



Legislative Report

Corporate Foster Care Annual Needs Determination

Disability Services Division

December 2020

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I. Executive summary

This report provides information and data on licensed corporate foster care capacity in Minnesota during state fiscal year (SFY) 2020. The Minnesota Department of Human Services (DHS) is tasked to manage statewide corporate foster care capacity. During SFY 2020, DHS kept the licensed corporate foster care capacity below the 13,700-bed maximum, as allowed under the [corporate foster care and community residential setting moratorium](#).

History

The state legislature established the moratorium in 2009 ([Minnesota Laws 2009, chapter 79, article 8, section 8](#)). In 2012, the legislature reduced the state's allowable corporate foster care capacity to 13,700. Additional capacity is allowed under the moratorium for exceptions provided in state law. Statewide corporate foster care capacity has never exceeded the amount allowed under the moratorium.

The moratorium remains in effect today.

Exceptions

DHS-approved exceptions to the moratorium do not count toward the 13,700-bed maximum. While there were beds that closed during the fiscal year, there was still a slight increase in the number of statewide licensed corporate foster care beds. In SFY 2020, the statewide licensed capacity increased by 25 beds over the previous year's capacity. While in SFY 2019, the overall licensed capacity increased by 305 beds over the previous year's capacity. This year's smaller net increase is, in large part, due to fewer moratorium exceptions being submitted and approved, compared to SFY 2019. Additionally, the lower number of moratorium exceptions was attributable, as well, to fewer bed closures at intermediate care facilities for persons with developmental disabilities (ICFs/DD).

Despite the increase in the licensed capacity of corporate foster care due to allowable exceptions, the total disability waiver population is overall less likely to live in a corporate foster care setting than it was four years ago.

DHS' role

The moratorium is not the only tool with which DHS and lead agencies manage corporate foster care capacity. Other key DHS activities during this report year that developed alternatives to corporate foster care include:

- Administering grants that incentivize alternative residential support services
- Implementing services that help people access and maintain housing
- Implementing services that help people live in their own homes.

Looking forward

DHS will continue to work with lead agencies to use some of the beds that no longer are licensed as foster care — but that were part of the moratorium base capacity — to increase out-of-home respite options across the state. Assistance for caregivers is critical to maintaining living arrangements in the family home or the person's own home. This assistance reduces reliance on corporate foster care as an ongoing living arrangement.

DHS will approve new respite capacity while maintaining the reserve needed to serve people who have critical health and safety needs, but who do not meet moratorium-exception criteria.

II. Legislation

The Corporate Foster Care Needs Determination is mandated by Minnesota Laws 2013, Chapter 108, Article 7, Section 3 (e). The report requirement is codified under 245A.03, sub. 7, paragraph (h):

(h) The commissioner may adjust capacity to address needs identified in section [144A.351](#). Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings will be accomplished through a process identified in section [256B.493](#). Annually, by August 1, the commissioner shall provide information and data on capacity of licensed long-term services and supports, actions taken under the subdivision to manage statewide long-term services and supports resources, and any recommendations for change to the legislative committees with jurisdiction over the health and human services budget.

III. Introduction

Minn. Stat. §245A.03, subd. 7h requires the Minnesota Department of Human Services (DHS) commissioner to annually report to state legislature committees that have jurisdiction over the health and human services budget. The report must include information on the:

- State’s licensed corporate foster care capacity
- DHS actions taken to manage the licensing moratorium
- Recommendations for changes.

The following report includes that information across the following four sections:

- **Definitions and background:** Corporate foster care definition and context on the history/conditions of the licensing moratorium
- **Capacity:** Information and data analysis about SFY 2020 and historic corporate foster care capacity
- **Key activities during SFY 2020:** Information about management of the licensing moratorium, including activities completed to support people in more integrated settings
- **Recommendations:** Conclusion and proposed action by DHS to use existing corporate foster care capacity to expand respite options for people.

IV. Definitions and background

For this report, we will use the term “corporate foster care” to refer to both of the following settings:

1. Corporate foster care, which is a waiver service where the license holder does not live in the home ([Minn. Stat. §245D.02, subd. 4d](#)) and is either:

- A child foster residence setting licensed according to [Minn. R. 2960.3000](#) to [Minn. R. 2960.3340](#)
- An adult foster care home licensed according to [Minn. R. 9555.5105](#) to [Minn. R. 9555.6265](#).

2. Community residential settings, which statute defines as a residential program ([Minn. Stat. §245A.11, subd. 8](#)) where:

- Residential supports and services are provided ([Minn. Stat. §245D.03, subd. 1c, 3i-ii](#))
- The license holder is the owner, lessor or tenant of the facility
- The license holder does not reside in the facility ([Minn. Stat. §245D.02 subd. 4a](#)).

Note: Both of these settings typically use a shift-staff model of support.

Moratorium

In Minnesota, there is a licensing moratorium on the development of new corporate foster care beds. The statewide baseline (set July 1, 2013) is 13,700 corporate adult and child foster care beds. The legislature tasked the DHS Disability Services Division (DSD) to manage and track changes in capacity in relation to the cap. In doing so, DSD works with the other DHS divisions (i.e., licensing, behavioral health, aging/adult services and housing) to manage statewide resources and capacity.

DHS may approve exceptions to the moratorium that do not count toward the statewide corporate foster care capacity. License exceptions can apply to:

- People who require a hospital level of care
- Settings that require Chapter 144D housing with services registration
- People who need new corporate foster care development because of the closure of a nursing facility, intermediate care facility for persons with developmental disabilities (ICF/DD), regional treatment center or because of a restructuring of state-operated facilities
- People who no longer require the level of care provided by state-operated facilities (e.g., Minnesota State Security Hospital, Anoka Regional Treatment Center, etc.)
- People who receive Chapter 245D services and live in an unlicensed setting that requires a license (Note: This exception ended June 30, 2018).

During the first 2020 special session, the legislature repealed the exception that applied to people who need new corporate foster care development because of the discontinuation of the residential care waiver service.

V. Capacity

This section will discuss:

- [Current corporate foster care capacity of the state and exceptions](#)
- [Waiver trends](#)
- [Number of licensed beds by region.](#)

A. Current statewide capacity and moratorium exceptions

The maximum allowable beds under the moratorium remains at 13,700. DHS-approved exceptions do not count against this maximum.

The statewide capacity as of June 30, 2020, is 14,301. This figure includes capacity developed for 868 exceptions approved since the moratorium started. Subtracting the exceptions leaves a moratorium capacity count figure of 13,433 – well below the 13,700 maximum allowed under the moratorium.

The statewide capacity as of June 30, 2020, of 14,301 is a 25-bed increase over the number of beds from SFY 2019 (0.2 percent). The SFY 2020 moratorium capacity count was lower than the SFY 2019 moratorium capacity count by 0.05 percent.

The increase in statewide licensed capacity is smaller than the previous year due to significantly fewer moratorium exceptions being submitted and approved in SFY 2020. In SFY 2019, there were 228 moratorium exceptions approved, while in SFY 2020, there were only 32 approved. In SFY 2020, there were significantly fewer exceptions submitted and approved for people who needed new corporate foster care development due to the closure of their ICF/DD facility. In SFY 2019, there were 123 exceptions approvals due to ICF/DD closure compared to 26 approvals in this category in SFY 2020.

In addition, the expiration¹ of the moratorium exception for people who received Chapter 245D services and who lived in an unlicensed setting that required a license contributed to the reduction in the number of exceptions from SFY 2019 to SFY 2020. This exception allowed sites that required a corporate foster care license, but did not have one, to come into compliance with existing licensing standards.

The most common exception approval in SFY 2020 was for people who needed new corporate foster care development due to the closure of their ICF/DD facility (26 approvals). If ICF/DD facilities continue to close at the current rate, we expect little change to the total number of exceptions requested in SFY 2021. The expected minimal change in exception approvals also is due to no new moratorium exceptions being added to statute during the 2020 legislative session. For the number of exceptions approved by type in SFY 2020, refer to Table 1.

¹ This moratorium exception was available until June 30, 2018.

Table 1: Number of licensing moratorium exceptions by type (SFY 2019 and SFY 2020)

Exception description	SFY 2019 exceptions approved	SFY 2020 exceptions approved
People who require hospital level of care	1	0
People who needed new corporate foster care development because of the closure of an ICF/DD facility	123	26
People who no longer require the level of care provided by state-operated facilities (i.e., Minnesota State Security Hospital or Anoka Regional Treatment Center) ²	21	4
People who need new corporate foster care development due to the discontinuation of the residential care waiver service	0	0
People who receive Chapter 245D services and live in an unlicensed setting that requires a license (note: this exception ended June 30, 2018)	83	2
Total approved exceptions	228	32

B. Capacity and waiver trends

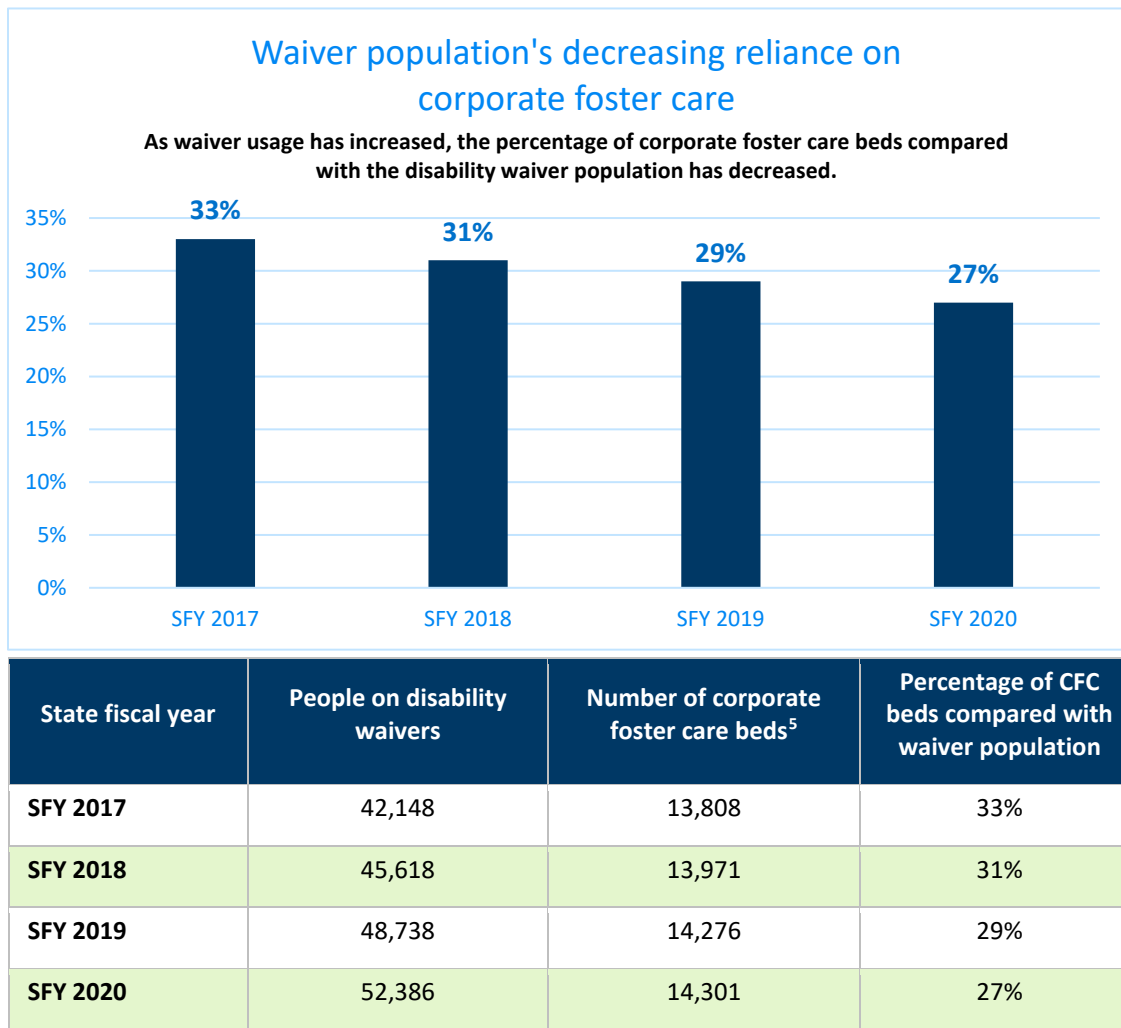
Since SFY 2017, the disability waiver population³ in Minnesota has grown from 42,148 people to 52,386 people, which represents a 24 percent increase (an average of 6 percent each year). In the same period, corporate foster care licensed capacity has grown from 13,808 to 14,301, which represents a 4 percent increase (an average of 1 percent each year). For more information on these trends, see Figure 1.

When removing allowable exceptions from consideration, the moratorium capacity count is 13,433, which has remained steady since SFY 2017 (0.04 percent decrease during four years). In sum, the total waiver population is less likely to live in a corporate foster care setting than it was four years ago.

² Includes Jensen Settlement class members.

³ For this analysis, disability waiver population refers to people on a disability waiver who have received at least one waiver service.

Figure 1: Capacity and disability waiver population growth (SFY 2017-SFY 2020)⁴



C. Capacity by region

In addition to calculating statewide capacity changes from year to year, DHS calculates the corporate foster care bed-capacity changes by region (see Table 2). In SFY 2020, five regions had a decrease in licensed corporate foster beds, six had an increase and one region showed no change. Both decreases and increases in beds were minimal, ranging from -2 to 4 percent. Region 7W, the Central West Region, showed the largest increase in the number of beds, with 14 more beds in SFY 2020 (2 percent).

⁴ The number of people on disability waivers is the number of people at the end of SFY 2020 rather than a cumulative total for everyone who enrolls on the disability waiver during the fiscal year, regardless if they are on the waiver for the entire year or not. The number of corporate foster care beds is also the number at the end of each fiscal year.

⁵ The number of corporate foster care beds refers to all licensed corporate foster care beds, including exceptions, which are not subject to the moratorium count.

Table 2: Current number of DHS licensed beds by region (SFY 2019-SFY 2020)

Region ⁶	Region name	Largest county	SFY 2019 ⁷ licensed bed count	SFY 2020 ⁸ licensed bed count	Difference
1	Northwest Corner	Polk	236	231	-2%
2	North Central	Beltrami	257	266	4%
3	Northeast Corner	St. Louis	1,567	1,555	-1%
4	North West	Clay	926	920	-1%
5	Central	Crow Wing	602	610	1%
6	West	Kandiyohi	819	816	0%
7E	Central East	Chisago	543	556	2%
7W	Central West	Stearns	900	914	2%
8	Southwest Corner	Lyon	476	468	-2%
9	South Central	Blue Earth	957	957	0%
10	Southeast Corner	Olmsted	1,630	1,642	1%
11	Metro	Hennepin	5,359	5,366	0%

⁶ These regions represent the regional resource specialist areas. See referenced [Regional Resource Specialist \(RRS\) Geographic Area Map, DHS-4850B \(PDF\)](#) for the regional boundaries.

⁷ Licensed bed count was calculated on June 30, 2019.

⁸ Licensed bed count was calculated on June 30, 2020.

Table 3: Licensed capacity summary (SFY 2019-SFY 2020)

Category	SFY 2019 licensed bed count	SFY 2020 licensed bed count	Difference
Statewide licensed capacity	14,276	14,301	0%
Approved exceptions this fiscal year	228	32	-86%
Cumulative approved exceptions	836	868	4%
Moratorium capacity count⁹	13,440	13,433	0%

⁹ The moratorium capacity count is calculated by subtracting the cumulative approved exceptions from the number of licensed beds.

VI. Key DHS activities during SFY 2020

During the past year, DHS worked to improve the residential support system by managing the moratorium, administering grants and supporting services that provide person-centered, integrated living options for people.

A. Managing the moratorium

DHS approves exception requests specified in statute and approves requests for use of available bed capacity that are critical to meet people's health and safety needs. In SFY 2020, DHS approved new corporate foster care development for 58 people who did not meet statutory moratorium exception criteria. These approvals were for people with complex needs (i.e., urgent health and safety needs), who were unable to remain in their current setting and could not be served within the current corporate foster care capacity of the county/region.

An example of "an urgent health and safety need" is when a provider gives a notice of service termination to a person from a residential setting and that person does not have other housing with residential support options.

B. Grants

DHS administers a number of grants that support lead agencies, providers, people with disabilities and their families to access supports that provide alternatives to corporate foster care services.

Local planning grants

State Fiscal Year 2020 marks the seventh year of the renewable Local Planning Grant for corporate foster care alternatives. It is a DHS-awarded grant for developing alternatives to corporate foster.

Two local planning grantees (St. Louis and Washington counties) completed their projects in 2019. In the final year of their contract, St. Louis County moved three people into their own home and otherwise focused on supporting people to increase their connections to community and natural supports, along with preparing them to move to settings that are more independent. Washington County did not count any moves as part of their grant activities during the final quarter of their contract (April 1, 2019 to June 20, 2019), but it did focus on continued organizational change and providing parent/guardian education. One example was the production and release of a branded video that featured testimonial from people and their supporters who moved to more independent settings.

In 2020, Sherburne County was selected as a new grantee. During this grant period (April 15, 2020 to Dec. 30, 2020), Sherburne will focus on preparing and promoting Life Sharing as an option for people who currently are on a waiver and who seek an alternative to a corporate foster care setting for their residential support needs. The county anticipates having at least 12 people who use waivers sign a lease with a landlord or homeowner as a result of contract activities.

Technology for home grant program

The DHS-funded [Technology for Home](#) program offers at-home, in-person assistive technology (AT) consultation and technical assistance to help people with disabilities live more independently. Expert consultants work in teams to provide cost-effective solutions and to communicate with the lead agency to develop a plan for people who receive home care or home and community-based waiver services.

As part of its work, Technology for Home:

- Consults with eligible people in their own homes, workplaces or public locations
- Connects people to resources that will help them live in their own homes
- Conducts follow up to ensure effective training, set up and installation
- Serves on the person's team to develop a plan to meet AT goals.

Between March 2013 and March 2020, the program provided 16,298 instances of service to 1,764 people with assistive-technology needs.

Innovation grants

The DHS-managed [Disability Services Innovation Grants program](#) promotes innovative ideas to improve outcomes for people with disabilities in Minnesota. The grants support opportunities for people with disabilities in housing, jobs, services and community engagement. The grants support ideas to:

- Achieve integrated, competitive employment
- Live in housing of one's choice
- Build direct care and support workforce capacity
- Build and strengthen family-to-family connections.

In SFY 2020, two grantees had goals to help people secure integrated housing. In the first three quarters of SFY 2020 (our most recent data), the two grantees helped five people secure integrated housing.

Local infrastructure grants

In 2017, the Minnesota Legislature directed the DHS to create the Community Living Infrastructure Grant program. The grant, which targets counties, tribal nations and tribal/county collaboratives, aims to create housing stability for people with disabilities who want to live in the community. For state fiscal years 2020 and 2021, DHS awarded \$4,270,000 to 18 grantees across the state.

Grant applicants applied for funding in one or more of the following categories:

- Outreach efforts to help people understand their housing options
- Hiring, training, and supporting housing resource specialists
- Funding for counties, tribal nations and collaboratives to administer and monitor the Housing Support program¹⁰.

Housing Access Services grant program

The Housing Access Services grant program helps people with disabilities access housing in the community. This program aims to support an alternative to institutional and facility care. It has reduced demand for potential moves into corporate foster care and moved people out of homelessness. From July 2009 through March 2020, the program has helped 2,481 people.

C. Services to help people access and maintain housing

In addition to the grant programs identified above, DHS administers the following Medical Assistance services that support people to access and maintain housing.

Moving Home Minnesota program

[Moving Home Minnesota](#) is an initiative, started in 2013, to help people move from nursing facilities or other institutions to their own homes in the community. This initiative is Minnesota's effort under the federal Money Follows the Person Rebalancing Demonstration, which is a cost-effective strategy for reducing reliance on institutional care and developing opportunities for people with disabilities and older adults to fully participate in their communities.

The initiative temporarily closed to new enrollments in anticipation of grant closure from August 31, 2018, through February 2019. However, Congress authorized a short-term extension of the program, including a recent reauthorization through the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The federal Centers for Medicare & Medicaid Services (CMS) will be issuing guidance as to how many and how long the initiative may allow new enrollments (not to extend beyond the grant closure in 2024).

Since the beginning of the demonstration, Moving Home Minnesota has helped 686 people move out of institutions and into the community.

¹⁰ In 2017, the Minnesota Legislature approved a change that renamed the state's Group Residential Housing (GRH) program. Effective July 1, 2017, the name of the program is now Housing Support.

Housing access coordination services

[Housing access coordination](#) is a disability waiver service that became available in 2016. It offers similar supports to the grant program, but it is a service available under the following waivers:

- Brain Injury (BI)
- Community Alternative Care (CAC)
- Community Access for Disability Inclusion (CADI)
- Developmental Disabilities (DD).

Like the housing access services grant program, housing access coordination helps people plan for, find and move to homes of their own that are not owned, leased or controlled by disability services providers. It is a pay-for-performance, person-centered service that pays for staff assistance based on the results achieved. The service reimburses providers for time spent helping a person get housing.

The service also has a follow-up stage that aims to help the person retain housing.

During SFY 2020, 3,218 people used housing access coordination services from 67 providers. The total amount spent for these service agreements was \$6,922,420 (Note: This total may rise as DHS pays claims up to one year from the date of service delivery).

D. Services to support people living in their own home

Individualized home supports

In the spring of 2017, DHS received CMS approval for a waiver amendment that authorized the individualized home supports service. The option was effective as of July 1, 2018. As of July 1, 2020, 676 people currently had the individualized home support service authorized.

A person may receive individualized home supports when they are eligible for the following disability waivers:

- Brain Injury (BI)
- Community Alternative Care (CAC)
- Community Access for Disability Inclusion (CADI).

The individualized home support service holistically supports a person in their own home and within their community by providing support (e.g., supervision, cuing, etc.) and training as a single, comprehensive service.

With multiple service-delivery methods, both in-person or via remote support, this service increases a person's choices and options for how and where services are delivered to meet the person's service needs.

A person can receive support or training in four broad, community-living service areas of:

- Community participation
- Health, safety and wellness
- Household management
- Adaptive skills.

The service uses a person-centered approach to support what is important both to and for a person. For example, an individualized home support staff member can ride along with someone who receives services as they learn to navigate the local bus system. This helps the person get to their job, as well as to get to community activities. If the person misses the bus one day or gets lost, they also can use this service to call someone to help reduce anxiety and solve the problem.

In that way, this service recognizes that each person interacts with the world differently. For example, one person may have neighbors who are noisy at night. To deal with it, the person may prefer to receive coaching from their staff over the phone before approaching the neighbor with a complaint. Or, the person might prefer a staff member to come along to talk to the landlord about the loud neighbors.

By combining training and support functions into a single, comprehensive service, the service:

- Is more responsive and individually tailored to a person's needs
- Has greater flexibility
- Increases service efficiency.

Assistive technology

The use of assistive technology is one option to support people in their own home. During the past year, DHS promoted assistive technology through conference and training opportunities, as well as the new Minnesota Technology First Advisory Task Force.

Odyssey conference

Technology was a focus of the DHS-hosted 2019 Age & Disabilities Odyssey conference in the summer of 2019. The conference opened with a pre-conference intensive session titled "Solutions for facilitating the creation of complex and realistic support plans." This three-hour training emphasized the importance of incorporating technology into people's support plans to both increase people's independence and maximize the caregiver's time.

Another conference event that generated a lot of positive feedback was the addition of "The Tech Tent," which highlighted various assistive technologies and allowed attendees a hands-on opportunity to try out various assistive devices. Additional technology workshops included "Service coordination using health Information technology," and "The Why, What, and How of Technology: Intro to Support Technology Training."

Training series

During the second half of FY19, DHS worked in collaboration with the Association of Residential Resources in Minnesota (ARRM) on developing a Supportive Technology Training Series. We piloted the training series with case managers and their supervisor from Anoka County. This four-part series helps case managers navigate the world of supportive technology, including

- What supportive technology is
- Relevant policy
- Available funding and resources
- Practice through a series of case scenario exercises.

DHS gathered participant feedback, as well as feedback about the experience of the trainers, and made adaptations that we incorporated into Phase 2 of the pilot. Phase 2 of the training series took place in the spring of 2020 with Olmsted County. We will now further refine the training using what we learned from Phase 2 to adapt the training to a format that we can offer to all of Minnesota's counties and tribal nations.

Task force

Additionally, the 2019 Minnesota Legislature directed the Commissioner of Human Services to appoint a Minnesota Technology First Advisory Task Force. The intent of the Task Force is to advise the commissioner on strategies to increase the use of supportive technology in services and programs that serve people with disabilities. The task force will identify how technology can enable people with disabilities to:

- Live more independently in community settings
- Work in competitive integrated environments
- Participate in inclusive community activities
- Increase quality of life.

The task force held its first meeting in October 2019, and has met quarterly since then. One of the primary initiatives of this task force is to identify barriers to support technology and make recommendations for increased use of, and access to, support technology.

VII. Report recommendations

DHS will continue to use available capacity (under the moratorium cap) to develop out-of-home respite options. In SFY 2020, DHS approved new development of 12 beds for crisis respite/respite services in counties that demonstrated a gap and need for this type of service in their region. Assistance for caregivers is critical to maintain living arrangements in the family home or the person's own home. This assistance reduces reliance on corporate foster care as an ongoing living arrangement.

DHS will approve new respite capacity while maintaining the reserve needed to serve people who have critical health and safety needs, but who do not meet moratorium-exception criteria.

Finally, DHS recommends continuing the programs described in Section VI of this report that build alternative supports to corporate foster care.