⁵ Texas Interfaith Center for Public Policy. (accessed 2013, July 16). *Administrative Segregation*. <http://www.texasinterfaithcenter.org/content/criminal-justice/administrative-segregation>

⁶ United States Government Accountability Office. (2011, December 1). Foster Children: HHS Guidance Could Help States Improve Oversight of Psychotropic Prescriptions. Retrieved from <http://gao.gov/assets/590/586571.html>