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Advocates pleased with disability services gains in Legislature

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Jun. 4, 2009 (McClatchy-Tribune Regional News delivered by Newstex) -- AUSTIN -- Faced with dangerous conditions inside Texas' institutions for the mentally disabled and a massive waiting list for community-based care, lawmakers didn't pick sides -- they improved both.

They did it under pressure: from the U.S. Justice Department, from Gov. Rick Perry's office, from the national news media. And they owe much of their success to behind-the-scenes maneuvers by the Senate's key budget writer.

But in the session that ended this week, the Legislature made landmark progress without playing favorites, gingerly balancing the competing interests of state school parents and advocates for independent living.

"The state has recognized that we need to provide resources for both types of care," said Rep. Drew Darby, a San Angelo Republican who started the session fearing that some of his colleagues might try to shutter the state school in his district. "We've had a blending of those needs this session -- and a system we can all be proud of."

Advocates for the disabled say the progress made this session is staggering.

Lawmakers passed an emergency safety bill that creates an independent ombudsman to investigate injuries and deaths at state schools; requires fingerprinting, background checks and random drug testing of all state school employees; and installs security cameras in all facilities.

They agreed to a five-year, \$112 million settlement with the Justice Department to hire more than 1,000 new state school workers, dramatically improve health care, and install independent monitors to oversee conditions at the facilities.

They gave approval for the family of a young man who was nearly beaten to death by a state school employee to sue the state; his mother had been trying for years.

And they provided an extra \$200 million in state funds to provide community-based care for nearly 8,000 people stuck on long waiting lists -- an unprecedented expenditure.

"It's a historic, monumental investment in the system," said Amy Mizcles, director of governmental affairs for the Arc of Texas. "They really worked on the entire system."

Investigation

The improvements follow a four-year federal investigation that found widespread civil rights violations across Texas' 13 state institutions for the mentally disabled, and years of media reports about abuse and neglect in the facilities. One of the most staggering came even as lawmakers were meeting -- video of late-night "fight clubs" that employees at the Corpus Christi State School forced upon residents. The footage aired on Good Morning America and other national news programs.

The changes are largely the work of six key players.

Rep. Patrick Rose, D-Dripping Springs, and Sen. Jane Nelson, R-Flower Mound, served as the clearinghouses for reform ideas, refereeing the bitter debate over whether the state schools were even worth saving. Advocates for community-based care argued that the state schools were dangerous and inefficient; state school families said community care was inadequate and under-regulated.

Meanwhile, Perry chief of staff Jay Kimbrough used his experience reforming the Texas Youth Commission to devise a safety plan for the state schools. Sens. Judith Zaffirini, D-Laredo, and Eliot Shapleigh, D-El Paso, filed individual bills on almost every state school and community care problem -- ensuring something would get through. And Sen. Steve Ogden, R-Bryan, the Senate's key budget writer, pulled the trigger, allocating hundreds of millions of dollars to improve care in the state schools and the community.

"I knew the state schools were in trouble, and I just started thinking, 'There has to be a solution to this,'" Ogden said. "I consider it to be one of the more significant things this budget has accomplished."

Schools stay open

The legislation doesn't close or consolidate any of the state schools. It's a relief to state school parents, who feared that's where lawmakers were headed and lobbied vigorously to keep all of them open.

That's a disappointment to many disability rights advocates, who testified on horrific abuse inside the facilities with the knowledge that their efforts to close the facilities -- not reform them -- might backfire.

"It's not some sort of philosophical turf battle; it's proven that what's best for people with disabilities is to live in the community," said Robert Stack, president and CEO of Community Options Inc., which operates group homes and foster care placements in Texas and other states. "The state schools really can't be fixed."

Nor do the measures provide a vision for the future of disability services in Texas. Efforts to create a strategic plan for Texas' state schools, which have watched their census decline as community care has expanded, passed the Senate but fell short in the House.

Any hard numbers capping the state school population were stripped out, over objections from lawmakers who fear the loss of jobs if facilities in their districts close.

"There's still so much fragmentation and confusion, so many significant problems, in the system," said Colleen Horton, public policy director for the University of Texas' Center for Disability Studies. "We're not stepping back to look at where we want to be in the future."