

1 A JOINT RESOLUTION directing the Cabinet for Health and Family Services to  
2 implement reforms to the provision of exceptional support services through the Supports  
3 for Community Living Waiver Program as recommended by the 2020 Exceptional  
4 Support Waiver Services Task Force of the Kentucky General Assembly and declaring an  
5 emergency.

6 WHEREAS, the Supports for Community Living Waiver Program (SCL) provides  
7 essential services to vulnerable populations; and

8 WHEREAS, SCL waiver participants with high-intensity needs require exceptional  
9 levels of staffing and specialized care; and

10 WHEREAS, the Legislative Research Commission established the Exceptional  
11 Support Waiver Services Task Force during the 2020 Interim for the purpose of  
12 identifying necessary reforms to the provision of exceptional support services; and

13 WHEREAS, the SCL exceptional support services program currently fails to  
14 adequately support individuals with high-intensity needs and fails to adequately  
15 compensate providers; and

16 WHEREAS, the SCL exceptional support services program has historically  
17 prioritized cost-savings over meeting the needs of qualified individuals and fairly  
18 compensating providers; and

19 WHEREAS, the exceptional support services application is overly burdensome and  
20 unnecessarily complicated; and

21 WHEREAS, the overly burdensome and complicated nature of the exceptional  
22 support services application process may deter individuals, who might qualify for  
23 services, from seeking the supports they need; and

24 WHEREAS, under the SCL waiver, many participants lack access to adequate  
25 consultative clinical and therapeutic (CCT) services; and

26 WHEREAS, limited access to CCT services has left the participants who require  
27 intense, long-term support after stabilization with few options for care in their

1 communities and resulted in a significant increase in applications for exceptional support  
2 services for increase CCT units; and

3 WHEREAS, Kentucky could significantly increase SCL waiver and exceptional  
4 support service expenditures without violating the federal Centers for Medicare and  
5 Medicaid Services budget neutrality requirements for 1915(c) Home and Community  
6 Based Services waivers; and

7 WHEREAS, improving the Support for Community Living referral system would  
8 ensure that providers are not deterred from accepting high-intensity referrals; and

9 WHEREAS, reducing administrative burdens, adjusting application timelines, and  
10 allowing for the backdating of exceptional support approvals to the date of the application  
11 submission would streamline the Support for Community Living exceptional supports  
12 application process;

13 NOW, THEREFORE,

14 ***Be it resolved by the General Assembly of the Commonwealth of Kentucky:***

15 ➔Section 1. The Cabinet for Health and Family Services is hereby directed to  
16 implement the following reforms to the provision of exceptional support services through  
17 the Supports for Community Living Waiver Program as recommended by the 2020  
18 Exceptional Support Waiver Services Task Force of the Kentucky General Assembly:

19 (1) Adopt a single, standardized assessment tool with demonstrated reliability and  
20 validity;

21 (2) Streamline the SCL exceptional support services waiver process by reducing  
22 administrative burdens, adjusting application timelines, and allowing for the  
23 backdating of exceptional support approvals to the date of application submission;

24 (3) Extend the SCL exceptional support services prior authorization period for  
25 nonclinical support services from 6 months to 12 months;

26 (4) Improve the SCL referral system to ensure that providers are not deterred from  
27 accepting high-intensity referrals;

- 1 (5) Simplify billing procedures for SCL exceptional supports services;
- 2 (6) Reform the current SCL exceptional support services rate methodology to ensure  
3 that it is truly cost-based, with a particular focus on one-to-one and two-to-one  
4 residential staffing arrangements;
- 5 (7) Research implementing a tiered rate structure for case management based on acuity  
6 and the needs of the individual;
- 7 (8) Restore SCL CCT service unit limits to SCL 1 waiver levels;
- 8 (9) Permit the use of SCL exceptional support services for nonmedical transportation;  
9 and
- 10 (10) Establish a new SCL level of care for waiver participants whose needs cannot be  
11 met in an SCL Residential Level 1 or Level 2 setting.

12 ➔Section 2. Except as provided in Section 3 of this Joint Resolution, the Cabinet  
13 for Health and Family Services shall implement the reforms described in Section 1 of this  
14 Joint Resolution within 180 days after the effective date of this Joint Resolution.

15 ➔Section 3. If the Cabinet for Health and Family Services determines that a  
16 waiver, state plan amendment, or any other authorization from the federal Centers for  
17 Medicare and Medicaid Services or any other federal agency is necessary prior to  
18 implementing the reforms described in Section 1 of this Joint Resolution, the cabinet  
19 shall, within 90 days after the effective date of this Joint Resolution, request the waiver,  
20 state plan amendment, or authorization and shall only delay full implementation of those  
21 reforms for which a waiver, state plan amendment, or authorization was deemed  
22 necessary until the waiver, state plan amendment, or authorization is granted.

23 ➔Section 4. The Cabinet for Health and Family shall provide an update on  
24 progress toward implementing the reforms described in Section 1 of this Joint Resolution  
25 to the Interim Joint Committee on Health, Welfare, and Family Services and the Medicaid  
26 Oversight and Advisory Committee during the 2021 Interim.

27 ➔Section 5. Whereas continued failure to provide adequate exceptional support

1 services to individuals with high-intensity needs threatens the health, well-being, and  
2 safety of every Supports for Community Living Waiver Program participant, an  
3 emergency is declared to exist, and this Joint Resolution takes effect upon its passage and  
4 approval by the Governor or upon its otherwise becoming law.