I. Welcome and Introductions – Rob Mortensen, Chair

Chair Rob Mortensen convened the Legislative Committee at 8:32 a.m. and welcomed everyone.

II. Overview of the Legislative Review Process – Linda O’Neal

Linda O’Neal provided an overview of the legislative review process for TCCY. The process begins with staff, primarily Petty, Hargrow and O’Neal, reviewing all bills filed in the General Assembly and identify those impacting children and families. Petty prepares the Legislative Report that includes all bills. Staff, including some central office staff and the regional coordinators via conference call, identifies the subset of bills that will be tracked in the weekly Legislative Updates, and the smaller subset of bills for development of legislative guidance statements, and the recommended position on those bills. Staff considered the agency’s capacity to influence legislation, i.e., can we make a difference in the discussion of the legislation, and focused on the bills that seemed most
appropriate for a position. Occasionally, staff recommend a position on a bill on principle, even when there are questions about whether or not it is likely to pass.

Assigned staff drafts the legislative guidance on individual bills. This year more staff than ever were involved in developing Legislative Guidance Statements: Richard Kennedy, Craig Hargrow, Rose Naccarato, John Rust, Jenn Drake-Croft, Sumita Keller, Melissa McGee, Shaun Noblit, Steve Petty, Vicki Taylor and Field Placement Student Caitlyn McCollister, and all did an outstanding job. Hargrow and Petty played a leading role in editing statements and identifying the bills to include. O’Neal served as the overall editor and compiled all legislative guidance into a single document. Hargrow, Petty and Commission Member Christy Sigler provided invaluable editing for the final document. There were additional discussions regarding whether legislation would be included in the recommendations for the Committee and final editing of the draft statements. The draft version was distributed to the Legislative Committee.

The Committee will review each draft recommendation and by motion, second and voting will approve the recommendations, including any additions/deletions/edits to the statements. If bills are dropped from the list following discussion, they will not appear in the final list of recommendations or minutes that will be provided to all Commission members for action in the meeting on Friday, February 16.

Mortensen reminded the members the goal is to improve the lives of children. TCCY should support or oppose bills based on policy considerations and the best interests of children rather than fiscal concerns. O’Neal added that the final positions will be emailed to all Commission Members and staff, and are posted on the agency website. Summary versions of some Legislative Guidance are included in the Briefing Sheets provided at Children’s Advocacy Days. Staff talks with sponsors, and when bills are put on notice, talks with other members about Commission positions. Occasionally

III. Review of Draft Legislation and Action

After discussion, the committee made the following recommendations for legislative guidance:

**Legislative Guidance**  
**SB 2258 (Norris)/HB 1832 (Hawk)**

**TLS Bill Summary: Scheduling of controlled substances and their analogues and derivatives.** Includes the director of the Tennessee bureau of investigation in the process of revising and republishing of the annual schedule of dangerous drugs. Excludes certain drugs from the schedule. Updates the list of drugs and common names for drugs to be categorized in schedules. Allows for sentence reduction credits to prisoners after successfully completing intensive treatment for substance use. Part of administration package.

**Additional Explanation/Changes in Current Law:** Provides 60 days credit for sentences involving any qualifying prisoner who successfully completes an evidence-based, intensive
residential substance use disorder treatment therapeutic community program of duration of at least nine months.

**TCCY Legislative Committee Recommendation: SUPPORT:** As a component of *TN Together*, Governor Haslam’s comprehensive plan to address opioid abuse, this legislation will provide much needed substance use disorder treatment options to incarcerated individuals that typically could only receive services after release. This design eliminates many practical barriers to treatment (transportation, payment, time off from work, etc.). Substance abuse treatment reduces recidivism and the reduced criminal activity associated with substance abuse treatment is cost-effective.

Intensive residential substance use disorder services can provide treatment that includes employment counseling, building a therapeutic community, family mapping, assessing and treating co-occurring disorders, and identifying and challenging maladaptive criminal thinking patterns. Planning for community re-entry can include identification of ongoing services and resources needed for a successful transition.

Being incarcerated can be a psychological challenge that creates trauma and hopelessness. Substance abuse treatment can build skills that help buffer these challenges. For prisoners with a mental health co-occurring disorder, there is evidence treatment reduces time spent in segregation and lessens victimization and exploitation from other inmates. Reductions in trauma are associated with positive outcomes related to health and well-being.

Benefits can include reduced healthcare costs. With lowered recidivism rates, costs to the criminal justice system are reduced. Prisoners that gain adaptive life skills are more apt to reach educational goals, be economically productive, increase their health status and become responsible citizens.

**MOTION TO SUPPORT (SHEA), SECONDED (HARLAN). UNANIMOUS.**

**Legislative Guidance**

**SB 1636 (Yarbro)/HB 1706 (Jernigan)**

**TLS Bill Summary:** Increases age restrictions for tobacco and vapor-related products. Increases age restrictions for tobacco and vapor-related products from 18 years of age to 19 years of age.

**Additional Explanation/Changes in Current Law:** This bill would expand current law to include vapor products and increase the age restriction to 19 for acquiring or possessing tobacco products. Under current law, acquiring or possessing tobacco subjects a child to juvenile court proceedings. This bill makes a violation of this act by a minor a delinquent act and a Class C misdemeanor for a young person who is 18 years of age.

If vaping or using tobacco becomes a delinquent act, children could be placed in detention in violation of federal law. Tobacco possession is regarded as a status offense under federal law. If children are placed in detention under this bill it would be in violation of federal requirements for
deinstitutionalization of status offenders (DSO). Increased DSO violations could result in the loss of up to $200,000 in federal funds (approximately 25 percent of the current allocation to Tennessee) under the Juvenile Justice and Delinquency Prevention Act. TCCY monitors jails and detention facilities statewide for violations of federal DSO requirements in order to maintain Tennessee’s eligibility for Juvenile Justice and Delinquency Prevention Act grant funding.

Should this bill become law, an 18 year old would be charged with a misdemeanor for vaping or using tobacco. This would establish a criminal record and increase difficulties with job searches, higher education entrance applications, and require costs and a lengthy process for expunction of the record. A Class C misdemeanor is punishable by a $50 fine.

**TCCY Legislative Committee Recommendation:** OPPOSE: Reducing youth access to tobacco and vapor products is important for the future health of Tennessee youth. Tobacco use is a leading cause of cancer, heart disease, and a host of other debilitating health conditions and one of the major reasons Tennessee citizens are on average in poorer health than much of the rest of the country. Adding vapor products is an important next step. While more information is needed on the long-term effects of using vapor products, their use by young people has been shown to increase the likelihood of tobacco use and addiction later in life.

However, by making a violation a delinquent act, the bill would put Tennessee in violation of federal requirements potentially resulting in the loss of federal Juvenile Justice and Delinquency Prevention Act funding if youth were placed in detention. Use of detention should be discouraged except when youth when have committed serious offenses and no less restrictive alternative is available to provide for public safety. The bill would also result 18 year olds being charged with a misdemeanor, giving young people just starting out in life a criminal record and the stigma that goes with it. TCCY opposes this probably well-intentioned bill. While 18 year olds should not begin using tobacco or vaping because they are of legal age, they should not incur a criminal record for doing so.

**MOTION TO OPPOSE (SWEENEY), SECONDED (SHEA). UNANIMOUS.**

**Legislative Guidance**

**SB 1850 (Haile)/HB 1627 (Dunn)**

**State Summary: Public Health** - As introduced, expands Non-Smoker Protection Act to include vaping. - Amends TCA Title 39, Chapter 17, Part 18.

**Additional Explanation/Changes in Current Law:** Expands the Non-Smoker Protection Act to include vapor products in the definition of smoking. Using vapor products would be prohibited in all the locations where smoking tobacco products are prohibited including but not limited to: Child care and adult day care facilities; Educational facilities, Health care facilities; Hotels and motels; Public and private transportation facilities, Restaurants; Retail stores; Sports arenas, and Theaters.

**TCCY Legislative Committee Recommendation:** SUPPORT. TCCY supports the addition of vaping or use of electronic nicotine delivery systems (ENDS) to the Non-Smoker Protection Act,
prohibiting vaping in areas where smoking is prohibited. Research on the long-term exposure to second hand vapor raises significant concerns about the effects on non-users health. The liquid in vapor products is poisonous and has led to increased calls to poison control centers about infants’ and toddlers’ exposure to the products. Nicotine is highly addictive and use of ENDS products by adolescents may lead to addiction later in life.

The Tennessee Department of Health’s most recent advisory on e-cigarettes or ENDS (Electronic Nicotine Delivery System) products includes some of the following statements:

Though the body of scientific knowledge is steadily increasing, there continue to be legitimate medical questions about the short- and long-term health effects of using current electronic nicotine delivery systems. This should prompt consumers to be cautious about using the devices as well as being exposed to secondhand emissions. The use of e-cigarettes by adolescents has been increasing at a dramatic rate in recent years. The “current use” rate for adolescents was 1 percent in 2011 and rose to 16 percent in 2015. E-cigarettes can become a gateway to cigarette use according to several recent studies. Teenagers who have ever used e-cigs are two times more likely to try combustible cigarettes in the future compared to those who have never used an e-cigarette. Best current evidence is that many adolescents who use electronic cigarettes also smoke traditional cigarettes. Because many adolescents and adults are dual users of conventional and electronic cigarettes there are significant unknowns about the long term health impacts for dual users. Adolescents are especially at risk for harms caused by nicotine exposure. In addition to potential long-term effects on brain development, the risk for addiction to other substances may be increased due to changes in the developing brain. These changes could affect learning, memory, attention, behavioral problems and future addictions.

Nicotine can cause poisoning. Acute nicotine poisoning is more common among children, who may accidentally chew nicotine gum or patches, swallow liquids from containers used in or to refill electronic nicotine delivery systems, or absorb liquids through the skin from these devices. Symptoms of nicotine poisoning may include: nausea, vomiting, fainting, headaches, weakness, fast heartbeat, agitation, restlessness, excitement, abdominal cramps, seizures, difficulty breathing and coma. In Tennessee, calls about electronic cigarettes and liquid nicotine exposures increased from six calls in 2011 to 125 calls in 2015. Parents should not allow children to play with electronic cigarettes or similar devices. They contain batteries and liquid chemicals which, if swallowed, could cause serious health problems. From January 2012 through April 2015, the National Poison Data System received 29,141 calls for nicotine and tobacco product exposures among children younger than 6 years. The report on these exposures reveal children exposed to e-cigarettes had 5.2 time higher odds of a health care facility admission and 2.6 time higher odds of having a severe outcome than children exposed to cigarettes, and one death occurred in association with liquid nicotine exposure.

The FDA announced May 5, 2016 finalization of rules that went into effect Aug.8, 2016 extending its authority to all tobacco products, including e-cigarettes. The new rules will:
- Not allow electronic cigarettes and similar products to be sold to persons under the age of 18 year, both in person and online.
- Required age verification by photo ID.
- Not allow the selling of e-cigs and other covered products in vending machines, unless in an adults-only facility.
- Not allow the distribution of free samples.
- Regulate the manufacturing of ENDS to comply with all legal requirements.

Emissions from ENDS products can contain other chemicals such as formaldehyde, propylene glycol, acetaldehyde, acrolein, and tobacco-specific nitrosamines which are known to be hazardous to health.

Pregnant women should avoid using ENDS devices. The nicotine can impact fetal development, affecting the brain, nerves and circulatory systems. Exposure to nicotine and other chemicals during pregnancy may have negative long-term health effects, including impaired fetal brain and lung development.

To prevent fires and explosions, the U.S. Department of Transportation, effective Nov. 6, 2015 banned passengers and crewmembers of commercial flights from having battery powered portable electronic smoking devices in checked baggage and prohibits passengers and crew members from charging the devices on board an aircraft.

**MOTION TO SUPPORT (SHEA), SECONDED (SWEENEY). UNANIMOUS.**

**Legislative Guidance**

**SB1510 (Massey)/HB2164 (Moody)**

**TLS Bill Summary:** Family life curriculum - child sexual abuse prevention instruction. Requires family life curriculum to include instruction on the detection, intervention, prevention and treatment of child sexual abuse. Extends immunity from a cause of action to instructors or organizations providing such instruction in accordance with state law.

**Additional Explanation/Changes in Current Law:** Amends TCA Section 37-1-603 and Title 49, Chapter 6, Part 13. Bill summary adequately explains changes.

**TCCY Legislative Committee Recommendation:** SUPPORT: TCCY supports child sexual abuse education for children and youth in the school setting to reduce risk of victimization. Child sexual abuse and child abuse continue to be a pervasive problem in Tennessee. In the most recent KIDS COUNT report, over 11,000 Tennessee children had confirmed cases of child maltreatment in 2015. That number has increased since 2011, yet research indicates that many cases of child abuse are unreported and that the prevalence is likely much higher. According to the National Center for Victims of Crime, 1 in 10 children will be sexually abused by the time s/he is 18.

Child sexual abuse is considered an Adverse Childhood Experience (ACE) which can create toxic levels of stress in children. This stress disrupts the development of strong brain
architecture and can lead to lifelong social, emotional and physical health problems. In order to prevent and mitigate ACEs, Tennessee’s children need the opportunity to have safe, stable, nurturing relationships and environments which create a solid foundation for health across the lifespan.

According to the National Sexual Violence Resource Center, child sexual abuse prevention programs that target children give them the ability to recognize child sexual abuse, encourage them to disclose abuse, and give them skills to help reduce victimization. Due to continuous contact with the children they serve, teachers and other school staff have opportunities to observe children’s behavior, academic achievement, and social and emotional functioning. These safe, stable relationships with school personnel can help buffer the impact of toxic stress and create an environment where children can safely disclose abuse. Furthermore, since the majority of children spend a significant portion of time in school, school-based programs can reach a vast number of Tennessee children making this an effective strategy to reach children at scale. This bill is key to preventing child abuse by ensuring students are taught about sexual abuse detection and prevention in accordance with existing law and curriculum (TCA 37-1-601).

Source:


MOTION TO SUPPORT (SHEA), SECONDED (SWEENEY). UNANIMOUS.

Legislative Guidance
SB 1626 (Gresham)/HB 1460 (E. Smith)

TLS Bill Summary: Requirements for recovery high schools. Allows LEAs to establish a recovery high school to serve eligible students starting in the 2018-2019 school year.

Additional Explanation/Changes in Current Law: A recovery high school is a public school for students who have a primary or secondary alcohol or other drug abuse or dependency diagnosis or co-occurring substance use and psychiatric diagnosis. It provides a high school education that leads to a diploma in compliance with the rules of the state board of education. The recovery school must have a structured plan of recovery for the students. Local boards of education may establish recovery high schools to serve eligible students in grades nine through twelve (9-12) and any two (2) or more boards may join together and establish a recovery high school. Enrollment in a recovery high school shall be voluntary and may enroll students residing outside the LEA in which the recovery high school is located pursuant to the LEA out-of-district enrollment policy. A student who graduates from a recovery high school shall receive a high school diploma from the high school that the student attended prior to enrolling in the recovery high school. The administrator of a recovery high school shall provide a comprehensive annual report to the commissioner of education, the commissioner of mental health and substance abuse services, and the commissioner of health on each student's recovery. Amendment Summary: House Education Administration and Planning Subcommittee amendment 1 (012120), changes the definition of drug abuse or dependency diagnosis from the department of mental health and
substance abuse definition to the American Society of Medicine (ASAM) or the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) definition.

**TCCY Legislative Committee Recommendation:** SUPPORT: TCCY supports legislation allowing LEAs to establish recovery high schools to serve eligible students starting in the 2018-2019 school year.

According to the Tennessee Department of Mental Health and Substance Abuse Services, “A recent survey of Tennesseans, 18 years of age and older, found an alarming 373,000 acknowledged having an alcohol or illicit drug addiction. Among youth, ages 12 to 17, 26,000 admitted to an alcohol and drug dependence and approximately one-quarter of all Tennesseans acknowledge they currently use tobacco products.”

Research posted on the US National Library of Medicine and National Institutes of Health website states “for teenagers, school often sits at the heart of the relapse threat. Because they are minors, the majority of adolescents must return to their pretreatment neighborhoods and schools. Students treated as outpatients may never have a respite from using peers in their school and neighborhood. One study found that virtually all adolescents returning to their old school reported being offered drugs on their first day back in school (Spear & Skala, 1995). Students who attend schools with high overall use levels are particularly susceptible to use (Cleveland & Wiebe, 2003; Piper, Moberg, & King, 2000). For many adolescents, schools not only represent the environment of previous use and contact with pretreatment using friends, but the emotional turmoil involved with life transitions (Isakson & Jarvis, 1999). When young people leave residential treatment or while receiving outpatient treatment, if a private school is not financially possible, their options usually are limited to their former school or dropping out.”

Additionally, adolescent relapers are less likely to stay in school and more likely to skip school. Succeeding academically can help students stay sober, which in turn can help them graduate. Poor academic performance is the “single strongest predictor of dropping out” (Gibson, 1997, p. 5), and adolescents who drop out of school have a higher risk of relapsing than those who finish school (Casemore, 1990). Among adults aged 18 or older, those who graduated from high school but did not attend any college and those who graduated from college had lower rates of substance use disorders (9.0 and 8.0 percent, respectively) than those who were not high school graduates (Substance Abuse and Mental Health Services Administration, 2006). This implies that educational attainment is a factor in a person’s ability to avoid abusing substances. Research shows students who attend treatment and go back into their normal high school have about a 70 percent chance of relapse. That number drops to approximately 30 percent when the student attends a recovery school after treatment. In addition, a recovery school in Houston found that about 98 percent of the students who attended had planned to drop out of school due to their addiction. After attending a recovery school, 90 percent of the students graduated, and over 80 percent went on to seek a post-secondary degree.

**MOTION TO SUPORT (HARLAN), SECONDED (SHEA). UNANIMOUS.**
Legislative Guidance
SB1947 (Crowe)/HB2331 (Powell)

TLS Bill Summary: Tracking/Reporting Corporal Punishment by LEA. Local Education Agencies - As introduced requires each LEA to submit annually a report to the department of education detailing the LEA’s use of corporal punishment; requires the department of education to report the number of instances of corporal punishment on its website. - Amends TCA Title 49, Chapter 1; Title 49, Chapter 2 and Title 49, Chapter 6.

TCCY Legislative Committee Recommendation: SUPPORT: TCCY supports legislation requiring local education agencies to submit corporal punishment data to the Department of Education (DOE). DOE does not track the use of corporal punishment. It is allowed in the state, though many districts within the state have prohibited it. The Civil Rights Data Collection (CRDC) project at the federal Department of Education does collect data on corporal punishment through school surveys. Its most recent data is for the 2013-14 school year, in which 98.7 percent of Tennessee schools replied to the corporal punishment questions on the survey. As seen in the charts on the following page, this data shows racial and gender disparities in the use of corporal punishment.

CRDC data show 88 of 141 districts reported some students receiving corporal punishment. The Achievement School District, the Alvin C. York School, the Tennessee School for the Deaf, the West Tennessee School for the Deaf, the Tennessee School for the Blind, and the Tennessee Department of Children’s Services are each included as a district in the reporting. Of these, only the Alvin C. York School reported instances of corporal punishment. Among those 88 districts, 7,204 incidences of corporal punishment were reported, affecting 1.6 percent of their total enrollment.

The three districts with the highest number of corporal punishment incidents reported were Tipton County (901), Lauderdale County (480) and Marshall County (292). The districts with highest percentage of students subjected to corporal punishment were Lake County (18.2%), Lauderdale County (10.8%) and Huntington Special School District (10.2%). Several school districts that go only to the 8th grade reported corporal punishment, and the Bells City district, which goes only to grade 5, reported 8 incidents.

There are also clearly geographic disparities as many districts have stopped using this discipline method. Understanding these disparities is important, and it is difficult to do that without data. The CRDC data is outdated and its accuracy is unknown. Schools already report suspension and expulsion data, and adding corporal punishment to the list to be reported should not be much additional burden.
MOTION TO SUPPORT (SHEA), SECONDED (SWEENEY). UNANIMOUS.

Legislative Guidance
SB2031 (Green)/HB2101 (Bryan)

TLS Bill Summary: Eligibility Verification for Entitlements Act - postsecondary education benefit.

Additional Explanation/Changes in Current Law: Adds to the definition of state or local public benefit payment for any postsecondary education at a rate below an out-of-state tuition rate.

TCCY Legislative Committee Recommendation: OPPOSE: TCCY opposes legislation that
prohibits Tennessee students who have lived in the state and graduated high school in the state from receiving in-state tuition. Young adults who meet these criteria are part of the fabric of the communities where they attended high school, were home schooled or obtained a GED or HISET. These undocumented students must pay more than three times the tuition as their classmates, yet they and their families are and have been Tennessee residents paying state taxes. Tennessee is home to approximately 25,000 undocumented youth who have lived here most of their lives. Prohibiting in-state tuition for these students undermines their financial ability to go to college and develop the skills needed for the work force of the future. A better educated populace is essential for Tennessee’s economic prosperity.

MOTION TO OPPOSE (HARLAN), SECONDED (SHEA). UNANIMOUS.

Legislative Guidance
SB 2196 (Swann)/HB 2272 (Pitts)

TLS Bill Summary: Requires each local education agency to employ one licensed social worker in every school that conducts classes in any grade from K-12.

Additional Explanation/Changes in Current Law: Would be implemented in three phases, starting with schools that serve grades K-5 in the 2018-2019 school year; schools that serve grades 6-8 in the 2019-2020 school year; and finally, schools that serve grades 9-12 in the 2020-2021 school year. Also specifies that these school social workers must comply with all applicable rules, policies, and guidelines at the district and state levels and possess an active license to practice social work. Authorizes the state board of education, in consultation with the board of social workers and department of health, to establish a school social worker program and adopt policies and guidelines regarding the qualifications, standards, and requirements for school social workers.

TCCY Legislative Committee Recommendation: SUPPORT: TCCY supports efforts to increase social, emotional, and behavioral support services for students in order to prevent and mitigate toxic stress and Adverse Childhood Experiences (ACEs). When these services are integrated in the school setting, students achieve better mental health and academic outcomes. Research indicates that up to 20 percent of students have mental health issues significant enough to cause impairment to major life functions. Students in certain populations – including students with disabilities, students of color and students from low-income families – are at even greater risk for challenges that can impact their educational outcomes, and yet they are less likely to receive the appropriate services.

Because of the scope of social workers’ practice (prevention, education, barrier identification, treatment and intervention, assessment and evaluation) and service delivery methods (direct service, collaboration, consultation and advocacy), they can make unique contributions to a coordinated, multi-disciplinary approach to school health. In addition to supporting students with specific challenges, school social workers also promote positive school climates that benefit all students by helping build resilience.

Schools are the ideal setting in which to house social workers. Schools are one of the first places
where social, emotional and behavioral issues are recognized and one of the most efficient and effective places to deliver interventions because of the regular contact school personnel have with students and families.

MOTION TO SUPPORT (SHEA), SECONDED (SWEENEY). UNANIMOUS.

Legislative Guidance
SB2218 (Tate)/HB2651 (Camper)

TLS Bill Summary: Establishes a commission to study the school-to-prison pipeline and restorative practices. Lists the composition and membership of the commission. Calls for the department of education to brief the commission on disciplinary data and student arrests by October 1, 2018. Requires the commission to report on the findings to the governor and general assembly on April 1, 2019.

Additional Explanation/Changes in Current Law: The bill summary provides sufficient explanation of the bill and any changes in current law.

TCCY Legislative Committee Recommendation: SUPPORT WITH AMENDMENT: “The ‘school-to-prison pipeline’ refers to the policies and practices that push our nation’s schoolchildren, especially our most at-risk children, out of classrooms and into the juvenile and criminal justice systems. This pipeline reflects the prioritization of incarceration over education.”


Research indicates it is preferable to keep children out of the juvenile court system whenever possible. Strategies to reduce the school-to-prison pipeline improve outcomes for youth and avoid the potentially life-long stigma of justice system involvement. They contribute to long-term community safety by improving the possibilities for success in school and reducing involvement with the justice system.

According to an analysis of U.S. Department of Education data by the Southern Poverty Law Center, historically suspensions and expulsions from school were relatively rare. In 1973, fewer than four percent of students were kept out of school for punishment. However, a growing concern of youth crime and violence led to policies requiring youth to be suspended or expelled for various offenses. For example, the Gun-Free Schools Act was passed in 1994. This act mandated a yearlong out-of-school suspension for any student caught bringing a weapon to school. “Zero-tolerance” laws and policies such as the Gun-Free Schools Act have contributed to an increase rate of suspensions and expulsions. In addition to zero-tolerance policies, schools simultaneously adopted strict policies on minor offenses and relied more heavily on school resource officers in an attempt to deter more serious offenses. Over time, these policies have failed to yield their intended results.

In Tennessee, schools are a major contributor of referrals to juvenile court. The Tennessee Juvenile Court 2016 Statistical Data shows of the 17 different sources of referrals to juvenile court, schools were the 5th greatest referral source behind law enforcement, court staff, DCS, and parents. Based on juvenile court statistical data over several years, four of the primary reasons
Tennessee schools referred students to juvenile court are as follows: truancy, possession of tobacco products, unruly behavior and disorderly conduct.

Restorative practices build healthy communities, increase social capital, reduce the impact of crime, decrease antisocial behavior, repair harm and restore relationships. As an emerging social science, restorative practices integrate developments from a variety of disciplines and fields, including education, psychology, social work, criminology, sociology, organizational development and leadership. Notable areas of influence for restorative practices include the school-to-prison pipeline and community policing.

The fundamental premise of restorative practices is people are happier, more cooperative and productive, and more likely to make positive changes when those in positions of authority do things with them, rather than to them or for them. The use of restorative practices helps to:

- reduce crime, violence and bullying;
- improve human behavior;
- strengthen civil society;
- provide effective leadership;
- restore relationships; and
- repair harm.

The aim of restorative practices is to develop community and to manage conflict and tensions by repairing harm and building relationships. This statement identifies both proactive (building relationships and developing community) and reactive (repairing harm and restoring relationships) approaches. Organizations and services that only use the reactive approaches without building the social capital beforehand are less successful than those that also employ the proactive approaches.

Tennessee recognizes zero-tolerance and similar policies are usually harmful to youth and do not enhance school or public safety. The Juvenile Justice Task Force recommended Tennessee pursue school-based strategies to reduce student referrals to juvenile court. TCCY supports legislation that potentially helps keep children out of the juvenile justice system while building community and improving school and community safety.

TCCY recommends amending the bill by including the juvenile justice system in places where the criminal justice system is mentioned. Additionally, under Section 1(c)(4), (6), (7), (8), (10), (11) and (12), designees should be able to serve in place of the listed executive director or president. Under Section 1(g)(4), the national best practices for training school resource officers should be listed as well.

**MOTION TO SUPPORT (HARLAN), SECONDED (SHEA). UNANIMOUS.**
Legislative Guidance
SB2263 (Gardenhire)/HB2429 (White)

TLS Bill Summary: Exemptions to Out-of-State Tuition. Exempts certain students from paying out-of-state tuition at state institutions of higher education if the individual meets certain requirements outlined in the bill. Excludes international students and trainees who are non-immigrants.

Additional Explanation/Changes in Current Law: Amends TCA Section 4-58-102; Title 49, Chapter 7; Title 49, Chapter 8 and Title 49, Chapter 9. Exempts students from paying out-of-state tuition if they attended school in this state for the three years immediately prior to graduation from high school, graduated from a Tennessee high school, obtained a GED or HISET awarded by a state-approved institution or organization, or completed high school in a Tennessee home school program, and are registered as an entering student or enrolled at a state institution of higher education.

TCCY Legislative Committee Recommendation: SUPPORT: TCCY supports legislation that makes Tennessee students eligible for in-state tuition and fees if they have attended school for three years, graduated high school or achieved a GED or HISET in the state. Young adults who meet these criteria are part of the fabric of the communities where they attended high school or obtained a GED or HISET. These undocumented students must pay more than three times the tuition as their classmates, yet they and their families are and have been Tennessee residents paying state taxes. Tennessee is home to approximately 25,000 undocumented youth who have lived here most of their lives. Exempting these students from out-of-state tuition strengthens their financial ability to go to college and develop the skills needed for the work force of the future. A better educated populace is essential for Tennessee’s economic prosperity.

MOTION TO SUPPORT (HARLAN), SECONDED (SHEA). UNANIMOUS.

Legislative Guidance
SB2326 (Kyle)/HB2429 (Turner)

TLS Bill Summary: Instructional guidelines for child safety training programs.

Additional Explanation/Changes in Current Law: Amends TCA Title 37, Chapter 1, Part 4; Title 49, Chapter 5, Part 1; Title 63, Chapter 23; Title 63, Chapter 6, Part 2; Title 63, Chapter 7, Part 1 and Title 63, Chapter 9. Requires the Department of Children’s Services to develop instructional guidelines for child safety programs for teachers.

Legislative Guidance
SB2404 (Kyle)/HB2605 (Thompson)

TLS Bill Summary: Guidelines for child safety training programs for members of professions dealing with children.
Additional Explanation/Changes in Current Law: Amends TCA Title 37, Chapter 1, Part 4; Title 49, Chapter 5, Part 1; Title 63, Chapter 23; Title 63, Chapter 6, Part 2; Title 63, Chapter 7, Part 1 and Title 63, Chapter 9. Requires the Department of Children’s Services to develop instructional guidelines to be used by the board of social worker licensure to create child safety training programs. Will require social worker seeking license renewal to complete a child safety training program prior to the board granting the professional a renewal.

Legislative Guidance
SB2405 (Kyle)/HB2606 (Hardaway)

TLS Bill Summary: Requires department of children's services to develop instruction guidelines for child safety programs.

Additional Explanation/Changes in Current Law: Amends TCA Title 37, Chapter 1, Part 4; Title 49, Chapter 5, Part 1; Title 63, Chapter 23; Title 63, Chapter 6, Part 2; Title 63, Chapter 7, Part 1 and Title 63, Chapter 9. Requires the Board of Medical Examiners, Board of Osteopathic Examination, and the Board of Nurses to create a child safety training program based on guidelines developed by the Department of Children’s Services. Professionals seeking license renewal from one of these boards must complete the child safety training prior to the board granting renewal.

TCCY Legislative Committee Recommendation: SUPPORT: TCCY supports legislation to require teachers (SB2326/HB2629), social work professionals (SB2404/HB2605), and medical professionals (SB2405/HB2606) to participate in child safety training programs in order to prevent, recognize, and effectively respond to child abuse and neglect.

Child Sexual Abuse and Child Abuse continue to be a pervasive problem in Tennessee. In the most recent KIDS COUNT report, over 11,000 Tennessee children had confirmed cases of child maltreatment in 2015. That number has increased since 2011, yet research indicates many cases of child abuse are unreported and that the prevalence is likely much higher.

Child abuse and neglect are considered Adverse Childhood Experiences (ACEs) which create toxic levels of stress in children. This stress disrupts the development of strong brain architecture and can lead to lifelong social, emotional and physical health problems. The Tennessee Department of Health reports that ACEs contribute to increased rates of disease and mental health diagnoses in Tennesseans. In order to prevent and mitigate ACEs, Tennessee’s children need the opportunity to have safe, stable, nurturing relationships and environments which create a solid foundation for health across the lifespan.

Improving capacity of adults to prevent, recognize and respond to child abuse and neglect is the best overall way to prevent and mitigate abuse. Requiring teachers to complete a child safety training program improves a school’s ability to develop policies and practices that minimize risk and staff ability to appropriately respond to disclosures of abuse. Because the majority of children spend a significant portion of time in school, school-based programs can reach a vast number of Tennessee children making this an effective strategy to reach children at scale. Due to continuous contact with the children they serve, teachers and other school staff have
opportunities to observe children’s behavior, academic achievement, and social and emotional functioning. These safe, stable relationships with school personnel can help buffer the impact of toxic stress and create an environment where children can safely disclose abuse.

Extending child safety training program requirements to other licensed professionals, including social workers and those practicing in the medical field, extends the effectiveness of prevention. Requiring child safety training for professionals creates strong public policy to support effective reduction of child sexual abuse, child physical abuse and child neglect.

Sources:


Tennessee Department of Health, Division of Policy, Planning, and Assessment, Office of Surveillance, Epidemiology, and Evaluation. (2016). Behavioral Risk Factor Surveillance System (BRFSS) ACEs [Data analyzed by the Division of Family, Health, and Wellness].

MOTION TO SUPPORT (SHEA), SECONDED (SWEENEY). UNANIMOUS.

**Legislative Guidance**

**SB2330 (Kyle)/HB2330 (Powell)**

TLS Bill Summary: Prohibit corporal punishment for students with disabilities. As introduced, prohibits the use of corporal punishment against a student with a disability who has an IEP or a Section 504 plan. - Amends TCA Title 49.

**Additional Explanation/Changes in Current Law:** Summary adequately describes.

**TCCY Legislative Committee Recommendation:** SUPPORT: TCCY supports prohibiting corporal punishment for students with disabilities. Students with disabilities by definition have additional challenges in school compared to typically-developing students. They often have difficulty processing information, controlling their emotions and/or interacting well with their peers. They also suffer a high incidence of bullying. When they are caught up in a situation that a school might find warrants corporal punishment, they may be unable to articulate clearly what the circumstances were. They can make an easy target for blame.

Many students with disabilities do not fully understand the consequences of their behavior and will not necessarily be able to connect the punishment to the behavior, making it seem to them more like a random physical assault by an adult they should be able to trust. Research shows that corporal punishment is not an effective discipline method for most students, and this ineffectiveness is magnified among students with disabilities.

The Tennessee Department of Education does not track the use of corporal punishment. It is allowed in the state, though many districts state have prohibited it. The Civil Rights Data Collection (CRDC) project at the federal Department of Education does collect data on corporal punishment through school surveys. Its most recent data is for the 2013-14 school year, in which 98.7 percent of Tennessee schools replied to the corporal punishment questions on the survey.
Statewide, 1,260 students with disabilities were reported to have been disciplined with corporal punishment. Among students with section 504 disabilities, 59 incidents were reported making up 0.6 percent of all students with section 504 disabilities. Among students with disabilities under IDEA, 1,201 incidents were reported, representing 0.9 percent of all students with IDEA disabilities. These rates reflect the rate among all students with disabilities and would be higher if the data allowed a comparison to students with disabilities just in districts that use corporal punishment. Some of the our most populous counties that have the largest numbers of students with disabilities (like Davidson and Shelby) do not use corporal punishment and are pulling these statewide percentages down.

In a study of individual school data, WSMV found that students with disabilities in sixty Middle Tennessee schools received corporal punishment at a higher rate than their peers without disabilities. ([http://www.wsmv.com/story/35374177/students-with-disabilities-punished-at-higher-rate-at-60-middle-tennessee-schools](http://www.wsmv.com/story/35374177/students-with-disabilities-punished-at-higher-rate-at-60-middle-tennessee-schools))

As seen in the charts below, The CRDC data also show racial and gender disparities in corporal punishment, even among just students with disabilities.

**Corporal punishment among Tennessee students.**

- **Female:** 18%
- **Male:** 82%

**Disability Enrollment by gender 2013-14**

- **Female:** 48%
- **Male:** 52%

**Corporal punishment among Tennessee students with disabilities by race/ethnicity, 2013-14**

- **Asian:** 0%
- **Hispanic (any race):** 2%
- **Black:** 27%
- **White:** 71%

**Disability Enrollment by race**

- **Asian:** 1%
- **Hispanic (any race):** 13%
- **Black:** 6%
- **White:** 80%
TLS Bill Summary: As introduced, requires all school personnel to receive implicit bias in-service training annually; requires students desiring a license to teach to pass a course of implicit bias training.

Additional Explanation/Changes in Current Law: This bill requires all school personnel to receive implicit bias in-service training. The implicit bias training must be conducted on an annual basis, but it is not clear if personnel must receive the training annually. The bill also requires all students desiring a license to teach to pass a course of implicit bias training.

TCCY Legislative Committee Recommendation: SUPPORT: Implicit bias refers to attitudes or stereotypes that impact our actions and decisions without our conscious knowledge. The attitudes or stereotypes may be favorable or unfavorable. Every person has implicit biases and they are often more predictive of a person’s behavior than the person’s conscious values.

Bias against youth of color has deep historical roots with overrepresentation of black youth and disparities in treatment in the juvenile justice system. The view of youth of color as different and deserving of harsher treatment was intensified in the 1980s with the perpetuation of the “super-predator” myth. Disparate treatment of youth of color is impacted by implicit bias. Implicit Bias – Why It Matters For Youth Justice, National Juvenile Justice Network (Sept. 2017).

Tennessee schools disproportionately suspend African-American students and students with disabilities. In 2016-2017, African-American students were 24 percent of the student population, but were subjected to 57 percent of suspensions and 68 percent of expulsions. In 2013-2014, ten percent of students with disabilities were suspended compared to 6.5 percent of the general education population.

Without the proper awareness and training, implicit biases of school personnel at all levels could harm Tennessee’s most vulnerable students. To increase the likelihood all children in Tennessee are receiving the best education available, school personnel should receive implicit bias in-service training. TCCY supports legislation that enhances Tennessee’s school personnel’s ability to treat students in an unbiased manner and thereby improving outcomes for Tennessee’s students.

MOTION TO SUPPORT (SHEA), SECONDED (HARLAN). UNANIMOUS.
TLS Bill Summary: Classification of a Student for In-State Tuition. Requires state institutions of higher education to classify students as in-state for tuition purposes, only if the students are Tennessee citizens.


TCCY Legislative Committee Recommendation: OPPOSE: TCCY opposes legislation that prohibits Tennessee students who have lived in the state and graduated high school in the state from receiving in-state tuition. Young adults who meet these criteria are part of the fabric of the communities where they attended high school, were home schooled or obtained a GED or HISET. These undocumented students must pay more than three times the tuition as their classmates, yet they and their families are and have been Tennessee residents paying state taxes. Tennessee is home to approximately 25,000 undocumented youth who have lived here most of their lives. Prohibiting in-state tuition for these students undermines their financial ability to go to college and develop the skills needed for the work force of the future. A better educated populace is essential for Tennessee’s economic prosperity.

MOTION TO OPPOSE (SHEA), SECONDED (HARLAN). UNANIMOUS.

TLS Bill Summary: As introduced, enacts the "Foster Care Support and Continuity Act."

Additional Explanation/Changes in Current Law: For the purposes of this bill, “communication” may include regular visits with the child at times and manner agreed upon by the biological parent or relative and the foster parent. For the purposes of this bill, “reasonable preference” means the preference of a child in the custody of the state, when that child is deemed to be of reasonable intelligence, understanding, age and experience to express such a preference.

This bill allows a foster parent who has maintained continuous physical custody of a child for six or more months to have communication with the child after the child is reunited with his/her biological parent or placed with a relative if the child exhibits a reasonable preference for continued contact and the contact does not jeopardize the child's health or welfare, as judged by the state or its agencies. If the child is reunited with a biological parent, this bill allows a foster parent who has maintained continuous physical custody of a child for six or more months to have communication with the child after the child is reunited with the his biological parent if the communication is not opposed by the biological parent.

When a foster child is reunited with a biological parent or placed with a relative, but then returns to state custody, this bill allows the Department of Children’s Services (DCS) to place the child with a foster parent who previously cared for the child, as long as: (a) the child exhibits a
reasonable preference for the placement; (b) the foster parent affirms the preference and is eligible to care for the child; and (c) the placement is deemed consistent with the child's welfare. In case of the need of an emergency placement, this bill allows DCS to consider a child's former foster parent and initiate a placement of the child with the foster parent, even if the foster parent is not currently licensed by the state to provide foster care; provided, that if the foster parent does not maintain a current state license, the placement is contingent upon the foster parent applying for or renewing licensure.

Upon the reasonable preference of a foster child and affirmation by DCS, this bill allows a former foster parent of a child to be deemed as kin by DCS for purposes of contact and social support, even if the child is no longer in the foster parent's physical custody. The bill provides any foster parent deemed as kin is authorized to be updated with information about the child's physical location and communicate with or have access to the child in the same manner as a relative of the child.

In any custody hearing involving a foster child, this bill creates legal standing for a foster parent maintaining physical custody of that foster child for 12 or more continuous months or 15 months out of the previous 22 months.

This bill allows biological parents who seek to voluntarily relinquish and terminate parental rights of a child in foster care to do so by filing a signed and notarized form, on a form provided by DCS, to DCS for filing with a court of competent jurisdiction. The biological parents would not have to personally appear in court.

Many provisions of this bill use the word “may,” particularly Sections 1(c) and 1(d)(1)-(3). Accordingly, the provisions regarding maintained communication, placing a child with a foster parent who previously cared for the child, using a former foster parent as an emergency placement and considering a former foster parent as kin for certain purposes appear to be discretionary.

TCCY Legislative Committee Recommendation: OPPOSE: TCCY acknowledges the invaluable role foster parents play in the foster care system. However, this bill creates the potential for foster parents to sabotage reunification efforts and in some ways diminishes the role of biological parents and relative caregivers.

This bill diminishes the ability of a biological parent or relative who has custody of a child who was once in the custody of the state to care for and control the child without unreasonable interference. The legislation appears to place the decision making burden of whether a child will maintain communication with a foster parent under certain circumstances squarely on the shoulders of a child. When a child is reunited with a biological parent or placed with a relative, the custodial placement should determine whether the child should have continued contact with the former foster parent. In fact, nothing in Tennessee statutory law prohibits contact between a child and former foster parent if the necessary parties agree.

DCS should not be able to emergency place a child in the home of a former foster parent if the foster parent does not have a current state license pursuant to the proposed legislation.

TCCY Legislative Committee Recommendation: OPPOSE:
Under no circumstance should a former foster parent be statutorily authorized to be updated with physical location information about a child who was once in the physical custody of the foster parent if the parent or relative caregiver does not consent. The parent or relative caregiver does not need a law to share that information if the parent or relative caregiver desires to do so.

Likewise, foster parents generally should not have standing in any custody hearings involving a child they are fostering or have fostered. If a foster parent desires to obtain standing in a custody hearing involving a child they are fostering, the foster parent should petition the court, potentially in violation of their foster care contract. DCS policy 16.8.A.7. states: “The foster parent(s) will not petition to adopt, obtain guardianship, or file for custody of a child/youth in their home unless DCS concurs with the plan and gives written approval. Refer to T.C.A. § 36-1-115(g)(1) for additional information.” T.C.A § 36-1-115(g)(1) already gives foster parents first preference to adopt when the child has resided with the foster home for 12 consecutive months immediately preceding the filing of an adoption petition and the child becomes available for adoption due to the termination or surrender of all parental or guardianship rights to the child. Again, these proposed changes to the current law unnecessarily create the potential for foster parents to sabotage reunification efforts.

Parents who are considering voluntarily relinquishing and terminating their parental rights may not fully appreciate the gravity of such an action even if they are represented by counsel. The termination of parental rights is of comparable gravity to a death sentence for a parent and appropriate checks and balances are necessary. Parents should not be allowed to relinquish and terminate parental rights without personally appearing in court. The court appearance allows a judicial officer to make sure the parent understands his or her actions and is proceeding voluntarily.

TCCY generally supports protecting parents’ constitutional rights to parent their children. Parents have a fundamental right to the care, custody, and control of their children. Stanley v. Illinois, 405 U.S. 645 (1972); In re Drinnon, 776 S.W.2d 96, 97 (Tenn. Ct. App.1988). This right “is among the oldest of the judicially recognized liberty interests protected by the Due Process Clauses of the federal and state constitutions.” In re M.J.B., 140 S.W.3d 643, 652-53 (Tenn. Ct. App. 2004). TCCY opposes legislation that unnecessarily diminishes the rights of parents and custodial relatives.

**MOTION TO OPPOSE (DAVIS), SECONDED (HARLAN). UNANIMOUS.**

Legislative Guidance

SB2085 (Kyle)/HB1931 (Staples)

**TLS Bill Summary:** Authorizes the Department of Children’s Services (DCS) to reimburse a relative caregiver at the full foster care rate who has custody of a child at-risk for entering state custody.

**Additional Explanation/Changes in Current Law:** - Amends TCA Title 37; Title 71. Current law does not allow reimbursement of relative caregivers if caregivers are caring for a child who is not
in the custody of the state. This legislation defines “relative caregiver” to mean a natural person within a first, second, or third degree of relationship to the parent or the step-parent of the child. It would require relative caregivers to meet age and income requirements and agree to participate in any programs offered by DCS to reduce the risk of the child entering state custody. Payments would be subject to the initial and continuing eligibility of the relative caregiver and the child pursuant to the rules promulgated by DCS. The legislation would authorize DCS to establish requirements for payments and require DCS to publish a report on the payments provided pursuant to this legislation no later than January 1 of each year.

**TCCY Legislative Committee Recommendation:** SUPPORT: TCCY supports reimbursement for relative caregivers who care for children as an alternative to foster care. Living with a safe, stable and nurturing relative helps prevent entry, or re-entry, into the state foster care system. Placement with a relative can enhance a child’s sense of belonging, curb the detrimental effects of separation from a parent and lessen a child’s trauma that results from adverse childhood experiences (ACEs). Many relative caregivers struggle with the costs of providing for the children under their care. The lack of adequate financial resources increases the likelihood of a relative caregiver placement failing, which subsequently results in an increased risk of a child entering state custody. By offering monetary reimbursement to relative caregivers, the financial burden of providing care would be eased and more children would be able to remain with their familial placements. While the fiscal note for this legislation will be a substantial impediment to passage, strategies are needed to provide support for relative caregivers.

**MOTION TO SUPPORT (SHEA), SECONDED (DAVIS). UNANIMOUS.**

**Legislative Guidance**

** SB1527 (Bell)/HB1621 (Faison)**

**TLS Bill Summary:** Sunsets the council on children's mental health care for four years to June 30, 2018.

**Additional Explanation/Changes in Current Law:** The council on children’s mental health is due to expire on June 30, 2018. This bill extends the council on children’s mental health care to June 30, 2022.

**TCCY Legislative Committee Recommendation:** SUPPORT – The Commission on Children and Youth supports the continuation of the council on children’s mental health (CCMH).

**SB1527 Legislative Guidance:** The council on children’s mental health was created to develop and implement a statewide system of mental health care for children and families in Tennessee. The law states the system should be family-driven, youth-guided, culturally and linguistically competent, and community-based. A statewide system of care would improve outcomes for children with complicated mental health needs and multi-system/agency involvement. Administrative responsibility for CCMH is assigned to TCCY and the TCCY executive director co-chairs the council with the Commissioner of the Department of Mental Health and Substance Abuse Services. The council has moved forward with expanding system of care statewide to improve Tennessee children’s mental health system. The broad group of stakeholders meeting
regularly supports its continuation to lead efforts to fully implement a system of care for children’s mental health.

**MOTION TO SUPPORT (HARLAN), SECONDED (SHEA). UNANIMOUS.**

Legislative Guidance  
SB1530 (Bell)/HB1624 (Faison)

**TLS Bill Summary:** Sunsets the department of human services on June 30, 2018. This bill extends the department to June 30, 2022.

**Changes in Current Law:** Continues the department of human services.

**TCCY Legislative Committee Recommendation:** SUPPORT – The Commission on Children and Youth supports the continuation of the department of human services because of its important roles in supporting low income families and children, licensing child care, and providing vocational rehabilitation services. The department of human services provides services to low income children and families through Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), child support collection, Child Care regulation and licensing, and Vocational Rehabilitation. The department has a budget of $2.8 billion, 90 percent federally-funded.

**MOTION TO SUPPORT (DAVIS), SECONDED (HARLAN). UNANIMOUS.**

Legislative Guidance  
SB1531 (Bell)/HB1625 (Faison)

**TLS Bill Summary:** Sunsets the department of intellectual and developmental disabilities on June 30, 2018. This bill extends the department to June 30, 2022. Requires the department to report back to the committee by December 31, 2018, concerning the findings in its 2017 performance audit report.

**Changes in Current Law:** Continues the department of intellectual and developmental disabilities.

**TCCY Legislative Committee Recommendation:** SUPPORT – The Commission on Children and Youth supports the continuation of the department of intellectual and developmental disabilities because of the important residential- and community-based services for both children and adults.

**MOTION TO SUPPORT (SHEA), SECONDED (DAVIS). UNANIMOUS.**
TLS Bill Summary: Requirements for prescribing, dispensing, and reporting of opioids.

Authorization by the commissioner of health to establish the morphine milligram equivalent calculation for an opioid drug. Requires use of the calculation established by the federal centers for disease control and prevention for that drug, given that there’s no such existing rule. Changes requirements of healthcare practitioners to check a controlled substance database when prescribing and dispensing the substances to patients, and to check the database every six months, instead of annually, of the patient’s treatment. Provides the health commissioner with control of this database. Forbids practitioners from providing more than a five-day supply of opiate to patients, a ten-day supply in situations where refilling the prescription would prove difficult for the patient. Restricts the use of opiates to the treatment of patients in severe conditions where traditional treatment methods have been tried, and only after consultation with the patient. Requires the health commissioner to file a report on the effect of these restrictions by no later than November 2021. Part of administration package.

Additional Explanation/Changes in Current Law: This legislation is part of Governor Haslam’s TN Together comprehensive plan to address opioid abuse. The legislation includes patient or a patient’s legal representative being provided a consultation with sufficient explanation and time with a healthcare practitioner in order to provide voluntary informed consent. During the healthcare practitioner’s consultation, the risks, effects, and characteristics of opioids, including the risks of physical dependence and addiction, misuse and diversion, and patient expectations of taking an opioid are discussed. Reasonable alternatives to opioids for treating or managing patient conditions or symptoms and the benefits and risks of the alternative treatments are to be discussed. A reasonable opportunity for questions is to be provided. Women of childbearing age will receive information about Neonatal Abstinence Syndrome and specific information regarding access to contraceptive services.

TCCY Legislative Committee Recommendation: SUPPORT: Improvements to Tennessee’s Controlled Substance Monitoring Database will require healthcare practitioners (prescribers and dispensers) to check data on patient substance use in a manner that can reduce overdose deaths, dependency, addiction and misuse. It allows for healthcare practitioners to use heightened attention in prescribing for patients recently prescribed by another provider. The legislation’s prescription limits essentially provide the same benefits with the addition of reduced prescription costs for consumers. It will reduce costs to the TennCare program where in 2015 approximately 1/3 of adults had a narcotic prescription.

Tennessee has three people per day die from opioid-related drug overdoses. Opioid overdose deaths in Tennessee are trending upward totaling 698 deaths in 2012 and increasing to 1,186 in 2016. Between 2012 and 2016, 4,535 Tennesseans died due to opioid-related drug overdoses. More Tennesseans die from overdose deaths than car crashes.

Morphine milligram equivalent (MME), a term referenced in this legislation, is used to compare opioid doses among different medicines. It provides a standard value of potency for ease in prescribing safe dosage amounts. MME calculations will aid in meeting the required 40 MME or
lower dosing requirement.

“Calculating the total daily dose of opioids helps identify patients who may benefit from closer monitoring, reduction or tapering of opioids, prescribing of naloxone, or other measures to reduce risk of overdose. Improving the way opioids are prescribed through clinical practice guidelines can ensure patients have access to safer, more effective chronic pain treatment while reducing the number of people who misuse, abuse, or overdose from these drugs.” (CDC Guideline for Prescribing Opioids for Chronic Pain)

This legislation should improve overall patient care with mandated, personal assessments that provide patient information on opioid risks, expectations and alternative treatment options. Women of childbearing age will be informed of health risks such as Neonatal Abstinence Syndrome (NAS) and be provided information on access to contraceptive services available in their community.

Infants diagnosed with NAS are a growing trend in Tennessee. Each year since 2014, approximately 1000 cases annually are reported. In 2015, infants with NAS were 11 times more likely to enter DCS custody within one year of birth when compared to other infants in the TennCare program. Parental drug abuse resulted in 467 infants entering DCS custody in FY 2017. TennCare infants with NAS have longer hospital stays and higher costs than do low-birth weight babies. Implementation of this legislation should reduce costs associated with infants born dependent upon opioids.

Benefits of TN Together

- Reduced Overdose deaths
- Reduced opioid dependency, addiction, misuse and diversion
- Reduced criminal justice system involvement
- Reduced number of children in DCS custody
- Reduced number of babies born drug dependent
- Reduced treatment costs
- Increased responsible citizenship

MOTION TO SUPPORT (DAVIS), SECONDED (SHEA). UNANIMOUS.

Legislative Guidance
SB2261 (Norris)/HB2271 (Hawk)


Additional Explanation/Changes in Current Law: Amends TCA Title 37 and Title 39, Chapter 17, Part 15. Provides developmentally appropriate interventions based on current scientific research in related fields, including neuroscience, psychology, sociology, and criminology. Reserves detention and out of home placement for youth who have committed serious offenses or pose a public safety risk. Authorizes citations in lieu of arrest for
misdemeanors and law enforcement diversion programs. Prohibits detention as a disposition or for violation of a valid court order, and prohibits seclusion in detention. Includes research-based presumptive time limits for probation and length of custody so youth are not placed into the system indefinitely. Requires use of a valid risk-and-needs assessment in each case to identify the type and level of service needed for the youth and individualized case plans based on the assessments. Restricts commitment to DCS to serious felony offenses against a person or repeat felony offenses. Provides financial obligations should be assessed against parents, legal custodians or guardians, not the child, should be based on ability to pay, and shall not be referred to any collection service. Expands community-based resources to reduce “justice by geography.” Requires Administrative Office of the Courts, Department of Children’s Services and TCCY to jointly submit a report addressing statewide data collection in the juvenile justice system by January 1, 2019. The report must include a plan for comprehensive data collection, uniform definitions and criteria, proposed forms, and any other relevant recommendations.

**TCCY Legislative Committee Recommendation:** SUPPORT: TCCY supports legislation to reform the juvenile justice system in the state to ensure it utilizes evidence-based programming and improved community resources to meet the needs of youth involved with the justice system. It is appropriate to reserve detention and out-of-home placement for youth who have committed serious crimes or pose a public safety risk and to implement research-based reasonable time limits on length of custody so youth are not placed in the system indefinitely. The juvenile justice system is like a maze, it is too easy to get into the system, and too hard and takes too long to get out.

The Pew analysis of Tennessee data demonstrated a substantial proportion of the children in out-of-home placements had not committed serious offenses. While the number of commitments to state custody had declined in recent years, the length of stay in custody (and on probation) had increased. Requiring a validated risk-and-needs assessment to develop individualized case plans to determine services and actions needed for rehabilitation has great potential to improve outcomes for youth. The Pew Charitable Trusts and its partners have guided many other states to improvements in their juvenile justice systems using a process similar to the one in Tennessee. The outcomes across the country, including in neighboring states of Georgia and Kentucky, have been positive as they have reduced the number of children in custody, increased community services, and improved both public safety and outcomes for youth. TCCY recognizes there will be amendments to this bill in the legislative process, but believes it should remain as strong as possible to help the state move toward more evidence-based best practices.

**MOTION TO SUPPORT(DAVIS), SECONDED (SHEA). UNANIMOUS.**

**Legislative Guidance**

**SB 2065 (Harris)/HB1846 (Powell)**

**TLS Bill Summary:** Notification of unsafe drinking water at schools. Requires parents, guardians, legal custodians, or caregivers of children attending schools to be notified when water sample tests indicate that the lead and copper 90th percentile lead action level at the school has been exceeded.
Additional Explanation/Changes in Current Law: Current law requires notice to residents and customers when lead and copper levels exceed the 90th percentile.

TCCY Legislative Committee Recommendation: SUPPORT: TCCY supports legislation that requires notification of caregivers when the drinking water in schools has lead and copper levels that are dangerous. The World Health Organization advises: “Young children are particularly vulnerable to the toxic effects of lead and can suffer profound and permanent adverse health effects, particularly affecting the development of the brain and nervous system. Lead also causes long-term harm in adults, including increased risk of high blood pressure and kidney damage.” If schools have high lead and copper levels, it is appropriate to advise caregivers so they can take steps to ensure alternative drinking water is available for their children until the problem is rectified. Young children’s bodies absorb lead more easily than adults’ bodies do. Their brains and nervous systems are still developing, therefore they are more sensitive to the effects of lead. At low levels, lead poisoning can damage red blood cell production, cause hearing problems, slow a child’s development, and cause learning and behavioral problems such as hyperactivity, inability to pay attention, and quick frustration. At high levels, lead poisoning can damage the nervous system, kidneys, reproductive system, and mental development. Lead exposure has been linked to behavior problems in school and juvenile violent crime.

MOTION TO SUPPORT (SHEA), SECONDED (DAVIS). UNANIMOUS.

Legislative Guidance
SB2572 (Hensley)/HB2360 (Smith)

TLS Bill Summary: As introduced, directs the commissioner to provide a report of suggested legislative changes to the Post-Mortem Examination Act to the health committees of the senate and the house of representatives, the judiciary committee of the senate, and the criminal justice committee of the house of representatives by February 1, 2019.

Additional Explanation/Changes in Current Law: The commissioner of the Department of Health would be responsible for implementation of this law.

TCCY Legislative Committee Recommendation: SUPPORT: In the 2014 Second Look Commission (SLC) Report, the SLC recommended the implementation of a statewide medical examiner system. Tennessee has five regional forensic centers. The five regional forensic centers perform autopsies in a manner consistent with the National Association of Medical Examiners (NAME) accreditation. The NAME Accreditation Standards have been prepared and revised by NAME for the purpose of improving the quality of the medicolegal investigation of death in this country.

Accreditation applies to offices and systems, not individual practitioners. The standards emphasize policies and procedures, not professional work product. The standards represent minimum standards for an adequate medicolegal system, not guidelines. NAME accreditation is an endorsement by NAME that the office or system provides an adequate environment for a medical examiner in which to practice his or her profession and provides reasonable assurances that the office or system well serves its jurisdiction. It is the objective of NAME that the
application of these standards will aid materially in developing and maintaining a high caliber of medicolegal investigation of death for the communities and jurisdictions in which they operate.”

Although these five regional forensic centers perform autopsies in a manner consistent with NAME accreditation, members of the SLC concluded Tennessee lacks consistency in the manner and quality in death investigations, in part, because Tennessee does not have a statewide medical examiner system. In general, a County Medical Examiner must have the degree of doctor of medicine (M.D.) and be duly licensed in Tennessee. Each county has a medical examiner and the medical examiner answers to the examiner’s respective county. Counties function independently resulting in chaotic practices that may not meet minimum standards. There are likely ways to improve the current medical examiner system to provide greater accountability and oversight for the quality of death investigations throughout Tennessee.

An improved post-mortem examination system will improve the investigations into the deaths of children who may have been victims of abuse or neglect. The timeliness and quality of child death investigations often impact the safety and placement of surviving siblings and other children. Moreover, the timeliness and quality of child death investigations impact the prosecution of the alleged perpetrator. TCCY supports a bill to provide a report of suggested legislative changes to the Post-Mortem Examination Act.

MOTION TO SUPPORT (DAVIS), SECONDED (SHEA). UNANIMOUS.

SB 1497 (Yager)/HB 2078 (Matlock)
SB 1593 (Yager)/HB 1480 (Dunn)

TLS Bill Summary: Admissibility of evidence - statements from children in regard to sexual or physical abuse. Prohibits the exclusion from a criminal trial of certain out-of-court statements made by a child under 12 years of age that describe any sexual act performed by, with, or on the child or act of physical violence directed against the child.

TSL Bill Summary: Admissibility of evidence - out-of-court statements of children. Permits an out-of-court statement made by a child who is under 12 years of age at the time of a trial or hearing describing any sexual act performed by, with, or on the child or describing any act of physical violence directed against the child, to be admitted into evidence under certain circumstances.

Additional Explanation/Changes in Current Law: While these bills are very similar, there is a key difference between the two. Section 1(a) of SB1497 begins, “Notwithstanding any rule or statute to the contrary.” Accordingly, SB1497 is written to apply to civil and criminal matters. SB1497 would potentially negate Rule 803(25) of the Tennessee Rules of Evidence. Arguably, SB1497 may be construed to only apply to criminal trials because it amends Title 40 (Criminal Procedure) of TCA. SB1593 specifically states it applies to criminal trials and does not contain the phrase, “Notwithstanding any rule or statute to the contrary.”
Both bills amend TCA Title 40. Under these bills, an out-of-court statement made by a child who is under 12 years of age at the time of a criminal trial or civil trial, if applicable, describing any sexual act performed by, with, or on the child or describing any act of physical violence directed against the child will not be excluded from evidence at the trial as hearsay if all of the following apply:

(1) The court finds that the totality of the circumstances surrounding the making of the statement provides particularized guarantees of trustworthiness that make the statement at least as reliable as statements admitted under certain rules of the Tennessee Rules of Evidence. This bill details the circumstances a court must consider in making a determination of the reliability;

(2) The child's testimony is not reasonably obtainable by the proponent of the statement. This bill details the circumstances in which a child's testimony is not reasonably obtainable;

(3) Independent proof exists of the sexual act or act of physical violence; and

(4) At least ten 10 days before the trial or hearing, a proponent of the statement has notified all other parties in writing of the content of the statement, the time and place at which the statement was made, the identity of the witness who is to testify about the statement, and the circumstances surrounding the statement that are claimed to indicate trustworthiness of the statement.

A child’s testimony is not reasonably obtainable by the proponent of the statement only if one or more of the following apply: (1) The child refuses to testify concerning the subject matter of the statement or claims a lack of memory of the subject matter of the statement after a person trusted by the child, in the presence of the court, urges the child to both describe the acts contained in the statement and to testify; (2) The court finds all of the following: (A) The child is absent from the trial or hearing; (B) The proponent of the statement has been unable to procure the child's attendance or testimony by process or other reasonable means despite a good faith efforts; and (C) It is probable that the proponent would be unable to procure the child's testimony or attendance if the trial or hearing were delayed for a reasonable time; or (3) The court finds both of the following: (A) The child is unable to testify at the trial or hearing because of death or then existing physical or mental illness or infirmity; and (B) The illness or infirmity would not improve sufficiently to permit the child to testify if the trial or hearing were delayed for a reasonable time.

If the proponent of the statement causes the child’s refusal to testify, claim of lack of memory, inability, or absence, the out-of-court statement will be excluded unless it is admissible on other grounds.

The court must make the findings required by the bill on the basis of a hearing conducted outside the presence of the jury and must make findings of fact on the record as to the bases for the court’s ruling.

**TCCY Legislative Committee Recommendation: SUPPORT WITH ADMENDMENT:**
TCCY supports provisions that give a judge the ability to allow into evidence certain out-of-court statements of abuse made by a child. The bills provide several layers of safeguards to help
ensure the out-of-court statement is reliable and the defendant is not unduly prejudiced by admission of the statement. In addition to the safeguards set forth above, the circumstances must establish that the child was particularly likely to be telling the truth when the statement was made and that the test of cross-examination would add little to the reliability of the statement. The bills create an extremely narrow hearsay exception.

TCCY is concerned about the language of children under 12 years of age in SB1593. Tennessee Rule of Evidence 803(25) allows out-of-court statements of children under the age of 13 to be introduced as evidence in certain civil cases. Many times there will be a civil and criminal case when a perpetrator is accused of physical or sexual abuse. The age requirement of SB 1593 is inconsistent with the age requirement set forth in Tennessee Rule of Evidence 803(25). A 12 year old victim of abuse could have the out-of-court statement introduced into evidence in a civil case, but not the criminal case. The child would then have to physically testify in the criminal portion of the case. Requiring the child to testify in one matter may create an opportunity for inconsistent evidence to the detriment of both the civil and criminal proceedings. TCCY recommends an amendment to say either “children under 13” or “children 12 and under” in the bill. Doing so would reduce the likelihood of trauma the child may experience.

**MOTION TO SUPPORT (DAVIS), SECONDED (HARLAN). UNANIMOUS.**

**Legislative Guidance**

**TLS Bill Summary**: Juvenile court - court order regarding an unruly child. Prohibits a juvenile court from issuing a court order against an unruly child when that child’s only offense is a status offense.

**Additional Explanation/Changes in Current Law**: Amends TCA Title 37. Changes authorized dispositions for an unruly child to eliminate the imposition of a valid court order or to permit an order of probation by DCS unless the child is also delinquent. Eliminates the authority to place a child in detention for violation of a valid court order as valid court orders for unruly children are eliminated.

**TCCY Legislative Committee Recommendation**: SUPPORT: TCCY supports legislation eliminating the valid court order for unruly children. This mechanism has been used to detain children or place them on probation with DCS for offenses that are only applicable because of their age as a minor. Adolescence is a time when teens develop skills like decision-making and priority-setting, and their brains are not yet fully mature. Research indicates that incarceration does not support healthy brain development, has unintended negative consequences on the life trajectory of young people and should only be used for children who are a danger to public safety. Research also shows that detention actually increases the likelihood of recidivism because it compromises juveniles’ ability to access the mental health care, education, job training, and other resources that are proven to keep them on the right track in the first place. Stopping young people’s unnecessary entrance into the juvenile justice system to begin with is an important strategy for improving both their long-term outcomes and public safety. Federal law is moving toward the elimination of the valid court order as an exception to the deinstitutionalization of
status offenders, or at least toward providing incentives for eliminating this option. Based on the research provided the Blue Ribbon Task Force on Juvenile Justice, in Tennessee use of the valid court order to incarcerate youth is one of the worst examples of “justice by geography” where youth are treated disparately depending on location. A better, more practical alternative to the use of valid court orders is to utilize evidence-based strategies that recognize the particular needs of youth. These focus on community responses for non-violent offenders and use of limited resources, including state custody and incarceration for youth who are a threat to the community.

**MOTION TO SUPPORT (SWEENEY), SECONDED (DAVIS). UNANIMOUS.**

**Legislative Guidance**  
SB2357 (Yarbro)/HB2400 (Stewart)

**TLS Bill Summary:** Study on home visitation services for the families of babies with neo-natal abstinence syndrome. Requires TennCare to study home visitation services for the families of babies with neo-natal abstinence syndrome and report its findings to the house health committee and the senate welfare committee by January 15, 2019.

**Additional Explanation/Changes in Current Law:** Requires TennCare to study cost and benefits of providing evidence-based home visiting services to families of babies suffering from neo-natal abstinence syndrome (NAS) or similar conditions.

**TCCY Legislative Committee Recommendation:** SUPPORT: TCCY supports a TennCare study of evidence-based home visiting services for families of infants with neo-natal abstinence syndrome (NAS). TennCare covers the cost of approximately half of all births in Tennessee each year. As TennCare develops and plans the study, TCCY recommends engaging partners at the Tennessee Department of Health as the administrator of state and federal home visiting funds, home visiting implementing agencies through the Home Visiting Leadership Alliance (HVLA), and TCCY, which staffs the Home Visiting Leadership Alliance.

TCCY has consistently supported the funding and expansion of quality early childhood home visiting services in Tennessee. Less than two percent of Tennessee children under age five who live in poverty receive home visiting services. There is clear evidence home visiting programs like Healthy Families America, Parents as Teachers and Nurse Family Partnership all have positive outcomes for children, families and the community. These early childhood programs address the diverse needs of families by providing intensive home visiting services to improve health and developmental outcomes of children from birth through age five. Through periodic visits to the home, home visitors assess pregnant women's and families' health and social support needs, make referrals to needed services, and provide education and support to promote positive health and social outcomes. Home visiting programs show improved outcomes for families in better maternal and newborn health, prevention of child abuse, neglect or maltreatment, improved school readiness and achievement, reduction in domestic violence, improved family economic self-sufficiency, and improved coordination and referrals for needed community resources and supports.
Tennessee has seen a steady increase in the rate of NAS births in recent years. As policymakers work to identify solutions for NAS and the opioid epidemic, evidence-based home visiting programs can significantly impact families where a caregiver is using substances or is in treatment for substance use. The home visitor builds a relationship with the caregiver and family and supports them as they develop a safe, stable, nurturing relationship and environment for the baby.

Sources:  
https://www.tn.gov/content/dam/tn/tenncare/documents/TennCareNASData2015.pdf  

MOTION TO SUPPORT (DAVIS), SECONDED (SHEA). UNANIMOUS.

Legislative Guidance  
SJR 557 (Yarbro)

TLS Bill Summary: Waiver to expand access to evidence-based home visitation services to families of babies with neonatal abstinence syndrome. Encourages the bureau of TennCare to seek an appropriate federal Section 1115 demonstration waiver in order to expand access to evidence-based home visitation services to the families of babies with neonatal abstinence syndrome or related conditions; encourages seeking additional funding opportunities for the home visitation programs.

TCCY Legislative Committee Recommendation: SUPPORT: TCCY supports encouraging TennCare to expand access to evidence-based home visiting programs for all families, including those of infants with neo-natal abstinence syndrome (NAS). TennCare covers the cost of approximately half of all births in Tennessee each year. TCCY encourages TennCare to work with the Managed Care Organizations (MCOs) to identify funding opportunities for evidence-based home visiting programs and considering NAS as one of the criteria for priority enrollment in a program.

TCCY has consistently supported the funding and expansion of quality early childhood home visiting services in Tennessee. There is clear evidence home visiting programs like Healthy Families America, Parents as Teachers and Nurse Family Partnership all have positive outcomes for children, families and the community. Programs address the diverse needs of families by providing intensive home visiting services to improve health and developmental outcomes of children from birth through age five. Through periodic visits to the home, home visitors assess pregnant women's and families' health and social support needs, make referrals to needed services, and provide education and support to promote positive health and social outcomes. Home visiting programs show improved outcomes for families in better maternal and newborn health, prevention of child abuse, neglect or maltreatment, improved school readiness and achievement, reduction in domestic violence, improved family economic self-sufficiency, and improved coordination and referrals for needed community resources and supports.

Tennessee has seen a steady increase in the rate of NAS births since 2012. As policymakers work to identify solutions for NAS and the opioid epidemic, evidence-based home visiting programs can significantly impact families where a caregiver is using substances or is in
treatment for substance use. Home visitors support mothers in accessing and continuing prenatal care, are knowledgeable about community services and assist in referring and connecting families to resources. Home visitors also assess the infant’s growth and development, identifying when there is a need for additional support and services. The home visitor builds a relationship with the caregiver and family and supports them as they develop a safe, stable, nurturing relationship and environment for the baby.

Evidence-based home visiting programs should be an integral part of strategic efforts to improve outcomes for Tennessee’s children and families, including families of infants with NAS.

Sources:
https://www.tn.gov/content/dam/tn/tenncare/documents/TennCareNASData2015.pdf

MOTION TO SUPPORT (DAVIS), SECONDED (SHEA). UNANIMOUS.

SJR 564 (Bailey)

TLS Bill Summary: Child Abuse Prevention Month. Designates April 2018 as "Child Abuse Prevention Month.

Impact of Changes in Current Law: April is traditionally designated “Child Abuse Prevention Month.” This provides a time to focus on effective strategies to reduce child abuse and the negative impacts that result from this adverse childhood experience.

TCCY Legislative Committee Recommendation: SUPPORT – TCCY supports a focus on child abuse prevention both in April and throughout the year. Child abuse is an adverse childhood experience (ACE) that may have life-long negative impacts on children who are abused. The Second Look Commission has reviewed the cases of many children who have experienced the horrors of child abuse. As a society, we should do all we can to prevent child abuse and respond appropriately when it does occur because the future prosperity of any society depends on its ability to foster the health and well-being of the next generation. When Tennessee invests wisely in children and families to prevent abuse, the next generation will pay that back through a lifetime of productivity and responsible citizenship.

MOTION TO SUPPORT (HARLAN), SECONDED (DAVIS). UNANIMOUS.

1. Other Business:

There was no other business.

MOTION (SHEA), SECONDED (DAVIS) TO ADJOURN. UNANIMOUS. The Committee adjourned at 11:18.
Minutes Submitted by:  
Linda O’Neal  
Executive Director

Minutes Approve by:  
Rob Mortensen  
Legislative Committee Chair