**2024 Tennessee Disability Scorecard – Full Report**

**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:

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| **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:

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| **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 |

**Scorecard Report and Grades:**

**Housing – F**

As the cost of housing rises in Tennessee and across the country, access to accessible, affordable and adequately supportive housing becomes more and more elusive for the disability community. Since the inaugural Scorecard released in 2022, the number of Tennessee counties in which a household with a disability could purchase the average home has dropped from 15, to 5 in 2023 to zero counties in 2024. Access to one of the most quintessentially American means of economic security and mobility has been erased in our state for Tennesseans with disabilities. In part, this vanishing of the American dream has again earned the state an F.

While many across our state, and the country at large, have seen the cost of purchasing a home skyrocket, this has disproportionately impacted the state’s disability community. In Tennessee, it requires 51% more income for a household with a disability to achieve the same standard of living as a household without a disability. This is due to direct factors, such as the high cost of healthcare, and indirect factors, such as lost economic opportunities or reduced capacity to work. The impact of this extra cost of living means households with a disability have less money to save for a down payment, fewer options for available housing and fewer means to outbid other prospective owners in an increasingly competitive market.

As a result, more families and individuals with disabilities are housing cost burdened (pay more than 30% of monthly income for housing costs), fewer are homeowners and even those that have scraped by to purchase a home have been pushed to the margins of our communities. The impact of this affordability and access crisis are many. Inflexibility with the location of a family home can mean longer drives to the doctor’s office, limited access to high-resource public schools and lesser economic opportunity in access to stable, high-paying jobs. These housing factors are both functions and causes of the extra cost of living in the state for people with disabilities, and reduce the quality of life for Tennesseans with disabilities.

As the purchase of a family home has become out of reach of most Tennessee households with a disability, renting a place to live has likewise escaped the grasp of our state’s disability community. In 2024, zero counties are affordable for a household with a disability, making the median wage in that county, to rent the average rental unit in that county without becoming housing cost-burdened.

Given the costs of living with a disability in our state, many low-income Tennesseans with disabilities rely on public resources such the Housing Choice Voucher (HCV) in order to find a place to live. HCV’s are part of a federal program, operated on the local or municipal basis, that provides financial assistance to eligible renters to rent qualifying housing. The HCV program is imperfect – there are not enough vouchers available to meet the need, voucher holders struggle to find participating renters and few available homes are considered accessible. However, the flexibility inherent in the program – a voucher holder can choose to live anywhere there is a participating housing unit – is especially important to the disability community. This theoretically allows a voucher-holder with a disability to choose a housing location near their health care provider, or their child’s school. The housing choice helps to lessen the barriers and extra cost of living facing Tennesseans with disabilities.

However, this important means of securing housing for low-income Tennesseans with disabilities continues to be difficult to obtain. HCV are administered by local/municipal Public Housing Authorities, who have the permissions of the federal government to establish HCV award preferences and priorities, which may include renters and renter households with disabilities. Similar to last year, Tennessee again ranks 46th in the percent of HCV holders with a disability, indicating that affordable housing for this population continues to be a low statewide priority. This is concerning, given that 25.3% of Tennesseans with disabilities are housing cost-burdened, compared to only 16.5% of residents without disabilities.

And this lack of access to purchase, rent or subsidize housing does not speak to the need for accessible housing. The federal Department of Housing and Urban Development (HUD) categorizes “accessibility” into three different tiers. Tier 1 is “potentially modifiable”, which denotes some essential accessibility features like a step-less entry and main-floor bathroom and bedroom. HUD estimates that 33% of the US housing stock is tier 1 accessible. Tier 2 encompasses the accessibility features of tier 1, but also includes things like bathroom grab bars, steps with rails and no steps between any household rooms. HUD estimates that about 5% of the US housing stock meets these qualifications. Tier 3 is fully wheelchair accessible, but HUD estimates that less than 1% of the US housing stock is tier 3 accessible. This would indicate that in addition to the state’s affordability crisis, Tennesseans with disabilities who require affordable AND accessible housing may also be required to narrow their limited options even further.

In the last year, the Tennessee General Assembly made small but welcome steps toward acknowledging and addressing this growing crisis. First, Representative Dale Carr and Senator Todd Gardenhire passed HB 2623 and SB 2496 (enacted as Public Chapter 1051), which repealed the 2018 state preemption banning local voluntary zoning incentive policies for the construction of affordable housing. This was always an unnecessary and counterproductive enactment of state power, and its demise is welcome and beneficial to those seeking to build affordable housing. This bill was highlighted as “Homework” in the 2023 Scorecard. In addition. Rep. Kevin Vaughan and Senator Ken Yager passed HB 1046/SB1000 (Public Chapter 971), which established a state-level tax credit for housing developers who build projects containing a qualifying percentage of affordable housing units. While this was not included in the 2023 Scorecard as homework, it is a positive step toward addressing the supply-side of our state’s affordable housing crisis.

For the coming year, our homework consists of three suggestions that attempt to address the housing crisis in different ways. First, we ask that the General Assembly address a 2024 Scorecard “demerit”, in which the legislature enacted Public Chapter 993. The law provided exemptions to the state’s anti-institutionalization laws to two organizations in the state, ostensibly as a “pilot project”, which would allow them to build residential facilities that could be large, congregate and/or segregated. For three decades, the state has held that no residential service provider could operate a residence for people with disabilities with more than 8 people with disabilities residing there, nor could that housing unit could be closer than 500 yards to another residence for people with disabilities. This mechanism was put into place as for-profit out-of-state companies looked to build large scale private institutions for people with disabilities in the mid-1980’s. The purpose of the rule was to prevent the recurrence of institutions, public or private, and it has held since (in the late 1990’s, the number of allowable residents was reduced from 8 to 4).

Our homework suggests that the General Assembly effectively prohibit any further exemptions to this vital firewall, and ensure that our state does not creep any further back toward the large-scale institutionalization of people with disabilities. There are numerous mechanisms that could enact such a prohibition. The legislature could choose to establish a “pilot program” period, in which no exemptions be further offered until the “pilot program” has had a chance to establish its impact. The state could also choose to require that any other entities seeking an exemption hold a valid residential license, proffered by the Department of Disability and Aging, for 5 years under the current, 4-bed/500-yard policy in order to prove their capacity to provide care. Further, the state could establish additional requirements protecting the safety and choice of people with disabilities from predatory providers.

Second, we suggest the state make investments to increase provider rates for those operating Community Living Supports (CLS) homes through the state’s Medicaid waiver programs (like ECF CHOICES, CHOICES, etc.). Currently, TennCare members seeking must be referred by there Independent Support Coordinator (ISC), and a provider must choose to accept the waiver, often based on fit and the type and extent of support that the individual needs. For waiver enrollees with high levels of need, this can be a time-consuming and frustrating process because many CLS providers do not receive adequate reimbursement to pay for the types of services that individual requires. Higher reimbursement rates can offset some of those costs, helping to streamline the process for this population. In other cases, higher reimbursement rates can attract new providers, opening up further residential spots and diversifying the options for individual fit.

Finally, we suggest establishing an “Accessible Housing Trust Fund”, similar to the “Tennessee Housing Trust Fund” operated by the Tennessee Housing Development Agency (THDA). While the existing trust fund offers competitive grants for non-profit developers to build housing for Tennesseans with disabilities, this is one among many potential purposes for the trust fund. For example, the 2024 competitive grants awards funded only 6 beds for Tennesseans with intellectual and developmental disabilities (IDD). Establishing a dedicated fund focused on developing affordable, accessible units has the opportunity to increase that development many times over.

**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.

In 2024, Tennessee ranks 43rd in per-pupil spending, and 45th in the share of tax revenue dedicated to educating the state’s children. This is despite an injection of $1 billion additional recurring dollars to the education funding pool in 2023. Our state’s budget is a moral document, and an expression of our moral priorities. To that end, this low level of investment signals that our leaders believe there are more important duties of the state worthy of investment, above the moral imperative of ensuring children have access to a quality education.

This funding inadequacy doubly harms students with disabilities, who, as the state acknowledges in its new funding formula, require greater resources. Further, as district budgets get tight, administrators will look to their greatest expenses for their first cuts, and this is often special education support for students with disabilities. Thus, the federal government, in monitoring implementation of the Individuals with Disabilities Education Act (IDEA), have found the state in need of “assistance for at least two years”. This means that the federal Department of Education has found our special education programs to be insufficient, and inadequate.

And, to be clear, good implementation of IDEA and special education is time-, resource- and staff-intensive. And, to reiterate, the state does not supply our schools with the necessary tools for good implementation of IDEA. Parents notice during their IEP meetings, and certainly teachers notice. 45% of Tennessee teachers say that they do not have adequate support staffing to teach students with disabilities. Less than half of Tennessee teachers say they have the resources and training to work with kids with disabilities, and only 37% say they have both resources and training to work with kids with mental health needs.

Not only does the state face chronic and ongoing difficulty in investing in and implementing IDEA, the General Assembly also passed three pieces of legislation, which we call “demerits” in the 2024 Scorecard, that negatively impact students with disabilities. First, the state established “charter boarding schools” for at-risk youth. This is the second session in a row where this idea has been proposed. It was taken off notice in 2023, in part, because of the advocacy of the disability community. The original proposal deemed the presence of a disability as a category of “at-risk” child, and made them eligible for residential placement. The 2024 version, which passed, eliminated the category. However, many categories deemed “at-risk” would disproportionately cast a net over students with disabilities, and little in the law protects them and their rights. Further, we believe that it is detrimental for children with high levels of need – whether it be a disability, living in poverty, trauma, etc. – to be removed from their families, communities and support systems for their education. There is also no promise that a residential boarding school with no additional funds for the residential component or for the types of services that “at-risk” students need can provide a better opportunity for this population of students. Ultimately, we see this new law as an unwise and tempting avenue to counsel difficult students out of their local schools and communities and sweep any issues they present under the rug.

Second, the General Assembly passed a law making a threat of mass violence directed toward a school a Class E Felony, and requiring that school personnel contact law enforcement when they believe they have witnessed such a threat. The ostensible goal of this legislation was to reduce threats to schools, to which it is currently failing. It has been reported that over 300 children so far have been investigated by law enforcements for reported threats. This number, thus far accumulated over about three months of classes, is well on pace to eclipse the number of reported threats from 2023. The law makes little accommodation for disability, only exempting students with intellectual disabilities, but that legal language is an error in the code, leading to great uncertainty about how it should be applied. It also does not encompass developmental disabilities, such as autism and other communication-based disorders, meaning a student with a disability can be arrested and charged with a felony based on a manifestation of a disability. IDEA and settled case law recognize the individualized nature of disability in the school setting and protect students from punishment *because* of their disability. Overlaying the law on students with disabilities is contradictory to the protections of IDEA, the investments of TISA and long-standing understanding about disability in the school setting.

Third, the General Assembly also passed a law permitting school personnel to carry concealed weapons on the school premises. Further, the law shields those carrying concealed weapons in schools from identification, making it unknown to parents who may be in possession of a dangerous weapon in the presence of their children. Despite nearly 50 years of progress toward understanding and accepting students with disabilities in our schools, there continues to be an undercurrent of skepticism about their capacity, particularly those students with disabilities than manifest unwanted behaviors. This population of students are disproportionately subjected to school discipline, are more likely to be removed from their classroom, and their teachers are more likely to be unwelcoming of their presence. Further, these students are more likely to present behaviors that are interpreted as threatening, violent or destructive; adding a gun into this mix is an unwise choice.

Given the above, it is no wonder that students with disabilities lag behind their peers without disabilities in academic proficiency, and no wonder that they are disciplined at a disproportionate rate. This is not inevitable, however, and Tennessee can and should lead the country in educating students with disabilities. There are many ways to address the state’s education deficits, including investing at a significantly higher rates in our state’s schools. However, given the economic position of the state and the poor political feasibility of making such an investment, we have other suggestions that can support the special education population within existing resources.

First, we suggest reconstituting the state’s special education division to focus on compliance with the laws and regulations of IDEA and special education as a whole. In 2021, the state Department of Education “realigned” its special education-focused personnel within other academic divisions at the Department, arguing that “realignment will ensure that supports for students with disabilities permeate (sic) every decision we make.” Since the “realignment”, there have been 49 complaints on behalf of students with disabilities to the federal Office of Civil Rights. These complaints range from a denial of a “free and appropriate public education” (FAPE) to “disability harassment” to accessibility complaints. This is likely, in part, a result of a “realignment” away from IDEA compliance and ensuring that students’ rights are being upheld to “embed(ing)” special education resources and expertise in other offices and teams. There is no magic trick that improves special education, it is the improved ability to implement IDEA effectively and fairly; there is no way around it. Ensuring that our state’s special education experts are focused on building upon IDEA is a good way to ensure that we implement special education programs that meet the needs of Tennessee students with disabilities.

We also suggest that the state develop an “Academic and Behavioral Specialist” (ABS) licensure category to better serve students with behavior needs. While the vast majority of students with disabilities benefit greatly from their special education programs, students with behavior needs have been left behind. This is, in part, because our state’s teachers don’t know how to work with them, and the tell us exactly that. Over a quarter of our state’s new teachers say that their Educator Preparation Program (EPP) did not adequately prepare them to implement classroom behavior management techniques. 33% of all teachers say they lack instructional strategies to teach students with disabilities, 41% say they do not know how to support students’ behavior success (like implementing a behavior plan) and 48% say they don’t have the time to plan for student success. By creating a category of teacher specially trained to work with students with behavior needs, we can lighten the load on General Education teachers and administrators, and better support those students in finding academic and behavioral success.

The ABS licensure category originated in Minnesota and has been in effect for 12 years. Students are taught how to evaluate students for special education need, including behavior needs, to develop and implement behavioral interventions, to develop data collection systems to track progress and to be experts in implementation of IDEA. We suggest working with the State Board of Education (SBOE) to develop such a program, and partner with local post-secondary institutions to create the necessary coursework for licensure. We also recommend utilizing the ABS license as a recruitment tool for the state’s “build-your-own” program, in which non-credentialed school personnel (like paraprofessionals, teacher assistants and behavior support staff) are offered pathways to teacher licensure. This includes establishing institutional programs with flexible schedules (nights, weekends) and job-embedded coursework (like participating in IEP meetings at the school they work at).

Third, we suggest that the state establish a mechanism for and requirement that ALL removals from the educational environment are formally documented. It is a common and all-too-prevalent practice to ask parents to pick up students with disabilities early from school as a result of behavior, and then to not document that removal. This is hugely impactful and detrimental, because, under the rights laid out in IDEA, a student with a disability who has been removed for 10 or more days from the educational environment is entitled to a manifestation determination meeting. These meetings consider the need for a new evaluation (do we understand the student’s needs?), a new IEP (are the student’s goals, accommodations and modifications appropriate and effective?), a new placement (is this school/setting the right place?) and offer an opportunity for collaborative problem solving. This is an important right for the student, but also an opportunity for the school to reduce disruption, address behavior and manage its student population. However, our schools are only able to access this important problem-solving tool if they are formally and accurately documenting removals.

**Transportation – C-**

Access to safe and reliable transportation is one of the most important factors to ensuring that people with disabilities are able to live independent lives in our communities. This population relies on an array of transportation options, from accessible driver’s license testing to sufficient public transportation networks to accessible and affordable ride share options, in a way the broader population does not. Thus, a dense spectrum of transportation options in Tennessee are necessary to offer residents with disabilities an opportunity to thrive in our state. However, our state’s transportation system continues to suffer a lack of investment, as well as imagination. It is undoubtedly the experience of Tennesseans with disabilities that transportation continues to exist as a barrier to good jobs, good health care and independence.

Demand-response rides, commonly called paratransit rides, are one option for Tennesseans with disabilities to travel within their communities. Tennessee currently ranks 38th in the number of demand-response rides per person with a disability. Though funding for and operation of public transportation is complicated, the relatively low usage rate of this important option indicates policy barriers that limit its effectiveness. To reiterate, choice on the spectrum of transportation options is vital, but it is likely that our low rate of service is a function of a lack of investment and concurrent capacity, rather than a lack of desire to utilize this option. Low reimbursement rates, low driver pay and difficulty liaising with the state are all detrimental to the effective and efficient use of paratransit.

In the most recent AARP Long-Term Supports and Services (LTSS), Tennessee ranked 47th in their composite “Transportation Livability Index”. This metric includes things like frequency of local transit services, walkability of spaces, transportation costs, pedestrian policies and coordination of service polities and planning, among others. As we often hear from the Tennessee disability community, the lack of transportation options, across the transportation spectrum, is a major impediment to daily living, and this index certainly reflects that sentiment.

As the other data would suggest, paratransit rides can be unreliable and most other aspects of disability transportation, like public transit and ride share can be insufficient and inaccessible. Using public walkways, however, remains an option for Tennesseans with disabilities. However, our state’s roads are uniquely dangerous for pedestrians using public walkways. In 2023, the most recent year of data, Tennessee had the 13th most pedestrian traffic fatalities per capita. This is likely due to several factors, including a lack of safe and accessible sidewalks, excessive speed and size of vehicles, poor traffic planning and, generally, a lack of other, safer and more reliable options.

A high-quality, coherent transportation system is difficult to create and maintain – only a few large cities in the country can claim this mantle – but that does not mean that Tennessee cannot move incrementally toward transportation adequacy. We must be creative in better utilizing existing resources and making them more accessible to Tennesseans with disabilities. First, we suggest that the state require ride-share companies operating in the state, such as Uber and Lyft, to maintain a percentage of accessible vehicles that are able to accommodate folding and non-folding wheelchairs. Discrimination lawsuits against ride-share companies have blossomed across the country as people who use wheelchairs have been denied rides based on their use of a wheelchair. Not only do does a policy such as this benefit the state’s wheelchair users, it insulates ride-share companies, which are an important part of the disability transportation spectrum, from lawsuits and disruptions to service in our state. It is our recommendation that the state Department of Transportation and other relevant agencies work with ride-share companies to set a reasonable minimum percentage of accessible vehicles and timeline for implementation.

As wheelchair users around the country have faced discriminatory practices from ride-share drivers, so have people with disabilities who have a service animal. Ride-share operators are required by federal law to accommodate and permit service animals in their vehicles, regardless of whether the customer has requested a pet ride. Like discrimination lawsuits over the accommodation of wheelchairs, ride-share companies have been sued nationwide for refusing to accommodate a service animal. It is incumbent upon ride-share corporate to ensure that their contracted employees understand the responsibilities under federal law. In order to ensure that ride-share companies take the issue seriously, we recommend instituting a system of fines, directed at ride-share corporate offices, for verified instances of disability discrimination related to service animals.

Finally, we acknowledge that the General Assembly has made recent large investments in the state’s roadway system, including the advent of “choice lanes” as a funding mechanism for infrastructure spending. Given what we know about living in the state of Tennessee with a disability, from the extra cost of living, the unreliability of paratransit transportation to the unsafe nature of simply walking to work or a bus stop, we suggest that the state permit drivers with a valid disability plate, placard and/or decal to use the new “choice lanes” free of charge. This would help to facilitate greater opportunities to gain and retain high quality employment, reduce the time-burden of traveling for far-away medical appointments (stemming from an inadequate state provider network) and accommodate greater access to housing opportunities in lower-cost areas of the state.

**Employment – C-**

Tennessee has long boasted about its belief that residents with disabilities can and should expect employment. Our state’s Medicaid waiver program that supports many working age adults with disabilities is called the “Employment and Community First CHOICES” program. And the state has taken several steps in recent years to better the employment prospects of people with disabilities, including eliminating sub-minimum wage, increasing reimbursement rates for job-related supports and proposing to raise the employment supports spending cap for people with high levels of need in the state’s CHOICES program.

However, our state’s efforts have not been reflected in the available data. In 2024, Tennessee ranks 41st in the rate of employment for people with disabilities. This is up from 43rd in 2023, but still far below what should be expected of such a proud, employment first state. Where Tennesseans with disabilities want to work, they should have the opportunity for employment with the necessary supports they need. This data makes clear that that opportunity is simply not available to many Tennesseans with disabilities.

As the 2024 Homework achievements note, the state, after years of remitting tens of millions of dollars back to the federal government, used the entirety of its award for Vocational Rehabilitation (VR). VR is a vital means for states to support workers with disabilities, including opportunities for training, access to assistive technology and support for attending post-secondary institutions. However, despite spending over $95 million on VR services, the state ranked last in spending per enrollee for job training. This is a vital role for VR, and its low level of investment indicates that they do not prioritize this service. Job training often serves potential employees with higher levels of need, developing individualized goals for employment and laying out a service plan for them to meet them. VR must reevaluate their spending priorities to ensure that Tennesseans with disabilities of all kinds have access to the necessary training, supports and services to achieve their employment goals.

At age 14, schools must begin, in collaboration with students and parents, to develop a post-secondary transition plan within a student’s Individualized Education Program (IEP). Transition plans help students with disabilities develop post-secondary goals (like college, vocational training, the workforce, etc.), and create a 4 year system of coursework, supports and services (like embedded job experiences, career exploration, career and technical education (CTE) courses, etc.) to help them be prepared to achieve those goals. These are vital and unique opportunities to set students with disabilities up for success as they transition out of the kinds of systemic and individualized supports they receive in the public school system to the lesser structure of community living.

In Tennessee, however, only 7.4% of IEP’s audited in the state of Tennessee had a compliant post-secondary transition plans. The approximately 92% of IEP’s with non-compliant transition plans likely lacked at least one of four required and interconnected areas of focus: academics, vocational training, independent living, and community engagement. Each of these components requires the IEP to iterate goals, as well as the supports and services necessary to achieve those goals. Training for employment begins at the secondary school level, and IDEA recognizes the need for students with disabilities to have an individualized plan to achieve their goals. That the state fails to ensure that each student has a system in place to transition out of public schools and into our communities, with the ability to be employed (should they choose) sets our post-secondary systems of employment training, like VR and educational institutions, up for failure and leaves graduating students with disabilities without the tools necessary to thrive in independent lives of their choosing.

Fortunately, there are ways that the General Assembly can improve access to employment and thusly improve upon our low rate of disability employment. First, we suggest increasing capacity for effective use of Vocational Rehabilitation by dedicating a supplemental recurring state funding stream. Given that Tennessee spent its full 2024 award and still struggled to support and pay for job training is indicative of the need for greater financial resources. Second, we suggest providing funds to reopen the state’s Training Center for the Blind. The Training Center for the Blind provides services to support community living, including employment supports, but also community living training. The Tennessee training center closed in 2020 during the Covid-19 pandemic and then did not reopen following the end of the public health emergency. Dedicated funds could reopen the center allowing the state to provide more tailored job training opportunities to the state’s blind and vision impaired communities.

Finally, TennCare and the Department of Disability and Aging should end the policy of automatically fading job supports for workers with disabilities enrolled in the state’s Medicaid waiver programs. For some individuals with disabilities, planning to fade supports is appropriate. Those individuals may need help to learn the skills and habits necessary to be successful in their given job, and once they have learned them, it makes sense to pull those supports back. Others require ongoing supports. For example, a person with a disability may require toileting services in order to work the necessary hours that a job requires. It does not make sense, then, that we would pull job supports away because toileting is not a skill that is being taught. In another example, an individual with a disability might require support appropriately interacting with colleagues; it would not make sense to withdraw that support without demonstrating that a new skill has been learned. Support for employment should be individualized based on a person’s strengths and needs; a universal and automatic policy is antithetical to that goal.

**Mental Health Access – D-**

As the United States’ mental health crisis grows and potential solutions are proffered, it is important that our decision-makers consider history, evidence and a treatment framework. Over the past several years, the subject of mental health, mental health treatment and criminalization have become common at the Tennessee General Assembly. That work has produced legislative proposals that criminalizes manifestations of mental health need, like addition and homelessness, suggested a return to institutional models of mental health treatment and uses the court system to hoist involuntary incarceration, medication and treatment on individuals with mental health needs.

Conversely, the state has made significant investments in mental health supports for school-age Tennesseans, provided funding for community mental health clinics and strengthened the behavioral health safety net in the state. What these seemingly contradicting stances indicate is that the discussion about how to best meet the mental health needs of our state’s citizens is ongoing, and its outcome undecided. As we move this discourse forward, we urge our state’s leaders to consider evidence-based solutions that prioritize the fundamental rights and autonomy of all Tennesseans.

Despite large investments in the state’s mental health care system, the ability for a Tennessean in need to access necessary care remains low. In 2024, the state ranked 46th nationally in the availability of trained/licensed mental health providers. This presents a long-term issue – while it is possible to use levers of the state to attract and retain mental health providers, the pool is finite. While we need to ensure that our state’s Medicaid reimbursement rates are adequate for recruitment and retention, we must also move to increase the size of the provider pool by encouraging the development of new professionals and providers.

Not only does Tennessee lack providers, we lack the infrastructure necessary to meet the spectrum of need. While many mental health needs can be met in the community, some, including cases of acute mental health crisis, need to be met in an inpatient setting. Tennessee currently ranks 38th in the number of psychiatric beds per 100,000 residents. There is a fine line to be walked here – we don’t want the state to overemphasize the use of inpatient treatment, some truly do need this service. In this respect, Tennessee likely does not have the necessary beds to meet that need. Further, Tennessee has the 3rd lowest bed occupancy rate, indicating that on top of a bed shortage, there is a staffing shortage, leaving needed beds unstaffed and thus, unusable.

Not only is it difficult to find access to care, it is difficult to pay for it in the state of Tennessee. The state ranks 40th in the percent of adults with mental health needs who are insured. While the state has mental health insurance coverage parity laws on the book, access to insurance remains too difficult in Tennessee. Not only does pursuit of mental health treatment have the potential to create household financial calamity, in many cases, the cost of footing the bill for those that are uninsured falls on the state. And worse, many may choose not to pursue needed mental health treatment for lack of coverage and fear of household financial calamity.

Finally, despite investment in school-based mental health treatment, too many young Tennesseans go without care. In 2024, only 62% of youth with major depression received treatment, ranking 39th in the country. This is likely a function of the above lack of providers, beds and insurance coverage, as well as emblematic of the ongoing need to reframe perspectives of mental health need and treatment. Encouraging young Tennesseans to address mental health needs if and once they arrive is vital to their long-term health.

While the task of building a comprehensive and accessible mental health treatment system is difficult, Tennessee has made encouraging investments in recent years. It is possible that the impact and data has not caught up to these investments, but the following are several steps that the state could take to build on those investments. First, we recommend that the state substantially increase funding for the TN START crisis intervention program to ensure access statewide, recruit more providers and develop additional crisis respite homes. TN START is Tennessee’s version of the national START model, which provides community-based crisis intervention for youth ages 6 and up with intellectual or developmental disabilities (IDD) who are experiencing a mental health crisis. Currently, the program does not have the resources to operate effectively statewide. The START program is nationally recognized for evidence-based intervention, support within a child’s community and for its ability to resolve crises and keep children in their homes with their families.

Second, we recommend that the state require psychiatric facilities in Tennessee to update their occupancy status daily in a statewide bed registry. This would help ensure that Tennesseans in the midst of an acute mental health crisis are not retained in inappropriate settings, such as an emergency room, and can receive the type of specialized care they require more quickly. Currently, the state operates a statewide bed registry, but does not require hospitals to update their occupancy status. It has been reported that some hospitals have not updated their data since 2020. Outdated or inaccurate reporting leads to longer delays, more work for emergency room staff and renders all numbers in the database as suspect. Daily updates is not an unnecessarily burdensome task and would improve access to care.

Third, we suggest that the state Department of Education and TennCare collaborate to streamline the process by which school districts are able to bill Medicaid for behavioral health services provided in the school setting. Currently, a school district must contract with a Managed Care Organization (MCO) to bill for qualifying services for eligible students. This is a cumbersome prospect, with only 56% of Tennessee school districts statewide holding a contract with at least one MCO as of 2023. There are several means to streamline this process. First, TennCare could move to a fee-for-service model for school-based behavioral health care reimbursement. TennCare carves out numerous services across waivers for fee-for-service billing, which allows a provider, such as a school district, to bypass an MCO and bill TennCare directly for each service. TennCare could also work harder to facilitate MCO-LEA contracts by completing the time- and resource-intensive task of determining student eligibility and MCO relationships prior to each school year. Finally, TennCare could use shared savings to fund behavioral and mental health staff in Tennessee schools.

Finally, we suggest that state develop, or contract with experts, to create a training for mental health providers about working with patients with IDD. Many providers do not participate in the Medicaid program, or will not accept clients, because they are not versed in working with this distinct population. Offering and incentivizing this training is likely to expand the provider pool for this population, in which an estimated 35% of individuals with IDD have a co-occurring mental health need.

**Aging – C+**

States across the country are feeling the crunch of a rapidly aging population. In Tennessee, it is expected that our state’s aging population (aged 65+) will grow by over 300,000 people by 2040, encompassing a full 20% of the state’s residents. While there are many benefits to an aging population, it can also put a strain on the state’s systems if we do not do more to support aging Tennesseans now, and do more to prepare for the future. First, however, our state should focus on better serving adults 65+ right now, which prepares us to expand a good system to scale in the future. That said, the state currently does not do enough to ensure that aging people in the state have the supports and services they need to thrive right now.

In 2024, Tennessee has the 10th highest poverty rate among residents 65+ in the United States. Over the last century, the United States has ambitiously sought to develop social safety net systems to ensure that our country’s aging population is not automatically subjected to poverty after their working years are up. The system left much of the administration up to the states, with flexible accommodations for unique state systems, making the impact of these programs largely dependent on state policies. To this point, the state of Tennessee simply fails to ensure that our aging neighbors, friends, loved ones and fellow community members are not impoverished by the fact of their age. We know that living in poverty has numerous detrimental for aging adults, with increases in disability, depression, loneliness, cognitive decline and early mortality. It is incumbent upon our state lawmakers and decision-makers that we do more to ensure our aging residents do not suffer this fate.

One of the primary contributing factors to our state’s high poverty rate is the cost of housing. In the last year, 44.7% of Tennessee renters aged 65 and older are housing cost burdened, meaning they spend more than 1/3rd of their monthly income on housing costs. This ranks 23rd in the United States. This middling ranking is likely due, at least in part, to our equally middling levels of assisted-living and residential housing units per capita, which ranks 34th in the United States. Other contributing factors may include the adoption of a PACE program in the state, relatively low cost of home health care and comparatively low cost of living more broadly. That said, as our Scorecard grade and data points for housing show, the state as a whole is trending dramatically in the wrong direction for housing costs and availability, meaning that the rate of housing cost burden for aging residents is likely to follow suit if intervention isn’t applied.

Like federal anti-poverty programs for aging adults, there are numerous means by which the state can offer financial assistance to this population. One of the primary means of reducing overall poverty is reducing the cost of food, ensuring that poverty does not also result in malnutrition and hunger. To this end, the federal government, in collaboration with the state, administer the Supplemental Nutrition Assistance Program (SNAP), which has also been colloquially known as “food stamps”. Given the high rate of poverty in the state’s aging population, we should see an equally high rate of access to this important anti-poverty program. However, Tennessee ranks 37th in the percent of residents 65+ who are enrolled in SNAP and receive SNAP benefits. This is a failure to adequately prioritize and utilize resources, and a failure to ensure adequate administration of the program. According to reporting, at this time last year, there were 50,000 pending SNAP applications, and 40% of them were pending longer than the federally required 30-day processing window. Enrollment in the program has dropped precipitously in the last year, indicating that the state is failing to enroll qualifying and needy individuals, including aging adults.

Despite the poor outlook presented by the data, the state has moved in the last year to improve the system of supports for aging Tennesseans. In this effort, the General Assembly has enacted two items of homework proposed by the 2023 Scorecard. The first was passage of Public Chapter 688, which combined the Tennessee Department of Intellectual and Developmental Disabilities (DIDD) with the agency-level Tennessee Commission on Aging and Disability (TCAD) into the newly formed Tennessee Department of Disability and Aging (DDA). This has the potential to streamline services, more efficiently utilize resources and cease duplication of common efforts. In addition, raising TCAD and aging services to a Department-level position increases its visibility with lawmakers and Tennesseans alike.

Second, the General Assembly enacted Public Chapter 984, which creates an alternative housing licensure category for “homes for the aged”, which would in time increase the number and variety of housing options available to aging Tennesseans. Before passage of this new law, all “homes for the aged” were required to have a high baseline of services available within and oversight from the state. This is vital to ensuring that aging Tennesseans with high levels of need, such as in-home nursing care, dementia care or medication assistance, have high-quality access to care under ongoing supervision from the state. This excluded, however, lower needs aging adults, who don’t require a high level of service. This population may some level of support, like help with mobility or cooking, but do not need the same level of oversight from the state. This new licensure category streamlines the process for the latter type of residence and, with guardrails in place, opens the door for more providers to establish residential units for the lower-needs aging population.

The state can build on their 2024 success by implementing several other suggestions. First, we suggest that the state expand spousal impoverishment protections beyond the federal minimum standard. Currently, the state only meets the federal minimum protection, allowing (in 2024), a non-Medicaid enrolled spouse to keep 50% of up to $154,140 in shared assets, without threatening the Medicaid eligibility of their spouse with a disability. This helps to ensure that should one spouse need a higher level of care through the Medicaid program, the other spouse does not have to become equally impoverished for their loved one to receive that support. Twelve states permit non-Medicaid spouses to keep 100% of family assets (up to the federal maximum). Tennessee should follow suit, allowing spouses to live together longer in the community, avoiding the hardships of financial insecurity and often delaying the need for Medicaid long-term supports and services (LTSS) for the non-Medicaid spouse.

The state should also expand their outreach for their existing programs to ensure that aging Tennesseans know what is available to them, know how to access it and receive the full extent of the benefits for which they are eligible. This is often called a “no-wrong-doors” policy, which often entails a form of “benefits counseling” for residents who come into contact with state systems. For example, if an aging adult applied for SNAP benefits, their contact with the state would also check their eligibility for TANF, Medicaid/Medicare and other programs for aging adults, and support them in enrolling for those that they are eligible. This type of system reverses the burden of navigating the state from aging adults to state-sponsored experts, streamlining access to the program and reducing administrative overhead for competing and duplicative means-testing. According to the most recent AARP LTSS State Scorecard, Tennessee has improved in this respect over the last decade – the state should make efforts to ensure that its “no-wrong-doors” approach is effective, efficient and comprehensive in 2025.

Some low-income aging Tennesseans require a high level of care that only Medicaid can provide. The state attempts to meet this need through Medicaid waiver programs called CHOICES and OPTIONS. Currently, however, funding for these programs is inadequate to avoid a waitlist, particularly for CHOCIES Group 3, which served adults with physical disabilities that meet nursing-home admission standards. The state should invest more money, matched by the federal government, to improve access and quality for CHOICES Group 3 and OPTIONS. Those funds can be used to attract and retain providers, draw down the waitlist and expand the scope of services available to enrollees. These are vital programs that are not currently replicated in the private market; the state should do everything within its power to ensure that they are available and functioning at a high quality for aging Tennesseans.

**Family Caregiver Support – F**

In the 2023 Scorecard, the state received an “F-“ in this category due to the extremely limited and inadequate financial, social and administrative support it provides to family caregivers, as well as the toll that takes on our state’s informal caregiving population. In the last year, the state has made little effort to improve the lives of our state’s caregivers and the loved ones they care for. Caring for a loved one with a disability is a fundamentally different task from parenting or other common forms of caregiving. From navigating our state’s Medicaid system, to fighting for appointments for one of the few providers in their area to the extra cost of living with a disability, caring for a loved one with a disability is hard. And it takes a toll, caregivers of a loved one with a disability are more likely to develop mental and physical health needs, to forgo employment opportunities and to become financially unstable. The state MUST do much, much more to support this vital role in our communities, and it must move with a high level of urgency that the issue demands.

The lack of support from the state for family caregivers is causing enormous suffering in our state. In the last year, 20% of caregivers of a loved one with a disability reported 14 or more days of poor mental health per month, and 15% reported 14 or more days of poor physical health. This state data aligns with what is well-known in the disability and research communities, and should be well-known by TennCare and our state’s providers. The state also reports that 41% of family caregivers have high blood pressure, 41% have high cholesterol, 9% have heart disease, 17% have asthma and 33% have arthritis, all rates higher than the national average. Family caregiving households in Tennessee make about $13,000 less per year than the state average household income, and are more likely to live in poverty. Because the state relies so heavily on unpaid family caregivers, the state should feel obligated to support them; the health and welfare of our state’s caregiving population suggests that the state fails in this regard.

Much of the burden of caregiving falls on unpaid family caregivers because our state fails to maintain an adequate paid, formal caregiving workforce. In 2024, Tennessee ranked 45th nationally in the availability of home health care workers, with only 23 workers per 1,000 residents. This is due to a number of factors. First, home health care is difficult – it requires a high level of skill and compassion to be successful. Second, it is underpaid – despite recent investments to raise their wages, home health care workers and DSPs are underpaid in relation to the difficulty of their work. While many states struggle with their formal caregiving workforce, Tennessee does not do enough to lead the way in fully staffing and retaining an adequate workforce.

Fully reflecting the experience of Tennessee family caregivers, and encompassing the data about how the state supports them, the AARP ranked Tennessee dead last in the extent and quality of support that it provides to family caregivers. The latest report cites the absence of paid family leave policies, employment protection of caregivers, exceeding federal FMLA standards and eligibility for unemployment resulting from caregiving responsibilities, among many others. The state simply does not support family caregivers, and all available evidence indicates that fact.

Given that the state fails its family caregivers, leading to poor mental and physical health, loss of employment opportunities and presenting the threat of institutionalization of their loved one, there are many ways the state can improve. First, the state must enact a comprehensive, statewide paid family caregiving program and policy. At least 19 other states have such a formal program, helping keep family caregivers financially afloat while they care for their loved one. In Tennessee, some caregivers can access a meager monthly stipend - $500 in some cases $1,000 in others – if they care for a loved one. In most other instances, TennCare obscures and discourages fair payment for family caregiving. While representatives of TennCare may testify that they do indeed pay family caregivers through provider agencies, we know that they provide no standard guidance, no rules or policies and veil threats of disenrollment of providers who unknowingly violate unstated policy. In effect, there is no paid family caregiver program in the state, except in individual and exceptional instances. This amounts to an insulting form of gaslighting of families, who care for family members who have been promised supports that never come while being told they can get paid for doing that work, only to face insurmountable barriers, hoops and hurdles to achieve. It is long past time to formalize this process, so little as it actually exists, and make it a real option for family caregivers.

The state partially addressed this “homework” assignment in passing Senate Joint Resolution 848 (SJR848), which urged TennCare and the state to develop, in collaboration with stakeholder groups, a comprehensive, statewide paid family caregiving program and policy. In the process of its passage, the resolution faced little resistance, but it is undetermined if TennCare has made progress toward acting on the Resolution.

Second, the state should full fund conservatorship and supported decision-making services for Tennessee caregivers with loved ones enrolled in the state’s waiver programs. Conservatorship is an option for loved ones to become a legal guardian of an adult with a disability when that disability inhibits the person from living independently and making choices associated with independence. It is an option to protect vulnerable Tennesseans with disabilities from being victimized. Currently, the state offers less than a quarter of the cost of establishing conservators in most of the state’s waiver programs. Conservatorship can cost upwards of $5,000, and can be a long and laborious trek through an unfamiliar legal system. The state should do more to financially support this option, as well as supported decision-making, where it is appropriate. Not only does it convey benefit to a person with a disability and their family, it transfers many administrative tasks from the state to the family.

Finally, the state should repeal its preemption banning local paid family leave policies. Not all disability that requires family caregiving is lifelong or developmental, in some cases it is acute and in others short-term. Current family leave policy in the state is regressive and limited. The state obviously recognizes the value and benefit of paid family leave, offering up to 6 weeks of paid leave for state employees. However, the General Assembly has gone out of its way to prevent localities from establishing local policies that require, encourage or support enactment of paid leave policies. This is an unnecessary preemption that serves the needs of the business community, who operate in an extremely business-friendly state environment, over the needs of family caregivers, who operate in an extremely unfriendly state environment. Prioritizing family caregivers in this determination is of the utmost importance.

**Access to Care**

The most basic task of a state Medicaid agency is to facilitate access to care, supports and services for enrollees with disabilities. This is a complex task at its most basic, but made even more complex by the miasmic web of integration with private health care interests. The complexity of the system, however, is no excuse for a failure to make care accessible, and the state Tennessee has made care broadly inaccessible to Tennesseans with disabilities and they have suffered as a result. Moreover, the state and TennCare obscure this inadequacy, rather than remedy it, through a dizzying array of unintelligible technical reports, “success stories” and obstinance in the face of enrollees and advocates. Of the many issues highlighted in this Scorecard, this may be the most offensive of failures.

First, TennCare ranked 51st out of 51, dead last, in the amount of spending per Medicaid enrollee. In 2023, TennCare spent only $3,750 per enrollee, which is less than half of the national average and more than $1,000 less per enrollee than the next lowest spender. TennCare and the General Assembly routinely applaud such a statistic, believing it to be indicative of financial acuity and ingenuity. However, what this actually means is that TennCare is saving money because it is not paying for the services it promises. This occurs primarily as a result of an inadequate provider network; TennCare first saves money with low reimbursement rates for providers, leading to fewer participating providers, and with fewer participating providers, TennCare can pay for fewer units/hours of care, supports and services because enrollees have no providers from which to receive them. Simply, TennCare doesn’t pay enough for an adequate extent of providers, and because there are no providers, never has to pay for the services that enrollees are unable to access. This is a total system failure, and the celebration of this failure is a slap in the face to the disability community.

Further, the state and TennCare have applied for an instituted the TennCare III waiver, which incentivizes this behavior, often for political gain. Initially, the TennCare III waiver included cost-cutting measures like a prescription drug formulary, denial of retroactive coverage and the flexibility to change the “extent, scope and duration” of approved services at any time. Primarily, however, it instituted the idea of “shared savings”, in which any funds unspent on the care, support and services of Tennessee Medicaid enrollees could be split between the state and federal government. Those funds could be used to expand eligibility for Medicaid enrollment or expand services offered to Medicaid enrollees. Instead of working with the disability community on what those funds could achieve, the state and lawmakers have used the funds for projects that have little to no impact on broader access to care. TennCare III incentivizes cost-cutting for current enrollees, and its funds have not been used to improve their access to care. This is particularly impactful for Tennesseans with disabilities that manifest high levels of need for whom the current state waiver system has totally failed.

Not only do Tennesseans with disabilities suffer from this austerity care, hospitals, which serve ALL Tennesseans, face calamitous financial barriers to ongoing operation. TennCare reimbursement for Medicaid enrollees covers only about 75% of the actual cost of care. This leads to an environment in which 60% of Tennessee hospitals are currently operating at a loss, and 45% are at imminent risk of closure due to unstable finances, brought on in large part by TennCare’s stingy reimbursement rates. Tennessee ignominiously led the nation in rural hospital closures in the past decade, and has done little to address the causes. As hospitals collapse under the weight of uncompensated care, TennCare continues to short them.

And perhaps most gallingly, 44% of enrollees in the state’s ECF CHOICES waiver program say they are waiting for services because there are no providers available. 56% of enrollees say they are NOT getting the services they need. ECF CHOICES primarily serves Tennesseans with intellectual and developmental disabilities, and offers supports and services like community integration, job coaching, transportation and residential support. These are the types of home- and community-based services that allow people with disabilities to live in their communities, rather than in institutional settings. To deny enrollees those services because it is too expensive is to facilitate a return to broad-scale institution in the state. The state only closed their last institution in 2016 after decades of litigation following a determination that Tennessee violated the rights of residents with disabilities. To even fathom a return, let alone facilitate it through purposefully low investment, is to return to a time of exclusion and abuse. TennCare must take this information seriously, and improve access to care.

First, TennCare must be more transparent about their network adequacy. While it is true that they meet the minimum standard in the metrics established by the federal government, the fact that over half of enrollees do not receive their services should be call for a change. Fortunately, the Centers for Medicare and Medicaid Services (CMS) finalized new rules that change how network adequacy is measured. The “HCBS Access Rule” requires states to report on the size of their waitlist, how long people wait on it, how long between approval for services and receipt of those services and what percent of a service is actually provided compared to what is promised. This stands to be a groundbreaking shift toward ensuring network adequacy, receipt of services and the promise of community living. We suggest the state go further and delineate that data by geography, demography and service type. We should know who is not get services, where they live and to what degree are they being denied. Only when this information sees the light of day can we advocate for improvement. Further, we suggest that the state implement this reporting system by the end of 2025. This is of the utmost importance for the disability community and should be seen as one of our top priorities.

Second, the state should submit a waiver to expand TennCare eligibility to those earning up to 138% of the Federal Poverty Line (FPL). This is broadly described as “Medicaid Expansion” and is authorized under the Affordable Care Act (ACA). While providing health insurance coverage to those caught in the “Medicaid gap” – earning too much money for standard Medicaid and too little money for ACA Marketplace subsidies – it also carries with it an extra incentive: $1.26 billion. The American Rescue Plan, passed in 2021, incentivizes states that have not yet expanded Medicaid by offering to bump the federal matching rate by 5% over 2 years. In Tennessee that equates to an additional $1.26 billion to pay for the cost of expansion, as well as other health care priorities serving the Medicaid population. In Tennessee, that would leavae about $900 million beyond the cost of expansion. This could have profound effects on improving access to care in Tennessee. Those funds could be used to fix the provider network, to pay family caregivers, to expand residential housing options and support or to build rural health care infrastructure. The state has too many pressing health care needs to ignore a $900 million injection of funds; the General Assembly and Governor’s office must move with haste to secure these funds, expand access to Medicaid and improve our state’s health care system.

Finally, the we suggest that the state reconvene the TennCare Oversight Committee within the General Assembly, with the purpose of monitoring TennCare’s provider network, its 3rd party venders and the quality of its service delivery. Previously, the TennCare Oversight Committee was responsible for reigning in TennCare spending, and when they deemed that the goal was accomplished, was abandoned in 2016. This leaves very little legislative oversight of this vital state department, which has led to the lack of access and care we see today. Further, enrollees have little opportunity for redress when the system fails them, ultimately having to go to great lengths to secure a resolution to their problem. We believe that TennCare needs more oversight, and we believe that the General Assembly is the correct body to provide it.

**Access to Justice – C-**

Access to Justice is a new category in the 2024 Scorecard, intended to capture the role that the criminal justice system plays in the disability community. The impetus to this category was the increasing trend toward criminalization and incarceration for Tennesseans with disabilities. This is particularly concerning in light of the lack of access to services noted here in the Scorecard, as well as the broader failures of the system that Tennesseans with disabilities rely on. Of equal concern, however, is the way in which this trend classifies Tennesseans with disabilities: as inherently dangerous and criminal, unworthy to live in our communities as our neighbors and incapable of contribution to our society. This is a concerning regression that harkens back to our country’s disgraceful era of institutionalization, eugenics and exclusion.

Of great concern is the state’s treatment of youth with disabilities in state custody. Currently, the state is the subject of a class action lawsuit over its treatment of minors with disabilities in the state’s “Youth Development Centers”. The lawsuit alleges horrible acts of neglect and abuse, including the use of solitary confinement, failure to prevent attacks on residents with disabilities, a failure to offer special education services and the arrangement of “fight clubs” between residents, among other horrifying assertions. These accusations concerningly resemble those that resulted in the class action lawsuit and ultimate closure of the state’s institutions for people with disabilities. Further, this type of abhorrent behavior has the potential to further disable these children for life, leaving them unprepared to return to our communities. The seeming lack of concern from the state, as well as their defense of the lawsuit, is a travesty of justice directed towards the state’s disability population.

Serving as a “demerit” in the 2024 Scorecard, the General Assembly passed Public Chapter 784, which requires a person with an intellectual disability charged with a felony or class A misdemeanor and has been found incompetent to stand trial to *affirmatively prove* that they are not a danger to society. If they are unable to do so, they can be subjected to indefinite involuntary commitment, without ever having been convicted of a crime. Of great concern is the lack of distinction between a non-violent and violent offense, to which this law does not discern. Some non-violent class A misdemeanors include theft of less than $1,000, evading police by foot or possession of drug paraphernalia. Non-violent offenses are not the appropriate impetus to forced institutionalization or forced care. Further, there are not nearly enough spaces in appropriate settings for this population, and the passage of the law and funding in the budget is not close to accounting for the shortage. But perhaps most problematic is the implicit classification of people with intellectual disabilities as inherently dangerous, particularly in light of the lack of access to necessary and appropriate supports and services.

Our final data point paints the state in a better light. In 2008, the state committed to ensuring that people with disabilities had access to accommodations that ensured that they could fairly participate in the criminal justice system. As a result of that decision and subsequent actions taken, the National Center for Access to Justice ranked Tennessee 16th in their “Disability Access” rankings for 2024. Components of the score include access to ASL interpreters, training court staff on disabilities, reporting on ADA compliance and plain language publications describing how people with disabilities could access reasonable accommodations in the legal setting. This is a positive step forward in ensuring that people with disabilities can participate equally in the legal system.

The state can take several steps in 2025 to improve upon this grade. First, the state should increase protections for students with disabilities from being charged with felonies resulting from “threats of mass violence”. This law as noted as a “demerit” in the education section, but it is equally concerning as a denial of justice. We suggest that the state include increased protections for students with IEP’s, including those with intellectual and developmental disabilities, as well as those served under the “Emotional Disturbance” classification. We suggest the state, in designing these protections, use the language and due process protections found in IDEA as a model. For example, the state could require that, before arrest by law enforcement, the school, in collaboration with police, hold a team meeting to determine if the threat was authentic and actionable. The state could also consider requiring the consideration of a special education evaluation when a disability may be suspected in relation to the threat. Finally, the state could wholly exclude students with disabilities from application of the law. Ultimately, however, the law uses too broad a brush in attempting to crack down on threats of mass violence, and this disproportionately harms students with disabilities and we suggest the state make efforts to remediate the problem.

We also suggest that the state limit the application of “Jillian’s Law”, noted above, to only violent felonies. While we continue to strongly disagree with the notion that people with ID are inherently dangerous, we believe that one must have demonstrated capacity for violence and danger before being required to affirmatively prove that one is not violent or dangerous. Further, in order to accommodate people with disabilities who have been remanded under this law in the most appropriate setting, we urge the state to provide funds to increase availability of appropriate placement.

Finally, we suggest that the state prohibit administrative transfers of justice-involved youth to the adult criminal justice system. Under recent law, prosecutors or judges may require that part of a sentence incurred as a youth be served in the adult criminal justice system when the defendant turns 18. This diminishes the degree of protection that youth receive in the youth justice system upon transfer, and ignores what we know about supporting youth with disabilities in the criminal justice system. Further, it fails to prepare offenders to return to our communities, which is doubly impactful for Tennesseans with disabilities.

**Conclusion**

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. As they did in 2024, we urge our lawmakers and decision-makers to take these homework suggestions seriously to improve our state’s grade and the prospects of a better 2025 for our state’s disability community.

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.