

SENATE BILL 1295

By Hensley

AN ACT to amend Tennessee Code Annotated, Title 3;  
Title 4 and Title 71, relative to legislative oversight  
committees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 3, is amended by adding the following language as a new chapter:

**3-15-101.**

(a) In order to improve and promote accessible and affordable health care for all Tennesseans, to create a better environment for management and to ensure the successful implementation of TennCare, there is hereby created the select oversight committee on TennCare, hereinafter referred to as “the committee.”

(b) The committee shall be composed of fourteen (14) members, with seven (7) members to be appointed by the speaker of the senate and seven (7) members to be appointed by the speaker of the house of representatives.

**3-15-102.**

(a) The committee shall elect from its membership a chair, a vice chair, and any other officers as it considers necessary.

(b) The committee may also:

(1) Create subcommittees related to its purposes;

(2) Create an advisory panel composed of representatives including, but not limited to, business, insurance, hospitals, physicians, and consumers;

(3) Request that standing committees of the general assembly, the fiscal review committee, or other agencies study certain aspects of the TennCare program and report to the committee;

(4) Conduct hearings;

(5) Employ staff, subject to the availability of funds;

(6) Enter into contracts for technical or professional services, subject to the availability of funds; the speaker of the senate and the speaker of the house of representatives shall jointly determine the qualifications and task or job descriptions of any consultant or other person contracted for services, and shall jointly select any consultant or other person on behalf of the committee; and

(7) Perform any other duties as are required.

**3-15-103.**

(a) The committee shall meet at least quarterly and at the call of the chair. The first meeting of the committee shall be convened by the speaker of the senate.

(b) Members of the committee are entitled to be reimbursed for their expenses in attending meetings of the committee or any subcommittees thereof at the same rates and in the same manner as when attending the general assembly.

**3-15-104.** The committee shall report on its activities to each member of the general assembly.

**3-15-105.**

(a) It is the intent of this part that plans be made carefully and be reviewed thoroughly to help ensure that the TennCare program will achieve its intended purpose, to help ensure that access and quality of health care are maintained for TennCare enrollees, and to help ensure that the general assembly and the public can have confidence that the state will deliver a TennCare program that is effective and efficient.

(b) The committee shall review proposed expenditures for TennCare and shall make its comments on proposed expenditures in a timely fashion according to this section.

(c) Any proposed expenditure of funds, including TennCare funds to managed care organizations (MCOs) or the distribution of supplemental pool funds to providers, any administrative or management changes requiring additional expenditures, and any proposed expenditure for expanding or otherwise changing the TennCare program, shall be filed in writing by the commissioner of finance and administration with the committee and may be reviewed by the committee. The committee may comment to the commissioner of finance and administration on the proposed expenditures following a review; provided, that any comment shall be made within thirty (30) days after receipt by the committee of the proposal for the expenditures. If any expenditures are made before the committee has made its comments, if any, or if expenditures are made, which are inconsistent with the comments of the committee, the commissioner of finance and administration shall explain in writing the reasons for making the expenditures to the committee and every other member of the general assembly.

**3-15-106.** The committee shall receive information and assistance from the department of health, the department of mental health and substance abuse services, the department of intellectual and developmental disabilities, and other agencies of state government, as necessary.

**3-15-107.**

(a) For the purposes of this part, “managed care organization” and “MCO” mean any health maintenance organization, behavioral health organization, any entity regulated pursuant to title 56, chapter 32, and contractors of those entities.

(b) The committee shall review regularly the following programs, functions, and activities of the department of health and the TennCare program:

(1) Eligibility and enrollment standards, including determinations of how TennCare enrollees are assigned to MCOs, or other matters related to eligibility and assignment of TennCare enrollees;

(2) Provisions of services, facilities, or programs by TennCare providers, including TennCare's standard benefit package or other related matters;

(3) Education programs for TennCare enrollees, MCOs, and providers, including eligibility, access to TennCare providers and MCOs, benefit package offered, deductibles and copayments required, or other related matters;

(4) Review and evaluation of performance of TennCare MCOs, including their compliance with contracts entered into with the state, review of MCO contracts entered into with any TennCare provider, or other related matters;

(5) Compliance by the bureau of TennCare with provisions of the TennCare federal waiver, including review of proposed amendments to the waiver for system changes, and evaluations or reports prepared for or by the federal government, or other related matters;

(6) Staffing within the bureau of TennCare, including recruitment, selection, training, compensation, discipline, or other matters;

(7) Management, including planning, budgeting, information systems, organizational structure, rules, bureau of TennCare policies and procedures, or other related matters; and

(8) Any other matters considered material.

**3-15-108.**

(a) When any bill is introduced in the general assembly that will impact or potentially impact any area within the scope of review of the committee, as set out in this part, the clerk shall notify the chair of the oversight committee of the bill and transmit a copy of the bill to the oversight committee at the same time the bill is referred to the appropriate standing committee. For purposes of participating in the discussions and comments of the oversight committee, the oversight committee chair shall notify the chair or the chair's designee of the standing committee of the date, time, and location where the oversight committee will meet to review legislation that has been assigned to the standing committee, and the chair or the chair's designee shall become an ex officio member of the oversight committee when the oversight committee considers the legislation.

(b) In order to efficiently execute the duties set out in this part, the committee shall review all bills transmitted to it as provided in subsection (a), and may attach committee comments to the bill prior to its consideration by the appropriate standing committee. The sole purpose of review by the committee is to assist the standing committee in its consideration of TennCare related legislation by providing appropriate background information on the bill or information concerning the impact of the bill on the TennCare program. The committee shall make no recommendation concerning the passage of a bill it reviews nor shall it have the authority to prevent the consideration of the bill by the standing committee to which it is referred. The committee's review of all bills transmitted to it pursuant to subsection (a) shall be completed and the notification required in subsection (c) returned to the chair of the appropriate standing committee no later than four (4) weeks after a bill covered by the provisions of this section has first been introduced.

(c) Upon completion of the review process within the time limitation established in subsection (b), the chair of the oversight committee shall send written notification to the chair of the appropriate standing committee indicating that the review process has occurred and that the bill is ready for consideration by the standing committee. If the oversight committee has prepared committee comments on a bill, the comments shall be attached to the notification to the chair. If the committee has reviewed a bill but has no committee comments, that shall be indicated in the notification to the chair. If a bill is referred to the committee for review but has not been reviewed within the time period set out in subsection (b), the chair shall notify the appropriate chair that the bill has not been reviewed but is ready for consideration by the standing committee.

(d) Before the bureau of TennCare may submit a request for an amendment to the waiver or a renewal of the waiver for the TennCare program to the United States department of health and human services, the bureau shall:

(1) Transmit the proposed amendment to the committee for comment at least thirty (30) days prior to submission of the waiver to the department of health and human services; and

(2) Notify each member of the general assembly of the proposed amendment or renewal via electronic mail or other type of electronic communication.

(e) No amendment or renewal request subject to the provisions of subsection (d) may be submitted or take effect unless the committee has been afforded the opportunity to comment. Since amendments or renewal requests are legally enforceable when they take effect, the committee shall review any amendments or renewal requests in the same manner as proposed legislation, subject to the thirty-day period required by subsection (d).

**3-15-109.**

(a) The committee created by this part shall continue only until the operations of the department of health have improved substantially so that oversight is no longer needed. It is the intent of the general assembly that improvement be accomplished in a timely fashion.

(b) To these ends, the committee created by this part shall terminate on June 30, 2020, unless continued for five (5) years by the general assembly.

**3-15-110.**

(a) The legislative oversight committee on TennCare is directed to conduct a totally independent study of the TennCare pharmacy program, including, but not limited to, the following questions:

(1) What is the monitoring process to ensure that pharmacy programs are carefully implemented and reimbursement arranged so that patient care is not disrupted?

(2) Is the physician's judgment adequately recognized in ensuring that patients receive medically necessary treatments?

(3) Should new drugs and biologics be available and reimbursable initially in order to ascertain their ability to have an impact on the integrated costs of TennCare services?

(4) Are adequate disclosure measures in place to ensure patients are informed about the scope of the pharmaceutical benefit and of any restrictions on that benefit?

(5) By what method should the scientific and clinical integrity of health care decisions affecting TennCare enrollees be ensured?

(6) Through what process should TennCare enrollees have the opportunity to voice grievances and have access to an established process for appealing denials of care?

(7) What safeguards are in place to insure the preservation of a competitive marketplace that will result in the continuation of critical medical research and development?

(b) The bureau of TennCare, the TennCare pharmacy board, and the department of finance and administration shall provide necessary assistance to the oversight committee on TennCare in conducting its study, and the oversight committee is authorized to invite the participation of TennCare managed care organizations, TennCare providers, pharmacists, pharmaceutical manufacturers, and voluntary health associations.

(c) The oversight committee on TennCare shall report its findings and recommendations of the study no later than January 15, 2016, to the chair of the senate health and welfare committee and the chair of the health committee of the house of representatives.

(d)

(1) The bureau of TennCare shall file a report at least annually setting forth data and statistics relative to health care provided to women. The report shall include data regarding women's health and prenatal care as follows:

(A) Data provided to the health care financing administration;

(B) Data collected by the department of health regarding live births and deaths sorted by MCO;

(C) Data provided by MCOs to the bureau of TennCare and the department of health; and



(D) External Quality Review Organization (EQRO) reports provided to the bureau of TennCare.

(2) The report shall also include the number of women who received health care through the TennCare program, the type of care delivered, including the incidence of each type of care, the number of visits made to physician's offices as well as hospital admissions, evaluation of outcome data, and other information that would be useful to the general assembly in evaluating the manner in which health care is provided through the TennCare program to women.

(e) The bureau of TennCare and the department of finance and administration shall develop data measures to assess the effectiveness of presumptive eligibility, the distribution of providers for each MCO for TennCare enrollees within each grand division, and the incidences of early prenatal care for TennCare recipients. The MCOs shall report regularly to the TennCare bureau using the data measures developed pursuant to this section.

(f) The reports required by this section shall be provided to the TennCare oversight committee and the speakers of each house. The first annual report shall be due by December 1, 2016.

(g)

(1) The bureau of TennCare shall file a quarterly report for each of the first three (3) quarters of each year to include the following updates:

(A) Status of TennCare reforms and improvements, such as improving the technology and information system;

(B) Progress of annual re-verification of all TennCare recipients;

(C) Status of filling top-leadership positions in the bureau;

(D) Number of recipients in the TennCare program and the costs to the state;

(E) Viability of MCOs and providers in the TennCare program; and

(F) Success of fraud detection and prevention.

(2) A final report shall be submitted during the fourth quarter of each year, which shall include information for the fourth quarter and summarize information relating to each of the above areas for the entire year. A copy of the report for each quarter shall be transmitted to the TennCare oversight committee, the office of legislative budget analysis, and the fiscal review committee within fifteen (15) days of the end of each quarter.

SECTION 2. Tennessee Code Annotated, Title 3, Chapter 15, is further amended by adding the following language as a new part:

**3-15-201.** There is created a special joint committee of the general assembly composed of five (5) members of the senate health and welfare committee to be appointed by the speaker of the senate, and five (5) members of house health committee to be appointed by the speaker of the house of representatives.

**3-15-202.** The committee shall meet monthly to monitor the functioning of Acts title 37, chapter 5, part 1, with special emphasis on state employees who may have been transferred or otherwise affected by the consolidation of the various departments, board appointments, and whether the department is accurately and adequately accomplishing its goals in meeting the needs of the children and families in this state.

**3-15-203.** The committee is authorized to conduct public hearings and invite state employees, professionals and members of the general public to share information and

experiences on the manner in which the implementation of title 37, chapter 5, part 1, has impacted the delivery of services to children and their families in this state.

**3-15-204.** The committee shall report to the governor and general assembly annually, or more often if necessary.

**3-15-205.** The departments of children's services and finance and administration and the fiscal review committee shall provide the committee with any financial information as it may require as well as providing the committee with whatever information the committee may from time to time require.

**3-15-206.** The committee shall regularly perform legislative oversight of the children services department created by title 37, chapter 5, part 1, until services for children and their families have improved substantially so that such oversight is no longer needed

SECTION 3. Tennessee Code Annotated, Section 4-3-1013(f), is amended by deleting the language "the health committee of the house of representatives and the health and welfare committee of the senate" and substituting instead the language "the TennCare oversight committee of the general assembly".

SECTION 4. Tennessee Code Annotated, Section 71-5-107(f)(2)(H), is amended by inserting the language "the TennCare oversight committee," between the language "the governor," and the language "the health and welfare".

SECTION 5. Tennessee Code Annotated, Section 71-5-188(a), is amended by inserting the language "the TennCare oversight committee," between the language "the house of representatives," and the language "the office of legislative budget analysis".

SECTION 6. Tennessee Code Annotated, Section 71-5-190(a), is amended by deleting the last sentence and substituting the following:

The committee shall review such information and make recommendations to the select oversight committee on TennCare and the TennCare bureau concerning potential drug interactions, abuse of prescription drugs, or other appropriate matters.

SECTION 7. Tennessee Code Annotated, Section 71-5-2505(8), is amended by inserting the language “the TennCare oversight committee of the general assembly,” between the language “the TennCare advisory commission,” and the language “and the commissioner.”

SECTION 8. For the purpose of making appointments to the committee, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect July 1, 2015, the public welfare requiring it.