

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE I. HEALTH AND HUMAN SERVICES

CHAPTER 546. LONG-TERM CARE AND SUPPORT OPTIONS FOR INDIVIDUALS
WITH DISABILITIES AND ELDERLY INDIVIDUALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 546.0001. DEFINITIONS. In this chapter:

(1) "ICF-IID" and "local intellectual and developmental disability authority" have the meanings assigned by Section 531.002, Health and Safety Code.

(2) "Recipient" means a Medicaid recipient.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0002. LONG-TERM CARE PLAN; COORDINATION OF SERVICES. (a) In this section, "long-term care" means the provision of health care, personal care, and assistance related to health and social services over a sustained period to individuals of all ages and their families, regardless of the setting in which the care is provided.

(b) In conjunction with appropriate state agencies, the executive commissioner shall develop a plan for access to individualized long-term care services for individuals with functional limitations or medical needs and their families that assists those individuals in achieving and maintaining the greatest possible independence, autonomy, and quality of life.

(c) The guiding principles and goals of the plan that focus on the individual and the individual's family must:

(1) recognize that it is the policy of this state that:

(A) children should grow up in families; and

(B) individuals with disabilities and elderly individuals should reside in the setting of their choice; and

(2) ensure that an individual needing assistance and the individual's family will have:

(A) the maximum possible control over their

services;

(B) a choice of a broad, comprehensive array of services designed to meet individual needs; and

(C) the easiest possible access to appropriate care and support, regardless of the area of this state in which they reside.

(d) The guiding principles and goals of the plan that focus on services and delivery of those services by the state must:

(1) emphasize the development of home-based and community-based services and housing alternatives to complement the long-term care services already in existence;

(2) ensure that the services will be of the highest possible quality, with a minimum amount of regulation, structure, and complexity at the service level;

(3) recognize that maximum independence and autonomy represent major goals, and with those comes a certain degree of risk;

(4) maximize resources to the greatest extent possible, with the consumer receiving only the services that the consumer prefers and that are indicated by a functional needs assessment; and

(5) structure the service delivery system to support these goals, ensuring that any necessary system complexity is at the administrative level rather than at the client level.

(e) The commission shall coordinate state services to ensure that:

(1) the roles and responsibilities of agencies providing long-term care are clarified; and

(2) duplication of services and resources is minimized.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0003. EMPLOYMENT-FIRST POLICY. (a) It is the policy of this state that earning a living wage through competitive employment in the general workforce is the priority and preferred outcome for working-age individuals with disabilities who receive

public benefits.

(b) The commission, the Texas Education Agency, and the Texas Workforce Commission shall jointly adopt and implement an employment-first policy in accordance with the state's policy under Subsection (a). The policy must:

(1) affirm that an individual with a disability is able to meet the same employment standards as an individual who does not have a disability;

(2) ensure that all working-age individuals with disabilities, including young adults, are offered factual information regarding employment as an individual with a disability, including the relationship between an individual's earned income and the individual's public benefits;

(3) ensure that individuals with disabilities are given the opportunity to understand and explore options for education or training, including postsecondary, graduate, and postgraduate education, vocational or technical training, or other training, as pathways to employment;

(4) promote the availability and accessibility of individualized training designed to prepare an individual with a disability for the individual's preferred employment;

(5) promote partnerships with employers to overcome barriers in meeting workforce needs with the creative use of technology and innovation;

(6) ensure that staff of public schools, vocational service programs, and community providers are supported and trained to assist in achieving the goal of competitive employment for all individuals with disabilities; and

(7) ensure that competitive employment, while being the priority and preferred outcome, is not required of an individual with a disability to secure or maintain public benefits for which the individual is otherwise eligible.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0004. LONG-TERM CARE INSURANCE AWARENESS AND EDUCATION CAMPAIGN. (a) The commission, in consultation with the

Texas Department of Insurance, shall develop and implement a public awareness and education campaign designed to:

(1) educate the public on:

(A) the cost of long-term care, including the limits of Medicaid eligibility and the limits of Medicare benefits; and

(B) the value and availability of long-term care insurance; and

(2) encourage individuals to obtain long-term care insurance.

(b) The Texas Department of Insurance shall cooperate with and assist the commission in implementing the campaign.

(c) The commission may coordinate the implementation of the campaign with any other state outreach campaign or activity relating to long-term care issues.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER B. CARE SETTINGS AND SERVICE AND SUPPORT OPTIONS

Sec. 546.0051. DEFINITIONS. In this subchapter:

(1) "General residential operation" has the meaning assigned by Section [42.002](#), Human Resources Code.

(2) "Legally authorized representative" has the meaning assigned by Section [241.151](#), Health and Safety Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0052. COMPREHENSIVE PLAN FOR ENSURING APPROPRIATE CARE SETTING FOR INDIVIDUALS WITH DISABILITIES; BIENNIAL REPORT.

(a) The commission and appropriate health and human services agencies shall implement a comprehensive, effectively working plan that provides a system of services and support to foster independence and productivity and provide meaningful opportunities for an individual with a disability to reside in the most appropriate care setting, considering:

(1) the individual's physical, medical, and behavioral

needs;

(2) the least restrictive care setting in which the individual can reside;

(3) the individual's choice of care settings in which to reside;

(4) the availability of state resources; and

(5) the availability of state programs for which the individual qualifies that can assist the individual.

(b) The plan must require appropriate health and human services agencies to:

(1) provide to an individual with a disability residing in an institution or another individual as required by Sections 546.0053 and 546.0054 information regarding care and support options available to the individual with a disability, including community-based services appropriate to that individual's needs;

(2) recognize that certain individuals with disabilities are represented by a legally authorized representative, whom the agencies must include in any decision-making facilitated by the plan's implementation;

(3) facilitate a timely and appropriate transfer of an individual with a disability from an institution to an appropriate community setting if:

(A) the individual chooses to reside in the community;

(B) the individual's treating professionals determine the transfer is appropriate; and

(C) the transfer can be reasonably accommodated, considering this state's available resources and the needs of other individuals with disabilities; and

(4) develop strategies to prevent the unnecessary placement in an institution of an individual with a disability who is:

(A) residing in the community; and

(B) in imminent risk of requiring placement in an institution because of a lack of community services.

(c) In implementing the plan, a health and human services

agency may not deny an eligible individual with a disability access to an institution or remove an eligible individual with a disability from an institution if the individual prefers the type and degree of care provided in the institution and that care is appropriate for the individual. A health and human services agency may deny the individual with a disability access to an institution or remove the individual from an institution to protect the individual's health or safety.

(d) Subject to the availability of funds, each appropriate health and human services agency shall implement the strategies and recommendations under the plan.

(e) To determine the appropriateness of transfers under Subsection (b)(3) and develop the strategies described by Subsection (b)(4), a health and human services agency shall presume that a child residing in a general residential operation is eligible for transfer to an appropriate community-based setting.

(f) To develop the strategies described by Subsection (b)(4), an individual with a mental illness who is admitted to a commission facility for inpatient mental health services three or more times during a 180-day period is presumed to be in imminent risk of requiring placement in an institution. The strategies must be developed in a manner that presumes the individual's eligibility for and the appropriateness of intensive community-based services and support.

(g) Not later than December 1 of each even-numbered year, the executive commissioner shall submit to the governor and the legislature a report on the status of the implementation of the plan. The report must include recommendations on any statutory or other action necessary to implement the plan.

(h) This section does not create a cause of action.
Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0053. INFORMATION AND ASSISTANCE REGARDING CARE AND SUPPORT OPTIONS FOR INDIVIDUALS WITH DISABILITIES. (a) The executive commissioner by rule shall require each health and human services agency to provide to each patient or client of the agency

and to at least one family member of the patient or client, if possible, information regarding all care and support options available to the patient or client, including community-based services appropriate to the patient's or client's needs, before the agency allows the patient or client to be placed in a care setting, including a nursing facility, an intermediate care facility for individuals with an intellectual disability, or a general residential operation for children with an intellectual disability that is licensed by the commission, to receive care or services provided by the agency or by a person under an agreement with the agency.

(b) The rules must require each health and human services agency to provide information about all long-term care and long-term support options available to the patient or client, including community-based options and options available through another agency or a private provider. The information must be provided in a manner designed to maximize the patient's or client's understanding of all available options. If the patient or client has a legally authorized representative, the information must also be provided to that representative. If the patient or client is in the conservatorship of a health and human services agency or the Department of Family and Protective Services, the information must be provided to the patient's or client's agency caseworker and foster parents, if applicable.

(c) A health and human services agency that provides a patient, client, or other individual with information regarding care and support options available to the patient or client shall assist the patient, client, or other individual in taking advantage of an option selected by the patient, client, or other individual, subject to the availability of funds. If the selected option is not immediately available for any reason, the agency shall provide assistance in placing the patient or client on a waiting list for that option.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0054. COMMUNITY LIVING OPTIONS INFORMATION

PROCESS FOR CERTAIN INDIVIDUALS WITH INTELLECTUAL DISABILITY.

(a) In this section, "institution" means:

(1) a residential care facility the commission operates or maintains to provide 24-hour services, including residential services, to individuals with an intellectual disability; or

(2) an ICF-IID.

(b) In addition to providing information regarding care and support options as required by Section 546.0053, the commission shall implement a community living options information process in each institution to inform individuals with an intellectual disability who reside in the institution and the individuals' legally authorized representatives of alternative community living options.

(c) The commission shall:

(1) at least annually provide the information required by Subsection (b) through the community living options information process; and

(2) provide the information at any other time on request by an individual with an intellectual disability who resides in an institution or the individual's legally authorized representative.

(d) If an individual with an intellectual disability residing in an institution or the individual's legally authorized representative indicates a desire to pursue an alternative community living option after receiving the information provided under this section, the commission shall refer the individual or the individual's legally authorized representative to the local intellectual and developmental disability authority. The local authority shall place the individual:

(1) in an alternative community living option, subject to the availability of funds; or

(2) on a waiting list for those options if for any reason the options are not available to the individual on or before the 30th day after the date the individual or the individual's legally authorized representative is referred to the local authority.

(e) The commission shall document in the records of each individual with an intellectual disability who resides in an institution:

(1) the information provided to the individual or the individual's legally authorized representative through the community living options information process; and

(2) the results of that process.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0055. IMPLEMENTATION OF COMMUNITY LIVING OPTIONS INFORMATION PROCESS AT STATE INSTITUTIONS FOR CERTAIN ADULT RESIDENTS. (a) In this section:

(1) "Adult resident" means an individual with an intellectual disability who:

(A) is at least 22 years of age; and

(B) resides in a state supported living center.

(2) "State supported living center" has the meaning assigned by Section [531.002](#), Health and Safety Code.

(b) This section applies only to the community living options information process for an adult resident.

(c) The commission shall contract with local intellectual and developmental disability authorities to implement the community living options information process required by Section [546.0054](#) for an adult resident.

(d) The commission's contract with a local intellectual and developmental disability authority must:

(1) delegate to the local authority the commission's duties under Section [546.0054](#) with regard to implementing the community living options information process at a state supported living center;

(2) include performance measures designed to assist the commission in evaluating the effectiveness of the local authority in implementing the community living options information process; and

(3) ensure that the local authority provides service coordination and relocation services to an adult resident who

chooses, is eligible for, and is recommended by the interdisciplinary team for a community living option to facilitate a timely, appropriate, and successful transition from the state supported living center to the community living option.

(e) The commission, with the advice and assistance of representatives of family members or legally authorized representatives of adult residents, individuals with an intellectual disability, state supported living centers, and local intellectual and developmental disability authorities, shall:

(1) develop an effective community living options information process;

(2) create uniform procedures for implementing the community living options information process; and

(3) minimize any potential conflict of interest regarding the community living options information process between a state supported living center and an adult resident, an adult resident's legally authorized representative, or a local intellectual and developmental disability authority.

(f) A state supported living center shall:

(1) allow a local intellectual and developmental disability authority to participate in the interdisciplinary planning process involving the consideration of community living options for an adult resident;

(2) to the extent not otherwise prohibited by state or federal confidentiality laws, provide a local intellectual and developmental disability authority with access to an adult resident and an adult resident's records to assist the authority in implementing the community living options information process; and

(3) provide an adult resident or the adult resident's legally authorized representative with accurate information regarding the risks of moving the adult resident to a community living option.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0056. VOUCHER PROGRAM FOR TRANSITIONAL LIVING ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES. (a) In this

section:

(1) "Institutional housing" means:

- (A) an ICF-IID;
- (B) a nursing facility;
- (C) a state hospital, state supported living center, or state center the commission maintains and manages;
- (D) a general residential operation for children with an intellectual disability that the commission licenses; or
- (E) a general residential operation.

(2) "Integrated housing" means housing in which an individual with a disability resides or may reside that is:

- (A) located in the community; and
- (B) not exclusively occupied by individuals with disabilities and their care providers.

(b) Subject to the availability of funds, the commission shall coordinate with the Texas Department of Housing and Community Affairs to develop a housing assistance program to assist individuals with disabilities in moving from institutional housing to integrated housing. In developing the program, the agencies shall address:

- (1) eligibility requirements for assistance;
- (2) the period during which an individual with a disability may receive assistance;
- (3) the types of housing expenses the program will cover; and
- (4) the locations at which the program will operate.

(c) Subject to the availability of funds, the commission shall administer the housing assistance program. The commission shall coordinate with the Texas Department of Housing and Community Affairs in:

- (1) administering the program;
- (2) determining the availability of funding from the United States Department of Housing and Urban Development; and
- (3) obtaining that funding.

(d) The Texas Department of Housing and Community Affairs shall provide information to the commission as necessary to facilitate the administration of the housing assistance program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0057. TRANSITION SERVICES FOR YOUTH WITH DISABILITIES. (a) The executive commissioner shall monitor programs and services offered through health and human services agencies designed to assist youth with disabilities to transition from school-oriented living to:

- (1) post-schooling activities;
- (2) services for adults; or
- (3) community living.

(b) In monitoring the programs and services, the executive commissioner shall:

(1) consider whether the programs or services result in positive outcomes in the employment, community integration, health, and quality of life of individuals with disabilities; and

(2) collect information regarding the outcomes of the transition process as necessary to assess the programs and services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0058. TRANSFER OF MONEY FOR COMMUNITY-BASED SERVICES. (a) The commission shall quantify the amount of money the legislature appropriates that would have been spent during the remainder of a state fiscal biennium to care for an individual who resides in a nursing facility but who is leaving that facility before the end of the biennium to reside in the community with the assistance of community-based services.

(b) Notwithstanding any other state law and to the maximum extent allowed by federal law, the executive commissioner shall direct, as appropriate:

(1) the comptroller, at the time an individual described by Subsection (a) leaves a nursing facility, to transfer an amount not to exceed the amount quantified under that subsection among the health and human services agencies and the commission as necessary to comply with this section; or

(2) the commission or a health and human services agency, at the time an individual described by Subsection (a) leaves a nursing facility, to transfer an amount not to exceed the amount quantified under that subsection within the agency's budget as necessary to comply with this section.

(c) The commission shall ensure that the amount transferred under this section is redirected by the commission or a health and human services agency, as applicable, to one or more community-based programs in the amount necessary to provide community-based services to the individual after the individual leaves a nursing facility.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER C. CONSUMER DIRECTION MODELS

Sec. 546.0101. DEFINITIONS. In this subchapter:

(1) "Consumer" means an individual who receives services through a consumer direction model the commission establishes under this subchapter.

(2) "Consumer direction model" means a service delivery model under which a consumer or the consumer's legally authorized representative exercises control over the development and implementation of the consumer's individual service plan or over the persons delivering the services directly to the consumer. The term includes the consumer-directed service option, the service responsibility option, and other types of service delivery models the commission develops under this subchapter.

(3) "Consumer-directed service option" means a type of consumer direction model in which:

(A) a consumer or the consumer's legally authorized representative, as the employer, exercises control over:

(i) recruiting, hiring, managing, or dismissing persons providing services directly to the consumer; or

(ii) retaining contractors or vendors for other authorized program services; and

(B) the consumer-directed services agency serves as fiscal agent and performs employer-related administrative functions for the consumer or the consumer's legally authorized representative, including payroll and filing tax and related reports.

(4) "Designated representative" means an adult volunteer appointed by a consumer or the consumer's legally authorized representative, as an employer, to perform all or part of the consumer's or the representative's duties as employer as approved by the consumer or the representative.

(5) "Legally authorized representative":

(A) means:

(i) a parent or legal guardian if the individual is a minor;

(ii) a legal guardian if the individual has been adjudicated as incapacitated to manage the individual's personal affairs; or

(iii) any other person authorized or required by law to act on the individual's behalf with regard to the individual's care; and

(B) does not include a designated representative.

(6) "Service responsibility option" means a type of consumer direction model in which:

(A) a consumer or the consumer's legally authorized representative participates in selecting, training, and managing persons providing services directly to the consumer; and

(B) the provider agency, as the employer, performs employer-related administrative functions for the consumer or the consumer's legally authorized representative, including hiring and dismissing persons providing services directly to the consumer.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0102. IMPLEMENTATION OF CONSUMER DIRECTION MODELS. (a) The commission shall develop and oversee the

implementation of consumer direction models under which an individual with a disability or an elderly individual who is receiving certain state-funded or Medicaid-funded services, or the individual's legally authorized representative, exercises control over:

(1) developing and implementing the individual's service plan; or

(2) the persons who directly deliver the services.

(b) The consumer direction models the commission establishes under this subchapter may be implemented in appropriate and suitable commission or health and human services agency programs.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0103. RULES. In adopting rules for consumer direction models, the executive commissioner shall:

(1) determine which services are appropriate and suitable for delivery through a consumer direction model;

(2) ensure that each consumer direction model is designed to comply with applicable federal and state laws;

(3) maintain procedures to ensure that a potential consumer or the consumer's legally authorized representative has adequate and appropriate information, including the responsibilities of a consumer or representative under each service delivery option, to make an informed choice among the types of consumer direction models;

(4) require each consumer or the consumer's legally authorized representative to sign a statement acknowledging receipt of the information required by Subdivision (3);

(5) maintain procedures to monitor delivery of services through a consumer direction model to ensure:

(A) adherence to existing applicable program standards;

(B) appropriate use of funds; and

(C) consumer satisfaction with the delivery of services;

(6) ensure that authorized program services that are not being delivered to a consumer through a consumer direction model are provided by a provider agency the consumer or the consumer's legally authorized representative chooses; and

(7) set a timetable to complete the implementation of the consumer direction models.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0104. APPLICABILITY OF CERTAIN NURSING LICENSURE REQUIREMENTS. Section [301.251](#)(a), Occupations Code, does not apply to delivery of a service for which payment is provided under the consumer-directed service option developed under this subchapter if:

(1) the individual who delivers the service:

(A) has not been denied a license under Chapter [301](#), Occupations Code;

(B) has not been issued a license under Chapter [301](#), Occupations Code, that is revoked or suspended; and

(C) performs a service that is not expressly prohibited from delegation by the Texas Board of Nursing; and

(2) the consumer who receives the service:

(A) has a disability and the service would have been performed by the consumer or the consumer's legally authorized representative except for that disability; and

(B) is:

(i) capable of training the individual to properly perform the service and the consumer directs the individual to deliver the service; or

(ii) not capable of training the individual to properly perform the service, the consumer's legally authorized representative is capable of training the individual to properly perform the service, and the legally authorized representative directs the individual to deliver the service.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0105. LEGALLY AUTHORIZED REPRESENTATIVE SERVICE OVERSIGHT REQUIRED. If an individual delivers a service under Section 546.0104(2)(B)(ii), the legally authorized representative must be present when the service is performed or be immediately accessible to the individual who delivers the service. If the individual will perform the service when the representative is not present, the representative must observe the individual performing the service at least once to assure the representative that the individual can competently perform that service.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0106. PROCEDURE TO PROVIDE NOTICE TO MEDICAID RECIPIENTS. The commission shall:

(1) develop a procedure to:

(A) verify that a recipient or the recipient's parent or legal guardian is informed of the consumer direction model and provided the option to choose to receive care under that model; and

(B) if the individual declines to receive care under the consumer direction model, document the decision to decline; and

(2) ensure that each Medicaid managed care organization implements the procedure.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER D. COMMUNITY-BASED SUPPORT AND SERVICE DELIVERY SYSTEM INITIATIVES AND GRANT PROGRAM

Sec. 546.0151. DEFINITION. In this subchapter, "community-based organization" includes:

- (1) an area agency on aging;
- (2) an independent living center;
- (3) a municipality, county, or other local government;
- (4) a nonprofit or for-profit organization; or
- (5) a community mental health and intellectual

disability center.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0152. COMMUNITY-BASED SUPPORT AND SERVICE DELIVERY SYSTEMS FOR LONG-TERM CARE SERVICES. (a) The commission shall assist communities in this state to develop comprehensive, community-based support and service delivery systems for long-term care services. At a community's request, the commission shall provide resources and assistance to the community to enable the community to:

(1) identify and overcome institutional barriers to developing more comprehensive community support systems, including barriers that result from the policies and procedures of state health and human services agencies;

(2) develop a system of blended funds, consistent with federal law and the General Appropriations Act, to allow the community to customize services to fit individual community needs; and

(3) develop a local system of access and assistance to aid clients in accessing the full range of long-term care services.

(b) At the request of a community-based organization or a combination of community-based organizations, the commission may provide a grant to the organization or organizations in accordance with this subchapter.

(c) In implementing this subchapter, the commission shall consider models used in other service delivery systems.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0153. AREA AGENCIES ON AGING: MINIMUM NUMBER. The executive commissioner shall assure the maintenance of no fewer than 28 area agencies on aging in order to assure the continuation of a local system of access and assistance that is sensitive to the aging population.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0154. PROPOSALS. A community-based organization or a combination of organizations may make a proposal under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0155. PROPOSAL REVIEW AND APPROVAL. (a) A health and human services agency that receives or develops a proposal for a community initiative shall submit the initiative to the commission for review and approval.

(b) The commission shall review the initiative to ensure that the initiative is:

(1) consistent with other similar programs offered in communities; and

(2) not duplicative of other services provided in the community.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0156. STANDARD AND PRIORITY OF REVIEW. (a) In making a grant to a community-based organization, the commission shall evaluate the organization's proposal based on demonstrated need and the proposal's merit.

(b) The commission shall give priority to proposals that will use the Internet and related information technologies to provide to clients:

(1) referral services;

(2) other information regarding local long-term care services; and

(3) needs assessments.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0157. COMMUNITY-BASED ORGANIZATION MATCHING CONTRIBUTION REQUIRED. To receive a grant under this subchapter, a community-based organization must at least partially match the

state grant with money or other resources obtained from a nongovernmental entity, from a local government, or if the community-based organization is a local government, from fees or taxes collected by the local government. The community-based organization may then combine the money or resources the organization obtains from a variety of federal, state, local, or private sources to accomplish the proposal's purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0158. PROPOSALS INVOLVING MULTIPLE COMMUNITY-BASED ORGANIZATIONS. (a) If a combination of community-based organizations makes a proposal, the organizations must designate a single organization to receive and administer the grant.

(b) If a community-based organization receives a grant on behalf of a combination of community-based organizations or if the community-based organization's proposal involves coordination with other entities to accomplish the proposal's purpose, the commission may condition receipt of the grant on the organization's making a good faith effort to coordinate with other entities in the manner indicated in the proposal.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0159. GUIDELINES. The commission may adopt guidelines for proposals.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0160. CERTAIN AGENCIES' DUTY TO PROVIDE RESOURCES AND ASSISTANCE. At the commission's request, a health and human services agency shall provide resources and assistance to a community as necessary to perform the commission's duties under Section [546.0152](#)(a).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER E. PERMANENCY PLANNING

Sec. 546.0201. DEFINITIONS. In this subchapter:

(1) "Child" means an individual with a developmental disability who is younger than 22 years of age.

(2) "Community resource coordination group" means a coordination group established under the memorandum of understanding adopted under Subchapter D, Chapter 522.

(3) "Department" means the Department of Family and Protective Services.

(4) "Institution" means:

(A) an ICF-IID;

(B) a group home operated under the commission's authority, including a residential service provider under a Section 1915(c) waiver program that provides services at a residence other than the child's home or agency foster home;

(C) a nursing facility;

(D) a general residential operation for children with an intellectual disability that the commission licenses; or

(E) another residential arrangement other than a foster home that provides care to four or more children who are unrelated to each other.

(5) "Permanency planning" means a philosophy and planning process that focuses on the outcome of family support by facilitating a permanent living arrangement with the primary feature of an enduring and nurturing parental relationship.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0202. POLICY STATEMENT. It is the policy of this state to strive to ensure that the basic needs for safety, security, and stability are met for each child in this state. A successful family is the most efficient and effective way to meet those needs. This state and local communities must work together to provide encouragement and support for well-functioning families and ensure that each child receives the benefits of being a part of

a successful permanent family as soon as possible.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0203. DEVELOPMENT OF PERMANENCY PLAN PROCEDURES.

(a) To further the policy stated in Section [546.0202](#) and except as provided by Subsection (b), the commission and each appropriate health and human services agency shall develop procedures to ensure that a permanency plan is developed for each child:

(1) who resides in an institution in this state on a temporary or long-term basis; or

(2) with respect to whom the commission or appropriate health and human services agency is notified in advance that institutional care is sought.

(b) The department shall develop a permanency plan as required by this subchapter for each child who resides in an institution in this state for whom the department has been appointed permanent managing conservator. The department is not required to develop a permanency plan under this subchapter for a child for whom the department has been appointed temporary managing conservator, but may incorporate the requirements of this subchapter in a permanency plan developed for the child under Section [263.3025](#), Family Code.

(c) In developing procedures under Subsection (a), the commission and other appropriate health and human services agencies shall develop to the extent possible uniform procedures applicable to each of the agencies and each child who is the subject of a permanency plan that promote efficiency for the agencies and stability for each child.

(d) In implementing permanency planning procedures, the commission shall:

(1) delegate the commission's duty to develop a permanency plan to a local intellectual and developmental disability authority or enter into a memorandum of understanding with the local intellectual and developmental disability authority to develop the permanency plan for each child who resides in an institution in this state or with respect to whom the commission is

notified in advance that institutional care is sought;

(2) contract with a private entity, other than an entity that provides long-term institutional care, to develop a permanency plan for a child who resides in an institution in this state or with respect to whom the commission is notified in advance that institutional care is sought; or

(3) perform the commission's duties regarding permanency planning procedures using commission personnel.

(e) A contract or memorandum of understanding under Subsection (d) must include performance measures by which the commission may evaluate the effectiveness of permanency planning efforts of a local intellectual and developmental disability authority or a private entity.

(f) In implementing permanency planning procedures, the commission shall engage in appropriate activities in addition to those required by Subsection (d) to minimize the potential conflicts of interest that, in developing the plan, may exist or arise between:

(1) the institution in which the child resides or in which institutional care is sought for the child; and

(2) the best interest of the child.

(g) The commission and the department may solicit and accept gifts, grants, and donations to support the development of permanency plans for children residing in institutions by individuals or organizations not employed by or affiliated with those institutions.

(h) A health and human services agency that contracts with a private entity under Subsection (d) to develop a permanency plan shall ensure that the entity is provided:

(1) training regarding the permanency planning philosophy described by Section [546.0201](#); and

(2) available resources that will assist a child residing in an institution in making a successful transition to a community-based residence.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0204. PERMANENCY PLANNING FOR CERTAIN CHILDREN.

(a) Notwithstanding Section [546.0201](#), in this section, "institution" has the meaning assigned by Section [242.002](#), Health and Safety Code.

(b) The commission and each appropriate health and human services agency shall develop procedures to ensure that permanency planning is provided for each child:

(1) residing in an institution in this state on a temporary or long-term basis; or

(2) for whom institutional care is sought.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0205. INSTITUTION TO ASSIST WITH PERMANENCY PLANNING EFFORTS. An institution in which a child resides shall assist with providing effective permanency planning for the child by:

(1) cooperating with the health and human services agency, local intellectual and developmental disability authority, or private entity responsible for developing the child's permanency plan; and

(2) participating in meetings to review the child's permanency plan as requested by a health and human services agency, local intellectual and developmental disability authority, or private entity responsible for developing the child's permanency plan.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0206. IMPLEMENTATION SYSTEM: LOCAL PERMANENCY PLANNING SITES. The commission shall develop an implementation system that initially consists of four or more local sites and that is designed to coordinate planning for a permanent living arrangement and relationship for a child with a family. In developing the system, the commission shall:

(1) include criteria to identify children who need permanency plans;

(2) require the establishment of a permanency plan for each child who resides outside the child's family or for whom care or protection is sought in an institution;

(3) include a process to determine the agency or entity responsible for developing and overseeing implementation of a child's permanency plan;

(4) identify, blend, and use funds from all available sources to provide customized services and programs to implement a child's permanency plan;

(5) clarify and expand the role of a local community resource coordination group in ensuring accountability for a child who resides in an institution or who is at risk of being placed in an institution;

(6) require reporting of each placement or potential placement of a child in an institution or other living arrangement outside of the child's home; and

(7) assign in each local permanency planning site area a single gatekeeper for all children in the area for whom placement in an institution through a state-funded program is sought with authority to ensure that:

(A) family members of each child are aware of:

(i) intensive services that could prevent placement of the child in an institution; and

(ii) available placement options; and

(B) permanency planning is initiated for each child.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0207. DESIGNATION OF VOLUNTEER ADVOCATE. (a) The commission shall designate an individual, including a member of a community-based organization, to serve as a volunteer advocate for a child residing in an institution to assist in developing a permanency plan for the child if:

(1) the child's parent or guardian requests the assistance of an advocate;

(2) the institution in which the child is placed

cannot locate the child's parent or guardian; or

(3) the child resides in an institution the commission operates.

(b) The individual designated to serve as the child's volunteer advocate may be:

(1) an individual the child's parent or guardian selects, except that the individual may not be employed by or under a contract with the institution in which the child resides;

(2) an adult relative of the child; or

(3) a child advocacy group representative.

(c) The commission shall provide to each individual designated to serve as a child's volunteer advocate information regarding permanency planning under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0208. PREADMISSION NOTICE AND INFORMATION.

(a) The requirements of this section do not apply to a request to place a child in an institution if the child:

(1) is involved in an emergency situation, as defined by rules the executive commissioner adopts; or

(2) has been committed to an institution under:

(A) Chapter [46B](#), Code of Criminal Procedure; or

(B) Chapter [55](#), Family Code.

(b) The executive commissioner by rule shall develop and implement a system by which the commission ensures that, for each child with respect to whom the commission or a local intellectual and developmental disability authority is notified of a request for placement in an institution, the child's parent or guardian is fully informed before the child is placed in the institution of all community-based services and any other service and support options for which the child may be eligible. The system must be designed to ensure that the commission provides the information through:

(1) a local intellectual and developmental disability authority;

(2) any private entity that has knowledge and expertise regarding the needs of and full spectrum of care options

available to children with disabilities as well as the philosophy and purpose of permanency planning; or

(3) a commission employee.

(c) The commission shall develop comprehensive information consistent with the policy stated in Section [546.0202](#) to explain to a parent or guardian considering placing a child in an institution:

(1) options for community-based services;

(2) the benefits to the child of residing in a family or community setting;

(3) that the child's placement in an institution is considered temporary in accordance with Section [546.0215](#); and

(4) that an ongoing permanency planning process is required under this subchapter and other state law.

(d) An institution in which a child's parent or guardian is considering placing the child may provide the information required under Subsection (b), but the information must also be provided by a local intellectual and developmental disability authority, private entity, or employee of the commission as required by that subsection.

(e) Except as otherwise provided by this subsection and Subsection (a), the commission shall ensure that, not later than the 14th working day after the date the commission is notified of a request for a child's placement in an institution, the child's parent or guardian is provided the information described by Subsections (b) and (c). The commission may provide the information after the 14th working day after the date the commission is notified of the request if the child's parent or guardian waives the requirement that the information be provided within the period otherwise required by this subsection.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0209. REQUIREMENTS OF PARENT OR GUARDIAN ON CHILD'S ADMISSION TO CERTAIN INSTITUTIONS. On the admission of a child to an institution described by Section [546.0201](#)(4)(A), (B), or (D), the commission shall require the child's parent or guardian to submit:

- (1) an admission form that includes:
 - (A) the parent's or guardian's:
 - (i) name, address, and telephone number;
 - (ii) driver's license number and state of issuance or personal identification card number the Department of Public Safety issued; and
 - (iii) place of employment and the employer's address and telephone number; and
 - (B) the name, address, and telephone number of a relative of the child or other individual whom the commission or institution may contact in an emergency, a statement indicating the relation between that individual and the child, and at the parent's or guardian's option:
 - (i) that individual's driver's license number and state of issuance or personal identification card number the Department of Public Safety issued; and
 - (ii) the name, address, and telephone number of that individual's employer; and
- (2) a signed acknowledgment of responsibility stating that the parent or guardian agrees to:
 - (A) notify the institution in which the child is placed of any changes to the information submitted under Subdivision (1)(A); and
 - (B) make reasonable efforts to participate in the child's life and in planning activities for the child.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0210. DUTIES OF CERTAIN INSTITUTIONS:
NOTIFICATION REQUIREMENTS AND PARENT OR GUARDIAN ACCOMMODATIONS.

(a) This section applies only to an institution described by Section [546.0201](#)(4)(A), (B), or (D).

(b) An institution described by Section [546.0201](#)(4)(A) or (B) shall notify the local intellectual and developmental disability authority for the region in which the institution is located of a request for a child's placement in the institution. An institution described by Section [546.0201](#)(4)(D) shall notify the

commission of a request for a child's placement in the institution.

(c) An institution must make reasonable accommodations to promote the participation of the parent or guardian of a child residing in the institution in all planning and decision-making regarding the child's care, including participation in:

(1) the initial development of the child's permanency plan and periodic review of the plan;

(2) an annual review and reauthorization of the child's service plan;

(3) routine interdisciplinary team meetings;

(4) decision-making regarding the child's medical care; and

(5) decision-making and other activities involving the child's health and safety.

(d) Reasonable accommodations that an institution must make include:

(1) conducting a meeting in person or by telephone, as mutually agreed upon by the institution and the parent or guardian;

(2) conducting a meeting at a time and, if the meeting is in person, at a location that is mutually agreed upon by the institution and the parent or guardian;

(3) if a parent or guardian has a disability, providing reasonable accommodations in accordance with the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), including providing an accessible meeting location or a sign language interpreter, as applicable; and

(4) providing a language interpreter, if applicable.

(e) Except as otherwise provided by Subsection (f):

(1) an ICF-IID must:

(A) attempt to notify the parent or guardian of a child who resides in the ICF-IID in writing of a periodic permanency planning meeting or annual service plan review and reauthorization meeting not later than the 21st day before the date the meeting is scheduled to be held; and

(B) request a response from the parent or guardian; and

(2) a nursing facility must:

(A) attempt to notify the parent or guardian of a child who resides in the facility in writing of an annual service plan review and reauthorization meeting not later than the 21st day before the date the meeting is scheduled to be held; and

(B) request a response from the parent or guardian.

(f) If an emergency situation involving a child residing in an ICF-IID or nursing facility occurs, the ICF-IID or nursing facility, as applicable, must:

(1) attempt to notify the child's parent or guardian as soon as possible; and

(2) request a response from the parent or guardian.

(g) If a child's parent or guardian does not respond to the notice provided under Subsection (e) or (f), the ICF-IID or nursing facility, as applicable, must attempt to locate the parent or guardian by contacting another individual whose information was provided by the parent or guardian under Section [546.0209](#)(1)(B).

(h) Not later than the 30th day after the date an ICF-IID or nursing facility determines that the ICF-IID or nursing facility is unable to locate a child's parent or guardian for participation in activities listed under Subsection (e)(1) or (2), the ICF-IID or nursing facility must notify the commission of that determination and request that the commission initiate a search for the child's parent or guardian.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0211. NOTIFICATION OF PLACEMENT REQUIRED.

(a) Not later than the third day after the date a child is initially placed in an institution, the institution shall notify:

(1) the commission, if the child is placed in a nursing facility;

(2) the local intellectual and developmental disability authority for the region in which the institution is located, if the child:

(A) is placed in an ICF-IID; or

(B) is placed by a child protective services

agency in a general residential operation for children with an intellectual disability that the commission licenses;

(3) the community resource coordination group in the county of residence of the child's parent or guardian;

(4) if the child is at least three years of age, the school district for the area in which the institution is located; and

(5) if the child is less than three years of age, the local early childhood intervention program for the area in which the institution is located.

(b) The commission shall notify the local intellectual and developmental disability authority of a child's placement in a nursing facility if the child is known or suspected to have an intellectual disability or another disability for which the child may receive services through the commission.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0212. NOTICE TO PARENT OR GUARDIAN REGARDING PLACEMENT OPTIONS AND SERVICES. Each entity receiving notice of a child's initial placement in an institution under Section [546.0211](#) may contact the child's parent or guardian to ensure that the parent or guardian is aware of:

(1) services and support that could provide alternatives to placing the child in the institution;

(2) available placement options; and

(3) opportunities for permanency planning.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0213. PLACEMENT ON WAIVER PROGRAM WAITING LIST. A state agency that receives notice of a child's placement in an institution shall ensure that, on or before the third day after the date the agency is notified of the child's placement in the institution, the child is also placed on a waiting list for Section 1915(c) waiver program services appropriate to the child's needs.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01,

eff. April 1, 2025.

Sec. 546.0214. INTERFERENCE WITH PERMANENCY PLANNING EFFORTS. An entity that provides information to a child's parent or guardian relating to permanency planning shall refrain from providing the child's parent or guardian with inaccurate or misleading information regarding the risks of moving the child to another facility or community setting.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0215. INITIAL PLACEMENT OF CHILD IN INSTITUTION AND PLACEMENT EXTENSIONS. (a) The chief executive officer of each appropriate health and human services agency or the officer's designee must approve a child's placement in an institution. The child's initial placement in the institution is temporary and may not exceed six months unless the appropriate chief executive officer or the officer's designee approves an extension of an additional six months after conducting a review of documented permanency planning efforts to unite the child with a family in a permanent living arrangement.

(b) After the initial six-month extension of a child's placement in an institution approved under Subsection (a), the chief executive officer or the officer's designee shall conduct a review of the child's placement in the institution at least semiannually to determine whether continuing that placement is warranted. If, based on the review, the chief executive officer or the officer's designee determines that an additional extension is warranted, the officer or the officer's designee shall recommend to the executive commissioner that the child continue residing in the institution.

(c) On receipt of a recommendation made under Subsection (b), the executive commissioner, the executive commissioner's designee, or another person with whom the commission contracts shall conduct a review of the child's placement. Based on the results of the review, the executive commissioner or the executive commissioner's designee may approve a six-month extension of the

child's placement if the extension is appropriate.

(d) A child may continue residing in an institution after the six-month extension approved under Subsection (c) only if the chief executive officer of the appropriate health and human services agency or the officer's designee makes subsequent recommendations as provided by Subsection (b) for each additional six-month extension and the executive commissioner or the executive commissioner's designee approves each extension as provided by Subsection (c).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0216. REVIEW OF CERTAIN PLACEMENT DATA. (a) The executive commissioner or the executive commissioner's designee shall conduct a semiannual review of data received from health and human services agencies regarding all children who reside in institutions in this state.

(b) The executive commissioner, the executive commissioner's designee, or a person with whom the commission contracts shall also review the recommendations of the chief executive officer of each appropriate health and human services agency or the officer's designee if the officer or the officer's designee repeatedly recommends that children continue residing in an institution.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0217. PROCEDURES FOR PLACEMENT REVIEWS. The executive commissioner by rule shall develop procedures for conducting the reviews required by Sections [546.0215](#)(c) and (d) and [546.0216](#).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0218. ANNUAL REAUTHORIZATION OF PLANS OF CARE FOR CERTAIN CHILDREN. (a) The executive commissioner shall adopt rules under which the commission requires a nursing facility in

which a child resides to request from the child's parent or guardian a written reauthorization of the child's plan of care.

(b) The rules must require that the written reauthorization be requested annually.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0219. TRANSFER OF CHILD BETWEEN INSTITUTIONS.

(a) This section applies only to an institution described by Section [546.0201](#)(4)(A), (B), or (D) in which a child resides.

(b) Before transferring a child who is 17 years of age or younger, or a child who is at least 18 years of age and for whom a guardian has been appointed, from one institution to another institution, the institution in which the child resides must attempt to obtain consent for the transfer from the child's parent or guardian unless the transfer is in response to an emergency situation, as defined by rules the executive commissioner adopts.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0220. COMPLIANCE WITH PERMANENCY PLAN REQUIREMENTS AS PART OF INSPECTION, SURVEY, OR INVESTIGATION. As part of each inspection, survey, or investigation of an institution, including a nursing facility, a general residential operation for children with an intellectual disability that the commission licenses, or an ICF-IID, in which a child resides, the agency or the agency's designee shall determine the extent to which the nursing facility, general residential operation, or ICF-IID is complying with the permanency planning requirements under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0221. SEARCH FOR CHILD'S PARENT OR GUARDIAN.

(a) The commission shall develop and implement a process by which the commission, on receipt of notification under Section [546.0210](#)(h) that a child's parent or guardian cannot be located,

conducts a search for the parent or guardian. If, on the first anniversary of the date the commission receives the notification under that subsection, the commission has been unsuccessful in locating the parent or guardian, the commission shall refer the case to:

(1) the department's child protective services division if the child is 17 years of age or younger; or

(2) the department's adult protective services division if the child is 18 years of age or older.

(b) On receipt of a referral under Subsection (a)(1), the department's child protective services division shall exercise intense due diligence in attempting to locate the child's parent or guardian. If the division is unable to locate the child's parent or guardian, the department shall file a suit affecting the parent-child relationship requesting an order appointing the department as the child's temporary managing conservator.

(c) A child is considered abandoned for purposes of the Family Code if the child's parent or guardian cannot be located following the department's exercise of intense due diligence in attempting to locate the parent or guardian.

(d) On receipt of a referral under Subsection (a)(2), the department's adult protective services division shall notify the court that appointed the child's guardian that the guardian cannot be located.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0222. DOCUMENTATION OF ONGOING PERMANENCY PLANNING EFFORTS. The commission and each appropriate health and human services agency shall require a person who develops a permanency plan for a child residing in an institution to identify and document in the child's permanency plan all ongoing permanency planning efforts at least semiannually to ensure that, as soon as possible, the child will benefit from a permanent living arrangement with an enduring and nurturing parental relationship.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0223. ACCESS TO RECORDS. Each institution in which a child resides shall allow the following to have access to the child's records to assist in complying with the requirements of this subchapter:

- (1) the commission;
- (2) appropriate health and human services agencies;

and

- (3) to the extent not otherwise prohibited by state or federal confidentiality laws, a local intellectual and developmental disability authority or private entity that enters into a contract or memorandum of understanding under Section [546.0203](#)(d) to develop a permanency plan for the child.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0224. COLLECTION OF INFORMATION REGARDING INVOLVEMENT OF CERTAIN PARENTS AND GUARDIANS. (a) The commission shall collect and maintain aggregate information regarding the involvement of parents and guardians of children residing in institutions described by Sections [546.0201](#)(4)(A), (B), and (D) in the lives of and planning activities relating to those children. The commission shall obtain input from stakeholders concerning the types of information most useful in assessing the involvement of those parents and guardians.

(b) The commission shall make the aggregate information available to the public on request.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0225. REPORTING SYSTEMS: SEMIANNUAL REPORTING. (a) For each of the local permanency planning sites, the commission shall develop a reporting system under which each appropriate health and human services agency responsible for permanency planning under this subchapter is required to semiannually provide to the commission:

- (1) the number of permanency plans the agency develops

for children residing in institutions or children at risk of being placed in institutions;

(2) progress achieved in implementing permanency plans;

(3) the number of children the agency serves residing in institutions;

(4) the number of children the agency serves at risk of being placed in an institution served by the local permanency planning sites;

(5) the number of children the agency serves reunited with their families or placed with alternate permanent families; and

(6) cost data related to developing and implementing permanency plans.

(b) The executive commissioner shall submit to the governor and the committees of the senate and the house of representatives having primary jurisdiction over health and human services agencies a semiannual report on:

(1) the number of children residing in institutions in this state and the number of those children for whom a recommendation has been made for a transition to a community-based residence but who have not yet made that transition;

(2) the circumstances of each child described by Subdivision (1), including the type of institution and name of the institution in which the child resides, the child's age, the residence of the child's parents or guardians, and the length of time during which the child has resided in the institution;

(3) the number of permanency plans developed for children residing in institutions in this state, progress achieved in implementing those plans, and barriers to implementing those plans;

(4) the number of children who previously resided in an institution in this state and have made the transition to a community-based residence;

(5) the number of children who previously resided in an institution in this state and have been reunited with their families or placed with alternate families;

(6) the community supports that resulted in the successful placement of children described by Subdivision (5) with alternate families; and

(7) the community supports that are unavailable but necessary to address the needs of children who continue to reside in an institution in this state after being recommended to make a transition from the institution to an alternate family or community-based residence.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0226. EFFECT ON OTHER LAW. This subchapter does not affect responsibilities imposed by federal or other state law on a physician or other professional.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER F. FAMILY-BASED ALTERNATIVES FOR CHILDREN

Sec. 546.0251. DEFINITIONS. In this subchapter:

(1) "Child" means an individual younger than 22 years of age who:

(A) has a physical or developmental disability;
or

(B) is medically fragile.

(2) "Family-based alternative" means a family setting in which the family provider or providers are specially trained to provide support and in-home care to children with disabilities or children who are medically fragile.

(3) "Family-based alternatives system" means the system of family-based alternatives required under this subchapter.

(4) "Institution" means any congregate care facility, including:

(A) a nursing facility;

(B) an ICF-IID;

(C) a group home operated by the commission; and

(D) a general residential operation for children with an intellectual disability that the commission licenses.

(5) "Waiver services" means services provided under:

(A) the medically dependent children (MDCP) waiver program;

(B) the community living assistance and support services (CLASS) waiver program;

(C) the home and community-based services (HCS) waiver program;

(D) the deaf-blind with multiple disabilities (DBMD) waiver program; and

(E) any other Section 1915(c) waiver program that provides long-term care services to children.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0252. FAMILY-BASED ALTERNATIVES SYSTEM: PURPOSE, IMPLEMENTATION, AND ADMINISTRATION. (a) The purpose of the family-based alternatives system is to further this state's policy of providing for a child's basic needs for safety, security, and stability by ensuring that a child becomes a part of a successful permanent family as soon as possible.

(b) In achieving the purpose described by Subsection (a), the family-based alternatives system is intended to operate in a manner that recognizes that parents are a valued and integral part of the process established under the system. The system must:

(1) encourage parents to participate in all decisions affecting their children; and

(2) respect the authority of parents, other than parents whose parental rights have been terminated, to make decisions regarding their children.

(c) The commission shall begin implementing the family-based alternatives system in areas of this state with high numbers of children who reside in institutions.

(d) The family-based alternatives system may be administered in cooperation with public and private entities.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01,

eff. April 1, 2025.

Sec. 546.0253. FAMILY-BASED ALTERNATIVES SYSTEM DESIGN REQUIREMENTS. (a) The family-based alternatives system must provide for:

(1) recruiting and training alternative families to provide services for children;

(2) comprehensively assessing each child in need of services and each alternative family available to provide services, as necessary to identify the most appropriate alternative family for the child's placement;

(3) providing to a child's parents or guardian information regarding the availability of a family-based alternative;

(4) identifying each child residing in an institution and offering support services, including waiver services, that would enable the child to return to the child's birth family or be placed in a family-based alternative; and

(5) determining through a child's permanency plan other circumstances in which the child must be offered waiver services, including circumstances in which changes in an institution's status affect the child's placement or the quality of services the child receives.

(b) In complying with the requirement imposed by Subsection (a)(3), the commission shall ensure that the procedures for providing information to parents or a guardian permit and encourage the participation of an individual who is not affiliated with the institution in which the child resides or with an institution in which the child could be placed.

(c) In designing the family-based alternatives system, the commission shall consider and, when appropriate, incorporate current research and recommendations developed by other public and private entities involved in analyzing public policy relating to children residing in institutions.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0254. MEDICAID WAIVER PROGRAM ALIGNMENT. As necessary to implement this subchapter, the commission shall:

(1) ensure that an appropriate number of openings for waiver services that become available as a result of funding for transferring individuals with disabilities into community-based services are made available to both children and adults;

(2) ensure that service definitions applicable to waiver services are modified as necessary to permit the provision of waiver services through family-based alternatives;

(3) ensure that procedures are implemented for making a level of care determination for each child and identifying the most appropriate waiver service for the child, including procedures under which the commission's director of long-term care, after considering any preference of the child's birth family or alternative family, resolves disputes among agencies about the most appropriate waiver service; and

(4) require that the health and human services agency responsible for providing a specific waiver service to a child also assume responsibility for identifying any necessary transition activities or services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0255. COMMUNITY ORGANIZATION ELIGIBILITY; CONTRACT AND REQUIREMENTS. (a) The commission shall contract with a community organization, including a faith-based community organization, or a nonprofit organization to develop and implement a family-based alternatives system under which a child who cannot reside with the child's birth family may receive necessary services in a family-based alternative instead of an institution. For purposes of this subsection, a community organization, including a faith-based community organization, or a nonprofit organization does not include:

(1) a governmental entity; or

(2) a quasi-governmental entity to which a state agency delegates authority and responsibility for planning, supervising, providing, or ensuring the provision of state

services.

(b) To be eligible for the contract under Subsection (a), an organization must possess knowledge regarding the support needs of children with disabilities and their families.

(c) The contracted organization may subcontract for one or more components of implementing the family-based alternatives system with:

(1) community organizations, including faith-based community organizations;

(2) nonprofit organizations;

(3) governmental entities; or

(4) quasi-governmental entities described by Subsection (a)(2).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0256. PLACEMENT OPTIONS. (a) In placing a child in a family-based alternative, the family-based alternatives system may use a variety of placement options, including a shared parenting arrangement between the alternative family and the child's birth family. Regardless of the option used, a family-based alternative placement must be designed as a long-term arrangement, except in cases in which the child's birth family chooses to return the child to their home.

(b) Adoption of the child by the child's alternative family is an available option in cases in which the child's birth family's parental rights have been terminated.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0257. AGENCY COOPERATION. Each affected health and human services agency shall:

(1) cooperate with the contracted organization and any subcontractors; and

(2) take all action necessary to implement the family-based alternatives system and comply with the requirements of this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0258. DISPUTE RESOLUTION. The commission has final authority to make any decisions and resolve any disputes regarding the family-based alternatives system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0259. GIFTS, GRANTS, AND DONATIONS. The commission or the contracted organization may solicit and accept gifts, grants, and donations to support the family-based alternatives system's functions under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0260. ANNUAL REPORT. Not later than January 1 of each year, the commission shall report to the legislature on the implementation of the family-based alternatives system. The report must include a statement of:

(1) the number of children currently receiving care in an institution;

(2) the number of children placed in a family-based alternative under the system during the preceding year;

(3) the number of children who left an institution during the preceding year under an arrangement other than a family-based alternative under the system or for another reason unrelated to the availability of a family-based alternative under the system;

(4) the number of children waiting for an available placement in a family-based alternative under the system; and

(5) the number of alternative families trained and available to accept placement of a child under the system.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER G. LONG-TERM CARE INSTITUTIONS AND FACILITIES

Sec. 546.0301. PROCEDURES TO REVIEW CONDUCT RELATED TO CERTAIN INSTITUTIONS AND FACILITIES. The commission shall adopt procedures to review:

(1) citations or penalties assessed for a violation of a rule or law against an institution or facility licensed under Chapter 242, 247, or 252, Health and Safety Code, or certified to participate in Medicaid administered in accordance with Chapter 32, Human Resources Code, considering:

(A) the number of violations by geographic region;

(B) the patterns of violations in each region; and

(C) the outcomes following the assessment of a citation or penalty; and

(2) the performance of duties by employees and agents of a state agency responsible for licensing, inspecting, surveying, or investigating institutions and facilities licensed under Chapter 242, 247, or 252, Health and Safety Code, or certified to participate in Medicaid administered in accordance with Chapter 32, Human Resources Code, related to:

(A) complaints the commission receives; or

(B) any standards or rules violated by an employee or agent of a state agency.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0302. ISSUANCE OF MATERIALS TO CERTAIN LONG-TERM CARE FACILITIES. The executive commissioner shall:

(1) review the commission's methods for issuing informational letters, policy updates, policy clarifications, and other related materials to an entity licensed under Chapter 103, Human Resources Code, or Chapter 242, 247, 248A, or 252, Health and Safety Code; and

(2) develop and implement more efficient methods to issue those materials, as appropriate.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER H. INCENTIVE PAYMENT PROGRAM FOR CERTAIN NURSING
FACILITIES

Sec. 546.0351. DEFINITIONS. In this subchapter:

(1) "Incentive payment program" means the program established under this subchapter.

(2) "Nursing facility" means a convalescent or nursing home or related institution licensed under Chapter [242](#), Health and Safety Code, that provides long-term care services, as defined by Section [22.0011](#), Human Resources Code, to recipients.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0352. INCENTIVE PAYMENT PROGRAM. (a) If feasible, the executive commissioner by rule may establish an incentive payment program for nursing facilities that choose to participate. The program must be designed to improve the quality of care and services provided to recipients.

(b) Subject to Section [546.0354](#), the incentive payment program may provide incentive payments in accordance with this section to encourage facilities to participate in the program.

(c) The executive commissioner may:

(1) determine the amount of any incentive payment under the incentive payment program; and

(2) enter into a contract with a qualified person, as the executive commissioner determines, for the following services related to the program:

(A) data collection;

(B) data analysis; and

(C) technical support.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0353. COMMON PERFORMANCE MEASURES. (a) In

establishing an incentive payment program, the executive commissioner shall adopt common performance measures to be used in evaluating nursing facilities that are related to structure, process, and outcomes that positively correlate to nursing facility quality and improvement. The common performance measures:

(1) must be:

(A) recognized by the executive commissioner as valid indicators of the overall quality of care recipients receive; and

(B) designed to encourage and reward evidence-based practices among nursing facilities; and

(2) may include measures of:

(A) quality of care, as determined by clinical performance ratings published by the Centers for Medicare and Medicaid Services, the Agency for Healthcare Research and Quality, or another federal agency;

(B) direct-care staff retention and turnover;

(C) recipient satisfaction, including the satisfaction of recipients who are short-term and long-term facility residents, and family satisfaction, as determined by the Consumer Assessment of Healthcare Providers and Systems Nursing Home Surveys relied on by the Centers for Medicare and Medicaid Services;

(D) employee satisfaction and engagement;

(E) the incidence of preventable acute care emergency room services use;

(F) regulatory compliance;

(G) level of person-centered care; and

(H) direct-care staff training, including a facility's use of independent distance learning programs for continuously training direct-care staff.

(b) The executive commissioner shall maximize the use of available information technology and limit the number of performance measures adopted under this section to achieve administrative cost efficiency and avoid an unreasonable administrative burden on participating nursing facilities.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01,

eff. April 1, 2025.

Sec. 546.0354. SUBJECT TO APPROPRIATIONS. The commission may make incentive payments under an incentive payment program only if money is appropriated for that purpose.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER I. MEDICAID GENERALLY

Sec. 546.0401. MEDICAID LONG-TERM CARE SYSTEM. (a) The commission shall ensure that the Medicaid long-term care system provides the broadest array of choices possible for recipients while ensuring that the services are delivered in a manner that is cost-effective and makes the best use of available funds.

(b) The commission shall also make every effort to improve the quality of care for recipients of Medicaid long-term care services by:

(1) evaluating the need for expanding the provider base for consumer-directed services and, if the commission identifies a demand for that expansion, encouraging area agencies on aging, independent living centers, and other potential long-term care providers to become providers through contracts with the commission;

(2) ensuring that all recipients who reside in a nursing facility are provided information about end-of-life care options and the importance of planning for end-of-life care; and

(3) developing policies to encourage a recipient who resides in a nursing facility to receive treatment at that facility whenever possible, while ensuring that the recipient receives an appropriate continuum of care.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0402. ADMINISTRATION AND DELIVERY OF CERTAIN WAIVER PROGRAMS; PUBLIC INPUT. (a) To the extent authorized by law, the commission shall make uniform the functions relating to

the administration and delivery of Section 1915(c) waiver programs, including:

- (1) rate-setting;
- (2) the applicability and use of service definitions;
- (3) quality assurance; and
- (4) intake data elements.

(b) Subsection (a) does not apply to functions of a Section 1915(c) waiver program that is operated in conjunction with a federally funded state Medicaid program that is authorized under Section 1915(b) of the Social Security Act (42 U.S.C. Section 1396n(b)).

(c) The commission shall ensure that information on individuals seeking to obtain services from Section 1915(c) waiver programs is maintained in a single computerized database that is accessible to staff of each of the state agencies administering those programs.

(d) In complying with the requirements of this section, the commission shall regularly consult with and obtain input from:

- (1) consumers and family members;
- (2) providers;
- (3) advocacy groups;
- (4) state agencies that administer a Section 1915(c) waiver program; and
- (5) other interested persons.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0403. RECOVERY OF CERTAIN ASSISTANCE; MEDICAID ACCOUNT. (a) The executive commissioner shall ensure that Section 1917(b)(1) of the Social Security Act (42 U.S.C. Section 1396p(b)(1)) is implemented under Medicaid.

(b) The Medicaid account is an account in the general revenue fund. Any funds recovered by implementing the provisions of Section 1917(b)(1) of the Social Security Act (42 U.S.C. Section 1396p(b)(1)) must be deposited in the Medicaid account. Money in the account may be appropriated only to fund long-term care, including community-based care and facility-based care.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER J. MEDICAID WAIVER PROGRAMS

Sec. 546.0451. COMPETITIVE AND INTEGRATED EMPLOYMENT INITIATIVE FOR CERTAIN RECIPIENTS; BIENNIAL REPORT. (a) This section applies to an individual receiving services under:

(1) any of the following Section 1915(c) waiver programs:

(A) the home and community-based services (HCS) waiver program;

(B) the Texas home living (TxHmL) waiver program;

(C) the deaf-blind with multiple disabilities (DBMD) waiver program; and

(D) the community living assistance and support services (CLASS) waiver program; and

(2) the STAR+PLUS home and community-based services (HCBS) waiver program established under Section 1115, Social Security Act (42 U.S.C. Section 1315).

(b) The executive commissioner by rule shall develop a uniform process that complies with the policy adopted under Section [546.0003](#) to:

(1) assess the goals of and competitive and integrated employment opportunities and related employment services available to an individual to whom this section applies; and

(2) use the identified goals and available opportunities and services to direct the individual's plan of care at the time the plan is developed or renewed.

(c) The entity responsible for developing and renewing the plan of care for an individual to whom this section applies shall use the uniform process developed under Subsection (b) to assess the individual's goals, opportunities, and services described by that subsection and incorporate those goals, opportunities, and services into the individual's plan of care.

(d) The executive commissioner by rule shall:

(1) identify strategies to increase the number of

individuals receiving employment services from the Texas Workforce Commission or through the waiver program in which an individual is enrolled;

(2) determine a reasonable number of individuals who indicate a desire to work to receive employment services and ensure those individuals:

(A) have received employment services during the state fiscal biennium ending August 31, 2023, or during the period beginning September 1, 2023, and ending December 31, 2023, from the Texas Workforce Commission or through the waiver program in which an individual is enrolled; or

(B) are receiving employment services on December 31, 2023, from the Texas Workforce Commission or through the waiver program in which an individual is enrolled; and

(3) ensure each individual who indicates a desire to work is referred to receive employment services from the Texas Workforce Commission or through the waiver program in which the individual is enrolled.

(e) Not later than December 31 of each even-numbered year, the executive commissioner shall prepare and submit to the governor, lieutenant governor, speaker of the house of representatives, and legislature a written report that outlines:

(1) the number of individuals to whom this section applies who are receiving employment services in accordance with rules adopted under this section;

(2) whether the employment services described by Subdivision (1) are provided by the Texas Workforce Commission, through the waiver program in which an individual is enrolled, or both; and

(3) the number of individuals to whom this section applies who have obtained competitive and integrated employment, categorized by waiver program and, if applicable, an individual's level of care.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0452. RISK MANAGEMENT CRITERIA FOR CERTAIN WAIVER

PROGRAMS. (a) In this section, "legally authorized representative" has the meaning assigned by Section [546.0101](#).

(b) The commission shall consider developing risk management criteria under home and community-based services waiver programs designed to allow individuals eligible to receive services under the programs to assume greater choice and responsibility over the services and supports the individuals receive.

(c) The commission shall ensure that any risk management criteria developed include:

(1) a requirement that if an individual who will be provided services and supports has a legally authorized representative, the representative is involved in determining which services and supports the individual will receive; and

(2) a requirement that if services or supports are declined, the decision to decline is clearly documented.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0453. PROTOCOL FOR MAINTAINING CONTACT INFORMATION OF INDIVIDUALS INTERESTED IN MEDICAID WAIVER PROGRAMS. The commission shall develop a protocol in the office of the ombudsman to improve the capture and updating of contact information for an individual who contacts the office of the ombudsman regarding Medicaid waiver programs or services.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0454. INTEREST LIST MANAGEMENT FOR CERTAIN MEDICAID WAIVER PROGRAMS. (a) This section applies only to the following waiver programs:

(1) the community living assistance and support services (CLASS) waiver program;

(2) the home and community-based services (HCS) waiver program;

(3) the deaf-blind with multiple disabilities (DBMD) waiver program;

(4) the Texas home living (TxHmL) waiver program;

(5) the medically dependent children (MDCP) waiver program; and

(6) the STAR+PLUS home and community-based services (HCBS) program.

(b) The commission, in consultation with the Intellectual and Developmental Disability System Redesign Advisory Committee established under Section [542.0052](#), the state Medicaid managed care advisory committee, and interested stakeholders, shall develop a questionnaire to be completed by or on behalf of an individual who requests to be placed on or is currently on an interest list for a waiver program.

(c) The questionnaire developed under Subsection (b) must, at a minimum, request the following information about an individual seeking or receiving services under a waiver program:

(1) contact information for the individual or the individual's parent or other legally authorized representative;

(2) the individual's general demographic information;

(3) the individual's living arrangement;

(4) the types of assistance the individual requires;

(5) the individual's current caregiver supports and circumstances that may cause the individual to lose those supports; and

(6) when the delivery of services under a waiver program should begin to ensure the individual's health and welfare and that the individual receives services and supports in the least restrictive setting possible.

(d) If an individual is on a waiver program's interest list and the individual or the individual's parent or other legally authorized representative does not respond to a written or verbal request made by the commission to update information concerning the individual or otherwise fails to maintain contact with the commission, the commission:

(1) shall designate the individual's status on the interest list as inactive until the individual or the individual's parent or other legally authorized representative notifies the commission that the individual is still interested in receiving services under the waiver program; and

(2) at the time the individual or the individual's parent or other legally authorized representative provides notice to the commission under Subdivision (1), shall designate the individual's status on the interest list as active and restore the individual to the position on the list that corresponds with the date the individual was initially placed on the list.

(e) The commission's designation of an individual's status on an interest list as inactive under Subsection (d) may not result in the removal of the individual from that list or any other waiver program interest list.

(f) Not later than September 1 of each year, the commission shall provide to the Intellectual and Developmental Disability System Redesign Advisory Committee established under Section [542.0052](#), or, if that advisory committee is abolished, an appropriate stakeholder advisory committee, as determined by the executive commissioner, the number of individuals, including individuals whose status is designated as inactive by the commission, who are on an interest list to receive services under a waiver program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0455. INTEREST LIST MANAGEMENT FOR CERTAIN CHILDREN ENROLLED IN MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER PROGRAM. (a) This section applies only to a child who is enrolled in the medically dependent children (MDCP) waiver program but becomes ineligible for services under the program because the child no longer meets:

(1) the level of care criteria for medical necessity for nursing facility care; or

(2) the age requirement for the program.

(b) A legally authorized representative of a child who is notified by the commission that the child is no longer eligible for the medically dependent children (MDCP) waiver program following a Medicaid fair hearing, or without a Medicaid fair hearing if the representative opted in writing to forgo the hearing, may request that the commission:

(1) return the child to the interest list for the program unless the child is ineligible due to the child's age; or

(2) place the child on the interest list for another Section 1915(c) waiver program.

(c) At the time a child's legally authorized representative makes a request under Subsection (b), the commission shall:

(1) for a child who becomes ineligible for the reason described by Subsection (a)(1), place the child:

(A) on the interest list for the medically dependent children (MDCP) waiver program in the first position on the list; or

(B) except as provided by Subdivision (3), on the interest list for another Section 1915(c) waiver program in a position relative to other individuals on the list that is based on the date the child was initially placed on the interest list for the medically dependent children (MDCP) waiver program;

(2) except as provided by Subdivision (3), for a child who becomes ineligible for the reason described by Subsection (a)(2), place the child on the interest list for another Section 1915(c) waiver program in a position relative to other individuals on the list that is based on the date the child was initially placed on the interest list for the medically dependent children (MDCP) waiver program; or

(3) for a child who becomes ineligible for a reason described by Subsection (a) and who is already on an interest list for another Section 1915(c) waiver program, move the child to a position on the interest list relative to other individuals on the list that is based on the date the child was initially placed on the interest list for the medically dependent children (MDCP) waiver program, if that date is earlier than the date the child was initially placed on the interest list for the other waiver program.

(d) Notwithstanding Subsection (c)(1)(B) or (c)(2), a child may be placed on an interest list for a Section 1915(c) waiver program in the position described by those subsections only if the child has previously been placed on the interest list for that waiver program.

(e) At the time the commission provides notice to a legally

authorized representative that a child is no longer eligible for the medically dependent children (MDCP) waiver program following a Medicaid fair hearing, or without a Medicaid fair hearing if the representative opted in writing to forgo the hearing, the commission shall inform the representative in writing about:

(1) the options under this section for placing the child on an interest list; and

(2) the process for applying for the Medicaid buy-in program for children with disabilities implemented under Section [532.0353](#).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0456. ELIGIBILITY OF CERTAIN CHILDREN FOR MEDICALLY DEPENDENT CHILDREN (MDCP) OR DEAF-BLIND WITH MULTIPLE DISABILITIES (DBMD) WAIVER PROGRAM; INTEREST LIST PLACEMENT.

(a) Notwithstanding any other law and to the extent allowed by federal law, in determining a child's eligibility for the medically dependent children (MDCP) waiver program, the deaf-blind with multiple disabilities (DBMD) waiver program, or a "Money Follows the Person" demonstration project, the commission shall consider whether the child:

(1) is diagnosed as having a condition included in the list of compassionate allowances conditions published by the United States Social Security Administration; or

(2) receives Medicaid hospice or palliative care services.

(b) If the commission determines a child is eligible for a waiver program under Subsection (a), the child's enrollment in the applicable program is contingent on the availability of a slot in the program. If a slot is not immediately available, the commission shall place the child in the first position on the interest list for the medically dependent children (MDCP) waiver program or deaf-blind with multiple disabilities (DBMD) waiver program, as applicable.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER K. MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER PROGRAM

Sec. 546.0501. LIMITATION ON NURSING FACILITY LEVEL OF CARE REQUIREMENT. To the extent allowed by federal law, the commission may not require that a child reside in a nursing facility for an extended period of time to meet the nursing facility level of care required for the child to be determined eligible for the medically dependent children (MDCP) waiver program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0502. CONSUMER DIRECTION OF SERVICES. Notwithstanding Sections 546.0102(b) and 546.0103(1), a consumer direction model implemented under Subchapter C, including the consumer-directed service option, for the delivery of services under the medically dependent children (MDCP) waiver program must allow for the delivery of all services and supports available under that program through consumer direction.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0503. ASSESSMENTS AND REASSESSMENTS. (a) The commission shall ensure that the care coordinator for a Medicaid managed care organization under the STAR Kids managed care program provides for review the results of the initial assessment or annual reassessment of medical necessity to the parent or legally authorized representative of a recipient receiving benefits under the medically dependent children (MDCP) waiver program. The commission shall ensure that providing the results does not delay the determination of the services to be provided to the recipient or the ability to authorize and initiate services.

(b) The commission shall require the signature of a parent or legally authorized representative to verify the parent's or representative's receipt of the results of the initial assessment or reassessment from the care coordinator. A Medicaid managed care organization may not delay the delivery of care pending the

signature.

(c) The commission shall provide to a parent or legally authorized representative who disagrees with the results of the initial assessment or reassessment an opportunity to request to dispute the results with the Medicaid managed care organization through a peer-to-peer review with the treating physician of choice.

(d) This section does not affect any rights of a recipient to appeal an initial assessment or reassessment determination through the Medicaid managed care organization's internal appeal process, the Medicaid fair hearing process, or the external medical review process.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0504. QUALITY MONITORING BY EXTERNAL QUALITY REVIEW ORGANIZATION. The commission, based on the state's external quality review organization's initial report on the STAR Kids managed care program, shall determine whether the findings of the report necessitate additional data and research to improve the program. If the commission determines additional data and research are needed, the commission, through the external quality review organization, may:

(1) conduct annual surveys of recipients receiving benefits under the medically dependent children (MDCP) waiver program, or their representatives, using the Consumer Assessment of Healthcare Providers and Systems;

(2) conduct annual focus groups with recipients described by Subdivision (1) or their representatives on issues identified through:

(A) the Consumer Assessment of Healthcare Providers and Systems;

(B) other external quality review organization activities; or

(C) stakeholders; and

(3) in consultation with the STAR Kids Managed Care Advisory Committee and as frequently as feasible, calculate

Medicaid managed care organizations' performance on performance measures using available data sources such as the collaborative innovation improvement network.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0505. QUARTERLY REPORT. The commission shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, the Legislative Budget Board, and each standing legislative committee with primary jurisdiction over Medicaid a semiannual report containing, for the preceding six-month period, the following information and data related to access to care for recipients receiving benefits under the medically dependent children (MDCP) waiver program:

(1) enrollment in the Medicaid buy-in for children program implemented under Section [532.0353](#);

(2) requests relating to interest list placements under Section [546.0455](#);

(3) use of the Medicaid escalation help line established under Subchapter [R](#), Chapter [540](#), if the help line was operational during the applicable six-month period;

(4) use of, requests for, and outcomes of the external medical review procedure established under Section [532.0404](#); and

(5) complaints relating to the medically dependent children (MDCP) waiver program, categorized by disposition.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Amended by:

Acts 2025, 89th Leg., R.S., Ch. 204 (H.B. [1620](#)), Sec. 8.040(a), eff. September 1, 2025.

For expiration of this subchapter, see Section 546.0555.

SUBCHAPTER L. QUALITY ASSURANCE FEE PROGRAM

Sec. 546.0551. QUALITY ASSURANCE FEE FOR CERTAIN MEDICAID WAIVER PROGRAM SERVICES. (a) In this section, "gross receipts" means money received as compensation for services under an

intermediate care facility for individuals with an intellectual disability waiver program, such as a home and community services waiver or a community living assistance and support services waiver. The term does not include:

- (1) a charitable contribution;
- (2) revenues received for services or goods other than waivers; or
- (3) any money received from consumers or their families as reimbursement for services or goods not normally covered under a waiver program.

(b) The executive commissioner by rule shall modify the quality assurance fee program under Subchapter H, Chapter 252, Health and Safety Code, by providing for a quality assurance fee program that imposes a quality assurance fee on persons providing services under a home and community services waiver or a community living assistance and support services waiver.

(c) The executive commissioner shall establish the fee at an amount that will produce annual revenues of not more than six percent of the total annual gross receipts in this state.

- (d) The executive commissioner shall adopt rules governing:
- (1) the reporting required to compute and collect the fee and the manner and times of collecting the fee; and
 - (2) the administration of the fee, including the imposition of penalties for a violation of the rules.

(e) Fees collected under this section must be deposited in the waiver program quality assurance fee account.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0552. WAIVER PROGRAM QUALITY ASSURANCE FEE ACCOUNT. (a) The waiver program quality assurance fee account is a dedicated account in the general revenue fund. The account is exempt from the application of Section 403.095.

(b) The account consists of fees collected under Section 546.0551.

(c) Subject to legislative appropriation and state and federal law, money in the account may be appropriated only to the

commission to:

(1) increase reimbursement rates paid under:

(A) the home and community services waiver program; or

(B) the community living assistance and support services (CLASS) waiver program; or

(2) offset allowable expenses under Medicaid.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0553. REIMBURSEMENT UNDER CERTAIN MEDICAID WAIVER PROGRAMS. Subject to legislative appropriation and state and federal law, the commission shall use money from the waiver program quality assurance fee account, together with any federal money available to match money from the account, to increase reimbursement rates paid under:

(1) the home and community services waiver program; or

(2) the community living assistance and support services (CLASS) waiver program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0554. INVALIDITY; FEDERAL MONEY. If any portion of Section [546.0551](#), [546.0552](#), or [546.0553](#) is held invalid by a final order of a court that is not subject to appeal, or if the commission determines that the imposition of the quality assurance fee and the expenditure of the money collected as provided by those sections will not entitle this state to receive additional federal money under Medicaid, the commission shall:

(1) stop collecting the quality assurance fee; and

(2) not later than the 30th day after the date the commission stops collecting the quality assurance fee, return any money collected under Section [546.0551](#), but not spent under Section [546.0553](#), to the persons who paid the fees in proportion to the total amount paid by those persons.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0555. EXPIRATION OF QUALITY ASSURANCE FEE PROGRAM. If Subchapter H, Chapter 252, Health and Safety Code, expires, this subchapter expires on the same date.
Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER M. VOLUNTEER ADVOCATE PROGRAM FOR CERTAIN ELDERLY
INDIVIDUALS

Sec. 546.0601. DEFINITIONS. In this subchapter:

(1) "Designated caregiver" means:

(A) a person designated as a caregiver by an elderly individual receiving services from or under the direction of the commission or a health and human services agency; or

(B) a court-appointed guardian of an elderly individual receiving services from or under the direction of the commission or a health and human services agency.

(2) "Elderly individual" means an individual who is at least 60 years of age.

(3) "Program" means the volunteer advocate program created under this subchapter for elderly individuals receiving services from or under the direction of the commission or a health and human services agency.

(4) "Volunteer advocate" means a person who successfully completes the volunteer advocate curriculum described by Section 546.0602(2).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0602. PROGRAM PRINCIPLES. The program must adhere to the following principles:

(1) the intent of the program is to evaluate, through the operation of pilot projects, whether providing the services of a trained volunteer advocate selected by an elderly individual or the individual's designated caregiver is effective in achieving the following goals:

(A) extend the time the elderly individual can remain in an appropriate home setting;

(B) maximize the efficiency of services delivered to the elderly individual by focusing on services needed to sustain family caregiving;

(C) protect the elderly individual by providing a knowledgeable third party to review the quality of care and services delivered to the individual and the care options available to the individual and the individual's family; and

(D) facilitate communication between the elderly individual or the individual's designated caregiver and providers of health care and other services;

(2) a volunteer advocate curriculum must be maintained that incorporates best practices as determined and recognized by a professional organization recognized in the elder health care field;

(3) the use of pro bono assistance from qualified professionals must be maximized in modifying the volunteer advocate curriculum and the program;

(4) trainers must be certified on the ability to deliver training;

(5) training shall be offered through multiple community-based organizations; and

(6) participation in the program is voluntary and must be initiated by an elderly individual or the individual's designated caregiver.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0603. AGREEMENTS WITH NONPROFIT ORGANIZATIONS; ORGANIZATION ELIGIBILITY. The executive commissioner may enter into agreements with appropriate nonprofit organizations to provide services under the program. A nonprofit organization is eligible to provide services under the program if the organization:

(1) has significant experience in providing services to elderly individuals;

(2) has the capacity to provide training and

supervision for individuals interested in serving as volunteer advocates; and

(3) meets any other criteria prescribed by the executive commissioner.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0604. FUNDING. (a) The commission shall fund the program, including the design and evaluation of pilot projects, modification of the volunteer advocate curriculum, and training of volunteers, through existing appropriations to the commission.

(b) Notwithstanding Subsection (a), the commission may accept gifts, grants, or donations for the program from any source to:

- (1) carry out the design of the program;
- (2) develop criteria for evaluating any proposed pilot projects operated under the program;
- (3) modify a volunteer advocate training curriculum;
- (4) conduct training for volunteer advocates; and
- (5) develop a request for offers to conduct any proposed pilot projects under the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0605. RULES. The executive commissioner may adopt rules as necessary to implement the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

SUBCHAPTER O. MORTALITY REVIEW FOR CERTAIN INDIVIDUALS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITY

Sec. 546.0701. DEFINITION. In this subchapter, "contracted organization" means an entity that contracts with the commission to provide the services described by Section [546.0702\(b\)](#).

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01,

eff. April 1, 2025.

Sec. 546.0702. MORTALITY REVIEW SYSTEM. (a) The executive commissioner shall establish an independent mortality review system to review the death of an individual with an intellectual or developmental disability who, at the time of the individual's death or at any time during the 24-hour period preceding the individual's death:

(1) resided in or received services from:

(A) an ICF-IID operated or licensed by the commission or a community center; or

(B) the ICF-IID component of the Rio Grande State Center; or

(2) received services through a Section 1915(c) waiver program for individuals who are eligible for ICF-IID services.

(b) The executive commissioner shall contract with an institution of higher education or a health care organization or association with experience in conducting research-based mortality studies to conduct independent mortality reviews of individuals with an intellectual or developmental disability. The contract must require the contracted organization to form a review team consisting of:

(1) a physician with expertise regarding the medical treatment of individuals with an intellectual or developmental disability;

(2) a registered nurse with expertise regarding the medical treatment of individuals with an intellectual or developmental disability;

(3) a clinician or other professional with expertise in the delivery of services and supports for individuals with an intellectual or developmental disability; and

(4) any other appropriate individual as the executive commissioner provides.

(c) A review under this subchapter must be conducted:

(1) in addition to any review conducted by the facility in which the individual resided or the facility, agency, or provider from which the individual received services; and

(2) after any investigation of alleged or suspected abuse, neglect, or exploitation is completed.

(d) To ensure consistency across mortality review systems, a review under this subchapter must collect information consistent with the information required to be collected by another independent mortality review process established specifically for individuals with an intellectual or developmental disability.

(e) The executive commissioner shall adopt rules regarding the manner in which the death of an individual described by Subsection (a) must be reported to the contracted organization by a facility or waiver program provider described by that subsection.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0703. ACCESS TO INFORMATION AND RECORDS. (a) A contracted organization may request information and records regarding a deceased individual as necessary to carry out the organization's duties. The requested information and records may include:

(1) medical, dental, and mental health care information; and

(2) information and records maintained by any state or local government agency, including:

(A) a birth certificate;

(B) law enforcement investigative data;

(C) medical examiner investigative data;

(D) juvenile court records;

(E) parole and probation information and records; and

(F) adult or child protective services information and records.

(b) On request of the contracted organization, the custodian of the relevant information and records relating to a deceased individual shall provide those records to the organization at no charge.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0704. MORTALITY REVIEW REPORTS. Subject to Section [546.0705](#), a contracted organization shall submit:

(1) to the commission, the Department of Family and Protective Services, the office of independent ombudsman for state supported living centers, and the commission's office of inspector general a report of the findings of the mortality review; and

(2) semiannually to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of the senate and house of representatives with primary jurisdiction over the commission, the department, the office of independent ombudsman for state supported living centers, and the commission's office of inspector general a report that contains:

(A) aggregate information regarding the deaths for which the organization performed an independent mortality review;

(B) trends in the causes of death the organization identifies; and

(C) any suggestions for system-wide improvements to address conditions that contributed to deaths reviewed by the organization.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0705. USE AND PUBLICATION RESTRICTIONS; CONFIDENTIALITY. (a) The commission may use or publish information under this subchapter only to advance statewide practices regarding the treatment and care of individuals with an intellectual or developmental disability. A summary of the data in the contracted organization's reports or a statistical compilation of data reports may be released by the commission for general publication if the summary or statistical compilation does not contain any information that would permit the identification of an individual or that is confidential or privileged under this subchapter or other state or federal law.

(b) Information and records acquired by the contracted

organization in the exercise of the organization's duties under this subchapter:

(1) are confidential and exempt from disclosure under Chapter 552; and

(2) may be disclosed only as necessary to carry out the organization's duties.

(c) The identity of:

(1) an individual whose death was reviewed in accordance with this subchapter is confidential and may not be revealed; and

(2) a health care provider or the name of a facility or agency that provided services to or was the residence of an individual whose death was reviewed in accordance with this subchapter is confidential and may not be revealed.

(d) Reports, information, statements, memoranda, and other information furnished under this subchapter to the contracted organization and any findings or conclusions resulting from a review by the organization are privileged.

(e) A contracted organization's report of the findings of the independent mortality review conducted under this subchapter and any records the organization develops relating to the review:

(1) are confidential and privileged;

(2) are not subject to discovery or subpoena; and

(3) may not be introduced into evidence in any civil, criminal, or administrative proceeding.

(f) A member of the contracted organization's review team may not testify or be required to testify in a civil, criminal, or administrative proceeding as to observations, factual findings, or conclusions that were made in conducting a review under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. 4611), Sec. 1.01, eff. April 1, 2025.

Sec. 546.0706. LIMITATION ON LIABILITY. A health care provider or other person is not civilly or criminally liable for furnishing information to the contracted organization or to the commission for use by the organization in accordance with this

subchapter unless the person acted in bad faith or knowingly provided false information to the organization or the commission. Added by Acts 2023, 88th Leg., R.S., Ch. 769 (H.B. [4611](#)), Sec. 1.01, eff. April 1, 2025.