**2024 TDC Tennessee Disability Scorecard**

**Executive Summary**

Over the past two years of the Tennessee Disability Scorecard, the state has seen its grade drop from a D+ in 2022 to a D in 2023. This reflected not only the everyday experiences of Tennesseans with disabilities, but also the lack of urgency and progress made by our state’s lawmakers and state agencies in improving their lives. Since the inaugural scorecard in 2022, we have expanded the scope of our scorecard from only working-age adults to include all Tennesseans with disabilities. We also added “homework” to last year’s scorecard to offer a path forward for our state’s decision makers to improve their grade while improving the lives of Tennesseans with disabilities.

In numerous cases, the state took its homework seriously. **Since the publication of the 2023 Scorecard, the General Assembly, Governor’s office and state agencies addressed ten homework items, making progress toward some and outright completing others**. These accomplishments will have, in some cases, profound positive impacts on the lives of Tennesseans with disabilities. Below outlines the state’s work:

|  |  |  |
| --- | --- | --- |
| **Subject** | **2023 Homework** | **Progress** |
| Family Caregiver Support | **Compensation:** establish a statewide Paid Family Caregiving policy that ensures caregivers receive compensation for providing services that the state fails to provide themselves | The General Assembly passed SJR848, which was a resolution urging the state to create a comprehensive statewide paid family caregiving policy and program (partial credit) |
| **Invest:** increase reimbursement to providers, including those for DSP wages, to ensure an adequate and stable network of agencies providing supports and services to Tennesseans with disabilities | In the final budget, the state increased reimbursement to providers to improve the wages of Direct Support Professionals |
| Aging | **Increase Housing Access:** Establish an alternative Supportive Housing licensure category to increase the number and quality of housing options available to aging Tennesseans.  | The General Assembly enacted Public Chapter 984, which creates alternative supportive housing licensure category to increase housing options available to aging Tennesseans |
| **Commit Resources:** Establish a Department of Aging and Disability to ensure that the needs of aging Tennesseans are well-understood, taken seriously and adequately resourced. | The General Assembly, Governor’s Office and Department of Intellectual and Developmental Disabilities enacted Public Chapter 688, which established a Department of Disability and Aging |
| Education | **Transparency:** establish metrics to document and report on the use of informal exclusionary discipline practices and policies against children with disabilities in Tennessee schools | Representative Mark White commissioned the Office of Research and Educational Accountability within the Comptroller’s office to study informal exclusionary discipline practices and policies  |
| **Common sense:** accept federal funding for special education and recommit to providing the rights and protections of IDEA to Tennessee students with disabilities  | The state did not follow through with the proposal to reject federal funding for Special Education  |
| Mental Health Access | **Increase Access:** Invest in school-based mental health care and supports, including expanding the behavioral health liaisons program to every school | The state invested $8 million in recurring funds to hire 114 additional school-based behavioral health liaisons  |
| Employment | **Increase effort:** Ensure that the state is not required to remit federal funding for VR by appropriating adequate funds to meet its Maintenance of Effort (MOE) obligation. | The state utilized its full amount of funding appropriated for Vocational Rehabilitation, remitting none back to the federal government |
| **Build opportunity:** Establish a Medicaid Buy-In program that allows working-age adults with disabilities to obtain and keep well-paying jobs without jeopardizing their access to care. | The General Assembly enacted Public Chapter 1002, which established a Medicaid Buy-In program for working adults with disabilities |
| Housing | **Build affordable housing:** Repeal the state’s 2018 preemption law preventing municipalities from using even voluntary zoning policies to build affordable and/or accessible housing | The General Assembly enacted Public Chapter 1051, which repealed the 2018 preemption law that previously banned voluntary local zoning policies for construction of affordable and/or accessible housing |

**While the positive work of the Governor and General Assembly in 2024 was laudable, welcome and encouraging, the Tennessee Disability Scorecard is intended to be a whole-of-government evaluation. In this respect, our state agencies, divisions and departments continue to operate within an intolerable status quo. Programs, supports and services continue to be too hard to access, too difficult to use and too insufficient to meet the needs of Tennesseans with disabilities. Meaningful improvements to the implementation of standing programs remain elusive while state divisions and departments become ever-increasingly sclerotic and antagonistic to change.**

**In our 2024 Tennessee Disability Scorecard, it would be a disservice to the real-life experiences of the state’s disability community to highlight the positive work of the Governor and General Assembly while Tennesseans with disabilities and their families continue to whither on the vine. Thus, we are not able to in good conscience improve the state of Tennessee’s final grade, despite the victories for the disability community highlighted above.**

**In that context, the 2024 Tennessee Disability Scorecard assigns a “D” to the state.**

This grade is not intended to make light of the legislation passed by the General Assembly. The work of our legislators, particularly that of the sponsors of these new laws, will improve the lives of many Tennesseans with disabilities. The impact of these accomplishments, however, will not be felt equally by all members of the disability community. For some, including residents with high levels of needs, caregivers of Tennesseans with disabilities and those attempting to access care, Tennessee will remain disappointingly the same.

Further, not all of the work of the General Assembly produced positive results for Tennesseans with disabilities – in fact, there were numerous pieces of legislation, which we will call “demerits”, that will actively harm the disability community. These also factor into this year’s scorecard grade and, as such, the state’s grade remains poor. See below for 2024 demerits:

|  |
| --- |
| **2024 Demerits:** |
| **Subject** | **Behavior** | **Notes:** |
| Housing | **Regression:** The General Assembly enacted Public Chapter 993, which permits exemptions from the state’s anti-institutionalization laws | This undoes 30 years of protections from the creation of large-scale, congregate and segregated housing  |
| Access to Care | **Regression:** The Division of TennCare proposes to seek a waiver to the long-standing, anti-institutionalization Medicaid IMD Exclusion policy | This permits the construction of large-scale psychiatric institutions and facilitates a move away from community-based mental health care |
| Access to Justice | **Involuntary Commitment:** The General Assembly enacted Public Chapter 784, which permits the involuntary commitment of people with intellectual disabilities without convicting them of a crime | This law requires that people with disabilities who have been found incompetent to stand trial affirmatively prove they are not a danger to society or potentially be remanded indefinitely, regardless of whether the accused crime is non-violent |
| Education | **Segregation:** The General Assembly enacted Public Chapter 1066, which permits the creation of charter boarding schools for “at-risk” youth | This law permits the exclusion of students with high levels of need, including those with disabilities, from their schools, communities and families with no promise for increased supports |
| Education | **Criminalization:** The General Assembly enacted Public Chapter 887, which increases the penalty for threatening an act of mass violence toward a school | This law provides little protection for students with disabilities who may make a threat as a manifestation of their disability, potentially subjecting them to a Class E felony |
| Education | **Danger:** The General Assembly enacted Public Chapter 801, which permits faculty or school staff to carry concealed handguns on school property | This law presents a heightened and disproportionate level of danger for students with disabilities, particularly those with behavior needs  |

The work of our state’s leaders to improve the lives of Tennesseans with disabilities remains incomplete. But, the state is not without opportunities for continued improvement. To support our state’s decision-makers in improving the lives of Tennesseans with disabilities, the 2024 Scorecard again offers homework, which consist of suggested policy changes, opportunities for investment and priority legislation. Below is a sampling of our Tennessee Disability Coalition priorities and correlate homework:

**Access to Care – F**

Our state’s Medicaid waiver programs are fundamentally broken, with thousands of Tennesseans with disabilities waiting for the services that the state has promised them. These supports and services are foundational to community living, and their absence is leading to a slow reversion toward institutionalization. TennCare, and the state as a whole, MUST act to more effectively utilize their resources to make good on our state’s promises to its residents with disabilities.

* **Underspending:** Tennessee ranked 51st out of 51 in the amount of spending per Medicaid enrollee, spending less than half of the national average
* **Playing with fire:** TennCare reimbursement rates cover only 75% of the actual cost of hospital care for TennCare members, contributing to 60% of state hospitals operating at a loss, with 45% at risk of closure because of unstable finances
* **Provider Scarcity:** 44% of enrollees in the state’s ECF CHOICES waiver program say they are waiting for services because there are no providers available

Homework:

* **Increase Transparency:** modify the state’s network adequacy reporting standards to more accurately reflect the extent of services waiver enrollees actually receive, how long they wait for them and where and for whom our network gaps exist
* **Improve Access:** submit a waiver to expand TennCare eligibility to those earning up to 138% of the Federal Poverty Line (FPL)
* **Management:** reconvene the TennCare Oversight Committee in the General Assembly to monitor TennCare’s provider networks, 3rd party venders and quality of service delivery

**Access to Justice – C-**

The promises of life, liberty and justice are foundational to full citizenship of all Americans, including those with disabilities. In some respects, the state has made intentional progress towards ensuring these basics are truly available to ALL Tennesseans over the years. But, in many cases, we are currently witnessing an ongoing regressive backslide in our justice system. From the increasing criminalization of disability to the trending reversion toward “punishment” as the primary guarantor of justice, we are concerned that the state is headed toward a less just Tennessee.

* **Youth Jails:** The state of Tennessee is currently the subject of a lawsuit over their mistreatment of children with disabilities in the state’s “Youth Development Centers”
* **Disability Access:** Tennessee ranks 16th in the composite “Disability Access” rankings by the National Center for Access to Justice
* **Institutionalization:** The Tennessee General Assembly passed a law permitting people with intellectual disabilities who have not been convicted of a violent crime to be remanded indefinitely to a state institution

Homework:

* **Common Sense:** Increase protections for students with disabilities from being charged with felonies resulting from “threats of mass violence”
* **Protect liberty:** Limit the application of “Jillian’s Law” to only violent felonies
* **Appropriate Placements:** prohibit administrative transfers of justice-involved youth to the adult criminal justice system

**Education – D**

The education of a state’s citizenry is one of the most profoundly vital roles of government. In this role, the state of Tennessee has not risen to the task. Our state continuously fails to adequately invest in necessary resources and fails to attract and retain teachers and staff, while our General Assembly ambles about in measures and proposals that effectively addresses neither concern. This inadequacy disproportionately and negatively impacts students with disabilities, who need greater resources and more support to access educational opportunity. A focus on students with disabilities going forward promises to improve their access, but also improve the education of all students.

* **Noncompliant:** The Federal Department of Education classified the state’s special education implementation as “needs assistance for more than two years in a row”
* **Personnel:** 45% of Tennessee teachers say they lack the support personnel to teach students with disabilities
* **Invest:** Tennessee ranks 43rd in per-pupil spending in the US, and 45th in the percent of state revenue dedicated to education

Homework:

* **Compliance:** Reconstitute the state’s special education compliance division within the Department of Education to focus on special education implementation
* **Prepare teachers:** Create an Academic and Behavioral Specialist (ABS) licensure category for prospective teachers who plan to work with students with behavior needs
* **Follow the law:** Require administrators to formally document ALL removals of students from school for behavior resulting from a disability and enforce IDEA protections

As we reflect on 2024, it is important that we recognize the success of the disability community, as well as our legislative champions, in improving the state of Tennessee. However, regardless of the effort, energy and impact of advocates, the state fails to fully grasp the necessary level of urgency to meet the moment. For much of the Tennessee disability community, life in 2025 stands to look frustratingly the same as it did in 2024. Our state’s Governor, General Assembly and state divisions, departments and agencies must recognize disability issues as intrinsically linked to the success of the state overall, and move with greater speed and purpose in addressing them in a collaborative, holistic and paradigm-shifting manner.

Disability advocates and self-advocates have long-been their own best champions, often making small and incremental progress toward a more just and equitable world for people with disabilities. Only when decision-makers and champions engage, however, are we able to make ground-shifting change, and ground-shifting change is what is needed in Tennessee. We urge the state to take responsibility for creating this change and to work with disability advocates and self-advocates to make Tennessee the best place in the country to live with a disability. It is our hope that lawmakers, decision-makers and the state as a whole take this charge seriously, identify ground-shifting solutions to real, long-standing problems and move with urgency to implement them to build a Tennessee that matches our aspirations.