

children at Risk

85th TEXAS LEGISLATIVE SESSION

REPORT ON LEGISLATION IMPACTING CHILDREN

July 2017

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EXECUTIVE SUMMARY

The 85th Texas Legislative Session began on January 10, 2017, with 25 freshman lawmakers. The regular session ended on May 29, 2017, for a total of 140 days in session. Governor Abbott signed a budget of \$217 billion on June 12, 2017, for the 2018-2019 biennium. This session, legislators engaged in substantive and contentious conversations on a variety of topics important to Texas citizens, including K-12 and higher education, health and human services, the foster care system, immigration, and border security. Children's issues were front and center this session, but not as much progress was made for vulnerable children as was hoped. A special session, to begin July 18, 2017, will continue the discussions on many of these issues.

CHILDREN AT RISK tracked hundreds of bills over the course of this session, and testified or supported over 50 pieces of legislation in committee hearings. Some of CHILDREN AT RISK's priority bills dealing with human trafficking, Pre-K, and school nutrition, among others, became law. These are important steps in the right direction for Texas' youngest citizens, but myriad other bills failed to pass and represent missed opportunities for improving the lives of the state's youngest citizens. The following is a breakdown, by issue area, of this session's successes and shortcomings for Texas children.

Highlights from the 85th Legislative Session

- **HB 357 (Huberty)** – Expands free public Pre-K to children of first responders killed or injured in the line of duty.
- **HB 674 (Johnson)** – Prohibits out-of-school suspensions for students below 3rd grade.
- **HB 2039 (Huberty)** – Creates an early childhood teaching certification for educators in Pre-K to 3rd grade classrooms.
- **HB 2552 (Thompson)** – Strengthens anti-human trafficking efforts through stronger enforcement of penalties, better data collection, and awareness training for those in certain industries.
- **SB 128 (Garcia)** – Requires human trafficking training for those applying for commercial driver’s licenses.
- **SB 1404 (Hughes)** – Requires school districts and open-enrollment charter schools to report on their expanded learning opportunities (ELOs).
- **HB 22 (Huberty)** – Revamps the school accountability system to provide a more holistic evaluation of schools and offer more opportunities to improve.
- **HB 1600 (Thompson, S.)** – Provides for more mental health screenings for children in the Texas Healthy Steps (Medicaid) program.
- **SB 725 (Miles)** – Allows school campuses to donate excess food to local nonprofits or feed hungry students on campus.
- **HB 2466 (Davis)** – Provides for postpartum depression screenings for the mothers of children covered by Medicaid or CHIP.

EDUCATION

Early Education

Early childhood interventions, such as high quality pre-kindergarten (Pre-K), have been shown to produce positive outcomes for children’s development and help reduce achievement gaps between children from lower- and higher-income families. For example, data from the Texas Education Agency (TEA) shows that children from low-income households who attend Pre-K are less likely to be held back in first, second, and third grade than their peers who did not attend Pre-K. In addition, the Child and Family Research Partnership at the University of Texas notes that Texas Pre-K saves the state \$142 million each year by lowering rates of grade retention and special education.¹ Clearly, early education is a wise investment for Texas.

State Pre-Kindergarten

HB 357 (Huberty), a CHILDREN AT RISK priority bill, expanded free public Pre-K eligibility to children of fire fighters, police officers, and other first responders killed or injured in the line of duty. This bill has a small fiscal impact but will help some of the neediest children and families dealing with tragedy. **HB 674 (Johnson)** limits a school’s ability to place out-of-school suspension on students below 3rd grade. The goal of this bill is to reduce the out-of-school time imposed on our youngest children, and in turn decrease high school dropout rates, incarceration, and grade repetition. Research shows that Pre-K in particular can have a significant positive impact on children’s cognitive and social development, and allowing children to remain in their classrooms is vital.

SB 1 (Nelson), the appropriations bill, was important this session as it related to Pre-K programs. The legislature chose not to allocate funds for the High Quality Pre-K Grant program as it had in the 84th session. Instead, the legislature directed the commissioner of the Texas Education Agency (TEA) to spend at least 15%, or \$236 million over the biennium, of its current budget on high quality Pre-K. While this supports high quality Pre-K, it will come at a cost to other important TEA programs.

HB 1389 (Giddings) and its companion bill, **SB 724 (Miles)**, sought to bring Pre-K in line with current K-3 class size limitations. The bill would have required that Pre-K programs, like K-3 classrooms, have no more than 22 students per classroom. HB 1389 was a priority bill for CHILDREN AT RISK, but was left pending in the House Public Education Committee.

Child Care

Children's earliest experiences shape their brain development and consequently their educational and social outcomes later in life. Child care is crucial for providing a safe, nurturing environment for children while their parents are at work, and quality child care provides parents with the peace of mind that their children are in good hands. Expanding quality child care by making it affordable to more families will allow more children to thrive, help more parents enter the work force, and will ultimately benefit society at large.

CHILDREN AT RISK priority bill **HB 3323 (Deshotel)** and its companion bill **SB 940 (Campbell)** did not pass, but would have provided parents, policymakers, and educators with clearer information about the quality of subsidized child care paid with state and federal funds. In addition, the bill would have allowed for better coordination of the taxpayer-funded subsidized child care program at the Texas Workforce Commission and public school pre-kindergarten. This would have allowed public elementary schools and local child care providers to work together to get kids school-ready. HB 3323 stalled after being referred to the Senate Health and Human Services Committee.

SB 818 (Watson) and its companion bill, **HB 2664 (Miller)**, would have required certain child care facilities to adopt a minimum set of standards related to fitness, nutrition, and screen time in a greater effort to reduce childhood obesity and other chronic illnesses. Analysis of the bill showed that childhood obesity and chronic illness cost the state billions annually; without SB 818, we will see these costs remain and, even worse, lose opportunities to improve Texas children's health. SB 818 was left pending in the Senate Health and Human Services Committee.

SB 2164 (Zaffirini) would have required that the Department of Family and Protective Services collect data on licensed child care facilities and make the data available to community agencies and the Health and Human Services Commission (HHSC). The data would be used to ensure that group sizes and staff-child ratios at child care facilities are adequately protecting children's health and safety, as research has shown that the current standards are inadequate. Failure of this bill to pass represents a missed opportunity to decrease the number of safety-related incidents in child care programs across our state. This bill was left pending in the Senate Health and Human Services Committee.

Parent Education and Family Engagement

Parents are a child's first educators. Research shows that the achievement gap between children from low- and high-income families begins to take shape in early childhood as a result of their

differing environments and access to resources. In early childhood, from birth to age five, children begin to develop the basic skills needed for later learning, including vocabulary, counting, and letter recognition, as well as self-esteem, emotional regulation, and beliefs about their abilities. Parent interaction is key to successful development in each of these areas, which means supporting parents in their roles as early childhood educators is critical if children are to be successful in their later learning. The Texas Education Code requires districts to create parent engagement strategies that are evidence-based and have been shown to produce short- and long-term results for early childhood learning. **HB 1593 (Bohac)** adds a provision to the Code to require that school districts incorporate programs and interventions into their engagement plans that support student learning at home. While the bill does not provide any additional specifications on acceptable strategies, it follows previous legislation requiring districts to collaborate with other agencies, such as HHSC, and accept recommendations for strategies from parent-teacher organizations, community groups, and faith-based organizations.

A missed opportunity in the parenting arena was **HB 1522 (White)**, which called for the establishment of a task force on parent education and family engagement programs. The intent behind this bill was to improve interagency coordination in order to identify gaps, strategize on how best to allocate state resources, and develop best practices through partnerships and strategic alignment. This bill's defeat after stalling in the Senate Health and Human Services Committee will allow existing silos of service to persist, which may lead to gaps in services and supports to parents.

K-12 Education

Teacher-Student Relationships

Texas has the highest rate of inappropriate teacher-student relationships in the country.² In just the last year, Texas exceeded all other states with 150 reported inappropriate teacher-student relationships. And in the past eight years, there has been an 80 percent increase in such cases.³ Also concerning is that a large percentage of these teachers are not charged with a crime, and in some cases they end up working in different schools due to poor reporting practices.⁴

SB 7 (Bettencourt) and its identical companion bill, **HB 3769 (King, Ken)** were created to address the problem of inappropriate teacher-student relationships in Texas. These bills amend previous legislation requiring more investigative and reporting procedures for educators alleged to be engaged in inappropriate relationships with students, amend law regarding training and prevention measures for educators and administrators, and amend law requiring termination of educators who engage in inappropriate behavior with minors.

These bills add new preventive measures by increasing pre-employment screening for new hires, designed to prevent individuals with prior inappropriate relationships with minors from being hired, and create penalties for hiring such an employee. They set strict reporting timelines for administrators if abuse is alleged, set harsh penalties for failure to report in a timely manner, and set harsher penalties for any administrator attempting to conceal wrongdoing. These bills also require school districts to have written policies regarding electronic communication between staff and students. This is critical, as ease of communication between students and teachers electronically is believed to be one of the reasons for the dramatic increase in these incidents.

These bills are considered a win as they help reduce the likelihood that inappropriate teacher-student relationships will develop and go undetected.

Performance and Accountability

This legislative session tackled school and school district accountability. During the 2015 session, Texas transitioned from a pass/fail accountability system to an A-F accountability system. That accountability system established five domains: student performance on the State of Texas Assessments of Academic Readiness (STAAR) exam, student progress on STAAR, closing the achievement gap, college and career readiness, and community engagement. These changes were a step in the right direction— many superintendents and school leaders prefer evaluation that is not grounded in a rating system. However, there is still much work to be done to capture a holistic picture of a school or school district’s performance.

HB 22 (Huberty) amends a number of aspects of the A-F accountability system. The Education Commissioner, Mike Morath, has to consult with school communities before changing standards. Schools that perform well will be able to petition Morath to create their own accountability systems. The bill requires the inclusion of teacher quality as a measure in a school’s rating. The original 5 domains have been reduced to 3 domains: student achievement, student progress and closing the gaps. This A-F accountability system will become effective in 2018 for districts and 2019 for individual schools.

SB 1398 (Lucio) protects students in special education programs while addressing an ambiguity in a prior bill, SB 507, passed in the 84th legislature. SB 1398 clarifies that school districts must provide video equipment in classrooms serving students with special education needs only if a parent or staff member requests its placement in the classroom. Parental notification is mandatory in the event that use of the video equipment is discontinued.

Currently, students in a Texas Juvenile Justice Department (TJJD) facility can be served by a traditional independent school district or a charter school for educational services. **HB 3075**

(Huberty) not only allows open enrollment charter schools to exclude students in juvenile detention from their dropout/completion calculations, but also allows school districts where juvenile detention facilities are housed to exclude from their dropout/completion calculations students who are in the district purely because of the location of the detention facility.

Teacher Training/Development and Curriculum

During this legislative session, there were three major victories with regard to teacher training and certification. **HB 3563 (Koop)** amends the protocol for notifying parents regarding teacher qualifications. Instead of notifying parents when the teacher is not “highly qualified,” the bill stipulates that parents must be notified if teachers do not meet certification requirements. The bill also replaces all references to the No Child Left Behind Act with references to the Every Student Succeeds Act.

SB 1839 (Hughes) focuses on enhancing quality education through improving educator preparation programs for teachers, creating a Pre-K through 3rd grade teaching certificate, and providing the ability for teachers from out-of-state to more easily obtain a teaching certificate in Texas.

The bill requires data from the Texas Education Agency to be provided via the Public Education Information Management System (PEIMS) in order to guide the assessment and revision of educator preparation programs. The minimum academic qualifications to become a teacher now include a bachelor’s degree as well as digital literacy training. If one is seeking certification for anything other than a classroom teacher role, a formal on-site, face-to-face observation cannot be mandated - electronic/video observations must be accepted. A teacher must have at least 15 hours of field experience before being hired, and the education commissioner may establish examination exceptions for out-of-state educators seeking employment in Texas. The bill also creates an optional Early Childhood Certificate (ECC) that will cover early childhood specific teaching methods.

The details of the ECC program are outlined in **HB 2039 (Huberty)**. This bill requires the State Board for Educator Certification to create an early childhood certification for educators teaching Pre-K to 3rd grade. The bill also outlines the eligibility requirements for obtaining this certification, such as completing relevant coursework and performing satisfactorily on the related exam. This bill does not make this certification mandatory. Although the certification is not mandatory to obtain, this bill may increase the quality of teaching for Pre-K through 3rd grade. It garnered wide bipartisan support in the House and Senate.

HB 3887 (Coleman), which failed to pass, would have amended the Health and Safety Code to require school personnel (including teachers, administrators, law enforcement officers, and social

workers) to be trained in trauma and recognize signs of trauma in children. This bill would require school personnel to intervene effectively and notify children's parents/guardians of any red flags. The TEA would have to make available a list of programs that could provide training to school personnel on recognizing physical or emotional trauma. The district would report to the TEA the number of personnel trained and the total number of personnel in the district. In schools with high numbers of students who are victims of trauma, this training would have been extremely beneficial, and the failure of this bill to pass is a detriment to children's well-being. This bill was left pending in the Senate Education Committee.

Expanded Learning Opportunities

It has been demonstrated that more quality time in school correlates with better academic performance and reduced risk of criminal involvement by youth^{5,6}. Expanded learning opportunities (ELOs) such as extended school days and summer education programs can provide students this beneficial extra academic time.

SB 1404 (Hughes), and its identical companion bill **HB 2806 (Ashby)**, are bills to help better evaluate the benefits of expanded learning opportunities that include activities such as extra coursework, mentoring, tutoring and physical activity. Specifically, the bills require school districts and open-enrollment charter schools to report information through the PEIMS regarding each campus' use of expanded learning opportunities (ELO). The goal is to gather more data on the availability of expanded learning opportunities and the number of students participating in each ELO activity.

Student Safety

Suicide is the second most common cause of death for American teens,⁷ and research shows that cyberbullying is strongly associated with suicidal ideation among adolescents.⁸ Stories of young people who have been driven to suicide at least in part due to bullying by peers using social media and other internet-based applications have become increasingly common. While current Texas law does address bullying in a general sense, it has not gone so far as to address the role of new technologies. **SB 179 (Menendez)**, named David's Law after a San Antonio teen who committed suicide after being cyberbullied, delineates how cyberbullying should be handled by school personnel and establishes criminal penalties under certain circumstances. The bill defines cyberbullying, requires that school districts include it in their policies on bullying, and gives schools the authority to investigate bullying occurring off campus if it has an impact on the school environment. Schools can also expel students who have coerced a peer into committing or attempting suicide.

SB 179 also creates criminal penalties for cyberbullying that involves coercion, results in serious harm, or violates an injunction or restraining order. While the bill contains some provisions encouraging schools to use counseling and rehabilitation services for students and requiring training on grief and trauma-informed practices, opponents have criticized the effort for not addressing prevention of cyberbullying and have pointed out that exclusionary discipline, such as expulsion and criminalization, are not effective for children.

SB 195 (Garcia) helps to expand protections for students who live within walking distance from their schools but must walk or be transported through dangerous areas to get to school. Currently, Texas law allows districts to apply for additional funding to transport children who live within two miles of their school but are subject to hazardous traffic conditions in getting to school. SB 195 expands the criteria to apply for additional funds to include high risk of violence, as determined through law enforcement records of violent crimes. Schools would have the option to use the funding for community walking programs, often referred to as walking school buses.

Another bill related to student transportation, **SB 693 (Garcia)**, addresses student safety on school buses. It amends the Transportation Code to require school buses purchased in 2018 or later to have three-point seat belts, unless the school's board of trustees determines that it is not feasible within the school's budget. The bill repeals previous language that required a district to comply "only if the Legislature had appropriated money for reimbursing the district for the expenses of compliance."

HEALTH

Mental Health

In Texas, up to 600,000 of the state's 7 million children suffer from mental health issues, but the state is not well-equipped to meet their needs.⁹ According to 2011 data from the Texas Department of State Health Services (DSHS), the mental health needs of over two-thirds of these children are not being addressed in a comprehensive and timely manner.¹⁰ This can lead to poor outcomes later in life, including an increased risk for substance abuse, homelessness, poverty, contact with the criminal justice system, and more severe mental health issues. Intervention at an early age is ideal. According to the National Alliance on Mental Illness (NAMI), mental health and substance abuse disorders cost Texas \$269 billion annually.¹¹ Texas ranks 48th in per capita mental health spending, according to 2013 data from NAMI and the Kaiser Foundation.¹² The 85th legislature made some strides towards expanding mental health care access for youth in Texas, but much work remains to ensure adequate and equitable access to care.

HB 13 (Price) will help address the scarcity of community-based mental health services in Texas, including for children and youth, by creating a matching grant program to support local providers. Under HB 13, local nonprofits and other private groups can apply for competitive grants that HHSC will award after an extensive review of proposals. State funds were appropriated for these grants for the next two years through SB1: \$10,000,000 for fiscal year 2018 and \$20,000,000 for fiscal year 2019. The bill reserves 50% of the grant funding for counties with fewer than 250,000 people.

HB 1600 (Thompson, S.) increases children's access to mental health screenings while on Medicaid by changing the reimbursement policy. Prior to this bill, Medicaid reimbursed providers for one mental health screening per child during the 12-18 age range. However, Medicaid would not reimburse for more than one such screening over that six-year period. HB 1600 changes this policy to allow Medicaid to reimburse providers for one screening every year per child. This increases the likelihood that the mental health needs of vulnerable children will be identified and treated.

SB 1021 (Nelson) helps improve the coordination and quality of mental health care by aligning the efforts of various agencies involved in children's services. The bill reinstates the Texas System of Care framework, whose mission is to provide seamless and coordinated mental health care services to children and youth being served simultaneously by multiple agencies. The bill requires HHSC to enter into a memorandum of understanding with the other agencies to specify their respective roles in delivering, administering, and coordinating these services. It also requires HHSC to come up with an evaluation plan to monitor the success of the System of Care model.

Health in Schools

Texas law mandates 27 minutes of structured physical activity per school day.¹³ However, the law does not cover unstructured play time, which is critical for child development. Local school health advisory councils play a major role in the implementation of supportive mandates for children. **SB 1873 (Hinojosa)** requires that each school district provide a complete report regarding public school physical education to the Texas Education Agency. After all submissions are made, the commissioner shall release a report detailing information such as the number of physical education classes, student-teacher ratios, the equipment available, the certifications and/or licensure of the teachers, policies regarding physical education and punishment, and whether the courses meet the needs of students with disabilities.

HB 4056 (Rose) promotes the implementation of a variety of school-based mental and behavioral health interventions. Prior to the bill, DSHS worked with the Texas Education Agency to develop and regularly update a list of evidence-based best practices for public schools

regarding mental health interventions, building positive relationships, emotional regulation, substance abuse and suicide prevention. This bill expands the list to include other issue areas, including trauma-informed interventions and the promotion of a positive school climate.

HB 353 (Bernal) would have required that each school district assign at least one behavioral health professional to every campus at which the majority of the student body is economically disadvantaged, homeless, or in the care of the Department of Family and Protective Services. The bill would also entitle schools to state aid to fund these professionals. Unfortunately, it never emerged from the House Public Education Committee.

HB 3145 (Deshotel), a CHILDREN AT RISK priority bill, would have required each school district to adopt a recess policy. Specifically, the Board of Trustees of each school district would review the policy recommendations of the local school health advisory council, adopt a recess policy, and review/revise it at least once every five years. The policy would state how many minutes of unstructured recess are required each week and whether recess can be withheld from students as a form of discipline. The failure to enact this policy is a missed opportunity because recess is a way to instill healthy and active habits in children. Up to 40% of school districts across the country have either reduced or completely eliminated recess time in favor of more instructional time, and about 25% of elementary schools do not provide recess in all grades.¹⁴ This bill stalled after being placed on the House General State Calendar.

SB 196 (Garcia) would have ensured that students and their families are notified when their schools lack full-time support personnel, including nurses, behavioral health counselors, and librarians, for more than 30 consecutive school days. Most parents and students assume that such staff are present at schools, and this bill would ensure that they are notified if this is not the case. The notice may be posted on the school's website, and schools must make an effort to translate the notices into multiple languages to serve the entire school community. These staff members can be critically important for students' mental and physical health while at school, so it is unfortunate that this bill, an effort to increase families' awareness, was vetoed by the Governor.

HB 11 (Price) would have made a number of changes to existing law regarding mental health services for public school students. The bill would have amended the Education Code to require each school district to come up with a district improvement plan developed and evaluated by the superintendent. The plans would include a comprehensive needs assessment for specific student populations, measurable performance objectives, and strategies for addressing specific student needs, including prevention programs for suicide, violence, bullying, and school dropout. The plan would have been required to provide guidelines for teacher and principal continuing education programs in trauma/grief/substance abuse and other mental health issues students may encounter. This bill made it out of House Committee but was never voted on.

Immunizations

Vaccines prevent the spread of infectious disease. Despite the effectiveness of vaccines, the number of unvaccinated children in Texas has risen. Texas had 2,314 “conscientious exemptions” in 2003, ballooning to 44,716 in 2016, according to the Department of State Health Services.¹⁵ In order for a vaccine to be effective, a certain threshold of the population must receive the vaccination. Individuals who receive vaccinations protect those in the community who may be too young or may have medical reasons that prevent them from receiving the vaccination. Mumps, a vaccine-preventable disease, is at a 23-year high in Texas.¹⁶ Unfortunately, there were no significant legislative victories for immunizations in the 85th session. **HB 2249 (Sheffield)** would have required the Texas Department of State Health Services to report vaccine-preventable outbreaks and the number of students at each public school with vaccine exemptions. The purpose of the bill was to provide transparency for parents and provide data about the potential public health risks associated with not vaccinating children. On May 8, 2017, the bill was placed on the General State Calendar.

HB 39 (Wu) began as a bill aiming to improve the state’s Child Protective Services agency, but the attention turned to a debate over vaccines. HB 39 requires that children in state custody receive medical exams, but the final language in the bill prevents foster children from being vaccinated, which could have negative consequences for their health and that of their peers.

Maternal Health

A 2016 University of Maryland study found that Texas’ maternal mortality rate doubled between 2010 and 2012.¹⁷ Texas now has the highest rate of maternal mortality in the United States and among most industrialized nations. The joint biennial report of the Maternal Mortality and Morbidity Task Force and Department of State Health Services found that African-American women are at the greatest risk for maternal death and most deaths occur after a child’s first 42 days of life.¹⁸

A parent’s mental and physical health directly impacts a child’s health, growth and development.¹⁹ Due to the hormonal changes that occur after childbirth, a mother may experience postpartum depression. Approximately one out of every six new mothers in Texas experiences postpartum depression, but half of the women who suffer from it are not diagnosed.²⁰ This mental health issue can have long-lasting implications for women, children, and families.

SB 1599 (Miles) attempts to address Texas’ alarming maternal mortality problem. It amends the Health and Safety Code to require the DSHS to develop and post protocols for pregnancy-related death investigations and reporting on the DSHS website. The protocol must include guidelines as

to when to perform a toxicology screening, when a death should be reported to a medical examiner or justice of the peace, and how to correctly complete a pregnancy-related death certificate. By creating a protocol for investigations, the authors of the bill hope that a clearer understanding of the underlying causes behind the deaths will emerge and aid in prevention.

SB 1929 (Kolkhorst) amends the duties of the Maternal Mortality and Morbidity Task Force that was created by SB 495 in 2013. SB 1929 requires the multidisciplinary team to evaluate rates of pregnancy-related deaths or disparities between groups in relation to pregnancy-related deaths in the state. The team will also evaluate best practices for combating maternal mortality and aiding economically disadvantaged women experiencing postpartum depression. The Maternal Mortality and Morbidity Task Force may also apply for a federal grant to fund the screening and treatment of postpartum depression. For transparency, the bill mandates that the report's findings and recommendations be made available to the public.

HB 2466 (Davis) includes postpartum depression screenings as a covered service for an enrollee's mother under the Children's Health Insurance Program (CHIP) and children's Medicaid, regardless of whether the mother is also enrolled in Medicaid. For children enrolled in CHIP or children's Medicaid, their mothers may now receive screenings for postpartum depression during the doctor visits that occur before the child reaches age one.

Food Access

Students receive around half of the food they need for the day at school. In Texas, one out of every four youth can be classified as food insecure.²¹ **SB 725 (Miles)** allows school campuses to donate excess food to local nonprofits. The bill amends the Education Code to give school districts the authority to allow school campuses to choose a non-profit that has a direct connection to the school campus—for example, through a staff member or a student's parent who is affiliated with the nonprofit. The excess food can be stored and distributed on the school's campus. This bill also allows schools to provide food to students at no cost if they elect to do so. **SB 725**, a win for low-income children and families who may struggle with food insecurity, was signed into law on June 9, 2017.

An amendment to **SB 1566 (Kolkhorst)** requires schools to implement a grace period during which students can continue to receive hot lunches even without sufficient funds in their meal plan account. This was originally part of HB 2159, known as the anti-“lunch-shaming” bill.

HB 148 (Schaefer) would have restricted SNAP accessibility by requiring a photo I.D. when using benefits, but it stalled in the House Human Services Committee, which is a victory for low-income families who already face many barriers to accessing healthy and nutritious foods. **SB 1310 (Hall)** would have amended the Education Code to eliminate the district requirement of

having a school health advisory council. The bill was referred to the Education Committee but did not pass. **HB 4004 (Tinderholt)** would have required income verification for certain school lunch program beneficiaries. It was referred to the Education Committee but progressed no further. **HB 842 (Burrows)** would have prohibited the purchase of energy drinks, carbonated sweetened beverages and certain snacks with SNAP, but failed to pass the House Human Services Committee.

CHILD WELFARE

Abuse & Neglect

Several parenting bills that made it to the Governor’s desk fixed seemingly small procedural issues, but they could have significant positive effects on children and families who interact with the court system. One noteworthy bill set to go into effect is **SB 495 (Uresti)**, which gives judges the ability to decline to enter judgment on mediated agreements pertaining to the parent-child relationship based on the company parents keep. This bill allows judges to take into consideration the backgrounds of individuals with whom children may come into contact through their parents’ relationships or living arrangements—specifically, those individuals’ histories of neglect, physical abuse, or sexual abuse. Registered sex offenders or those with any history of committing abuse would not be allowed to reside with or have unsupervised visits with children. This is a change from previous law, which only allowed judges to decline mediated settlement agreements if a party in the settlement was a victim of family violence.

Foster Care

In 2016, there were approximately 27,895 children under conservatorship of the Department of Family and Protective Services (DFPS) in the state of Texas. Over 60 percent of those children were in formal foster care placements with the rest in state-supervised kinship placements. Following reports of foster children sleeping in DFPS offices and high profile incidents involving the injury and death of children in Child Protective Services’ custody, the need for reform was apparent. The task became increasingly urgent with a Federal District Court decision in 2015 that ruled the state’s foster care system to be unconstitutional and “broken.” (*M.D. et al v. Abbott et al*, No. 2:2011cv00084 (S.D. Tex. 2015)). The Texas Legislature passed three major bills this session that aim to overhaul the foster care system and facilitate faster placements of children in safe environments. Two of the bills alter how and by whom services related to foster

care are provided and the other seeks to help kinship caregivers financially and therefore increase the number of successful placements.

The Texas foster care system is beyond maximum capacity, necessitating drastic improvements so children can be placed in safe, stable environments that meet their medical and educational needs. **SB 11 (Schwertner)**, a high priority bill for Governor Greg Abbott, Lieutenant Governor Dan Patrick, and House Speaker Joe Straus, begins reforming the system by repackaging the “Foster Care Redesign” approach passed by the Texas Legislature in 2011 as “Community-based Care” using Single Source Continuum Contractors (SSCCs). Community-based Care divides the state into 18 geographic regions, or “catchment areas,” each of which will have a nonprofit or local government entity serve as the SSCC and provide the community with essential foster care services.

The bill requires that DFPS expand Community-based Care into a maximum of eight new areas by the end of 2019. Case management services, including visiting children and caregivers, creating permanency plans, coordinating services, and reporting to the court, will be transferred to these SSCCs. In addition, the bill also requires DFPS to implement a pilot program in two regions where SSCCs have already been contracted to offer family-based safety services, which are services provided to families in-home to help create a more stable environment, and case management by the end of 2018.

The bill includes provisions requiring readiness reviews of the nonprofit providers prior to the awarding of a contract, development of community engagement plans by the nonprofits, and contingency plans in the case of early contract termination. The fiscal impact of implementing the provisions of the bill over the next two years is projected to be \$11.85 million against General Revenue Related Funds. However, this figure is presented by the Legislative Budget Board (LBB) with caveats, including the fact that the total number of grantees and the amount of their awards is currently unknown. The LBB also notes in the bill’s fiscal note that while it makes no appropriation at this time, “[SB 11] could provide the legal basis for an appropriation of funds to implement the provisions of the bill.”²²

Opponents of the bill say that outsourcing case management services to nonprofit providers could potentially endanger children and that the state should instead allow DFPS more time to deploy emergency funding provided in 2016 toward expansion of its staff so that services can be provided by the Department. In other states where a similar model has been attempted, such as Kansas, Nebraska, and Florida, the results have been mixed, and in some instances the child welfare systems have not changed or have become worse. Opponents also say that the model itself could be a good thing for children but only if the state would be willing to allocate significantly more funding toward the initiative. Additionally, an amendment to the bill (HB 39)

that prohibits medical service providers from administering vaccines to children under temporary care until DFPS has been made their conservator has also drawn criticism.

However, supporters maintain that given the high turnover rates and inefficiencies in DFPS, privatizing services is a more effective way to expand the foster system's capacity. Localizing case management with nonprofit providers could allow for more children to be placed in homes faster. This model also keeps children in the communities that they are familiar with and has been considered successful in the area of North Texas where it has already been implemented under Foster Care Redesign.

While SB 11 begins the process of separating case management services from DFPS, a second bill, **HB 5 (Frank)**, will attempt to improve operational efficiency by separating DFPS itself from the Health and Human Services Commission (HHSC). HB 5 transfers full authority over a number of functions shared between DFPS and HHSC, including permanency planning, adoption placements, abuse and neglect investigations of child care facilities, and parent education programs to DFPS. The department will share responsibility over medical service plans for children in the system and health passports with HHSC. The bill creates a DFPS commissioner position; this individual will report directly to the Governor and hold rulemaking authority. It also re-establishes the Family and Protective Services Council, which had been eliminated in previous legislation, to develop rules and department policies. Members of the Council are also appointed by the Governor.

Of potential concern is an amendment to HB 5 that limits the liability of SSCCs, their employees, and their volunteers in the event of death, injury, or property damage occurring in the course of their work. Critics also point out that separating the agency from HHSC does not address the more important issue of the Department being overburdened with cases. Additionally, while the intent of the separation of DFPS from HHSC is to improve efficiency and allow for easier and faster decision-making, opponents note that streamlining the structure and management of the Department may have the unintended effect of reducing accountability, particularly given that the Department will also have more autonomous leadership.

Over 10,400 Texas children are placed in formal, state-supervised kinship care living situations, predominantly with grandparents.²³ **HB 4 (Burkett)** changes the disbursement and amounts of benefit payments provided to kinship caregivers. While kinship caregivers have previously been provided a one-time payment of up to \$1,000 per child taken in, HB 4 provides for monthly monetary assistance of up to 50 percent of the basic daily foster care rate for kinship caregivers with incomes less than or equal to 300 percent of the federal poverty line, meaning they could receive up to approximately \$350 per month. This amount would be paid for a maximum of 18 months. In addition, if the placement becomes permanent, kinship caregivers can be reimbursed

up to \$500 per year for other expenses for a limited period. The bill also makes fraudulently accepting payments a criminal offense, punishable with jail time and/or a civil penalty.

Because kinship caregivers are often on fixed incomes, advocates of this bill say that it will ease the financial hardships that may come with taking in relative children and could result in more children being placed with relatives. Kinship care is often a more stable situation for children and results in fewer behavioral issues and a greater likelihood of family reunification. However, while supporters of the bill say that the criminal penalties reduce the likelihood of exploitation, opponents say that they could be a deterrent to families taking in their relatives' children. Moreover, the eligible income levels are determined before the child becomes part of the caregiver's household, so some potential caregivers may not qualify on that basis. This expansion of benefits is expected to cost the state \$37.8 million over the next two years, but supporters say it will ultimately save the state money by keeping children out of foster care.

JUVENILE JUSTICE

Identification and Protection of Children

This session, Texas lawmakers recognized that to successfully reform the juvenile justice and foster care systems, interagency communication must be reinforced. The legislature passed **HB 932 (Johnson)** to promote communication between the Texas Juvenile Justice Department (TJJD) and the child welfare system. HB 932 was signed into law by the Governor. It is widely believed that the same conditions which force a child into foster care can also lead that child into the juvenile justice system. In an effort to better understand this correlation, HB 932 provides for the collection of information concerning the number of juvenile offenders committed to TJJD who have been in foster care. The bill requires TJJD to collect information regarding a child's foster care history from the Texas Department of Family and Protective Services (DFPS) during the admission process and to provide reports to the legislature detailing foster care statistics for TJJD-committed juvenile offenders. HB 932 also directs TJJD, DFPS, and local juvenile probation departments to collaborate to create a method by which probation departments statewide may access this information from DFPS concerning a child's placement in foster care. Identification of the underlying causes of a child's entry into the juvenile justice system is necessary to change their trajectory, and HB 932 will enable lawmakers to craft more responsive legislation in the future.

HB 1521 (White) amends the Family Code relating to the exchange of certain information between DFPS or certain foster care contractors and a state or local juvenile justice agency. The

bill was designed to streamline the provision of services to and rehabilitation of “multi-system youths,” defined as individuals under the age of 19 who have received services from two or more juvenile service providers. HB 1521 stipulates that if a state or local juvenile justice agency so requests, DFPS and related foster care service contractors must share information if it will assist that agency in providing services to multi-system youths, and state and local agencies have a reciprocal obligation. Maintaining robust channels of communication between these entities will enhance the rehabilitation of multi-system youths and improve community safety.

HB 637 (White) sought to address the issue of mental illness in the juvenile justice system. The bill provided for the creation of local committees that would be responsible for developing and adopting a plan identifying the population of mentally ill children committed to TJJD, a measurable goal for reducing that population, and methods for protecting children with mental illness in the juvenile justice system. Despite growing concerns about mental illness in the system and the absence of any significant fiscal implications, the bill stalled after reporting out of House committee and was never held to a vote.

HB 676 (Wu) would have raised the juvenile jurisdiction age—the age when a person is considered an adult—to 18 years old. Texas is one of seven states that still treat children between the ages of 17 and 18 as adults for all crimes. However, HB 676 never made it out of committee.

HB 679 (Wu) would have banned the use of heavy mechanical shackles on juveniles during judicial proceedings in the absence of a specific order from a judge. It stalled after reporting out of House committee.

SB 424 (Rodríguez) would have prohibited any child under 14 years of age from being committed to TJJD, regardless of the circumstances. In addition, a child under 14 could not be placed in a post-adjudication secure correctional facility, with limited exceptions. In order to commit a child under 14 who was found to have engaged in delinquent conduct constituting a felony to a post-adjudication secure correctional facility, a juvenile court would have to find that the child was at risk or had significant needs that could not be met outside of a residential setting and there was no other reasonable placement available for that child. The bill stalled in Senate committee.

HB 1274 (Moody) and its companion bill in the Senate, **SB 556 (Rodríguez)**, acknowledged the reality that young adolescents often lack the capacity to understand the consequences of their actions the way adults do. As juveniles grow older and become more aware, the likelihood that they will be a repeat offender may decrease. This legislation would have changed the time at which individuals convicted of certain offenses committed when younger than 18 years of age are considered for release on parole, taking into account the person’s age and the circumstances

at the time of the offense. HB 1274 reported out of House committee but was never brought to a vote, and SB 556 died in Senate committee.

Juvenile Determinate Sentence Pleas

Due process is the cornerstone of the American justice system, yet it is constantly eroded by inefficiencies and delays. **HB 678 (Wu)** will protect due process and increase efficiency in the juvenile justice system by allowing associate judges and referees to hold hearings for juvenile pleas and stipulations of evidence in cases where a child is subject to a determinate sentence—meaning that both the state and child’s attorney agree to the disposition of the case. Currently, only juvenile court judges may hear such cases and associate judges are not authorized to handle any aspect of determinate sentence pleas. Under HB 678, associate judges and referees will report their written findings and recommendations to a juvenile court judge, who retains ultimate authority to either accept or reject the plea or stipulation. This delegation to associate judges and referees will free up time that juvenile court judges may use to hear contested cases.

Records & Confidentiality

In 2015, the 84th Texas Legislature created the Juvenile Records Advisory Committee to conduct an examination of Chapter 58 of the Family Code, which governs records and the juvenile justice information system, and develop a reorganization plan. **SB 1304 (Perry)**, signed into law, reflects the committee’s recommendations for successful implementation of its reorganization plan. The bill amends current law relating to confidentiality, sharing, sealing, and destruction of juvenile records. SB 1304 expands applicability of restrictions on disclosure of juvenile records to include inspection, copying, and maintenance of a record, as well as storage of information. Under SB 1304, juveniles referred solely for conduct indicating a need for supervision are entitled to the automatic sealing of their juvenile records. Juveniles referred for delinquent conduct are entitled to have their records sealed without applying to the juvenile court if certain conditions are met.

Provision of Services as an Alternative to Adjudication

Adolescents are often introduced to the juvenile justice system at a young age and find themselves unable to escape the legal consequences, which can cause them to resort to a life of criminal behavior. This is detrimental not only for the teen, but for society in general. In an effort to keep children out of the system when possible, Texas lawmakers passed **HB 1204 (White)**, which was signed into law by the Governor. This bill amends the Family Code to provide community services in lieu of prosecution to children under the age of 12 who are

alleged to have committed certain offenses. A child under 12 will be eligible to receive services under this bill if they are eligible for deferred prosecution and did not commit a violent crime or one involving weapons.

Under HB 1204, if a child meeting these requirements is referred to a local juvenile probation department, the child referred to either a community resource coordination group, a local interagency staffing group, or other community juvenile service provider. to evaluate the child's case and make recommendations to the juvenile probation department for appropriate services for the child and the child's family. Children who fail to comply with the service plan will be referred to the prosecuting attorney.

HB 1204 also requires that juvenile boards establish policies prioritizing the diversion of children under 12 from referral to a prosecuting attorney and the limitation of detention of children under 12 to circumstances of last resort. Lastly, HB 1204 requires the Office of Court Administration (OCA) to conduct a study on the adjudication of juveniles charged with misdemeanors punishable by fine only and the use of certain terms signifying age in the criminal justice and juvenile justice statutes.

HUMAN TRAFFICKING

Texas was an early advocate for anti-human trafficking legislation, and in 2003, it became one of the first states to officially define human trafficking. Despite such efforts, Texas has the nation's second highest number of human trafficking incidents reported to the National Human Trafficking Hotline; 670 cases were reported in 2016.²⁴ But the cause was not abandoned, and dozens of bills were filed in the 85th legislative session to address the crimes of human trafficking and commercial sexual exploitation of children. Two of the most comprehensive anti-trafficking bills introduced this session were **HB 2552 (Thompson)**, a CHILDREN AT RISK priority bill signed by the Governor, and **HB 29 (Thompson)**, also signed into law.

HB 2552 is broad in scope, touching on many critical issues related to human trafficking. First, it improves data collection around crimes ancillary to human trafficking. This information is crucial for guiding tactics aimed at reducing the demand for illegal commercial sex, and for protecting minors and adults from violence and exploitation at the hands of buyers, pimps, and traffickers. HB 2552 requires the Bureau of Identification and Records to collect and analyze data on all prostitution arrests and outcomes (segregated by buyer and seller) as well as promotion of prostitution arrests and outcomes.

Under HB 2552, a person is prohibited from serving as a member of the board of trustees of a school district if that person has been convicted of offering to engage, agreeing to engage, or

engaging in sexual conduct based on the payment of a fee or has been convicted of soliciting another individual in a public place to engage in sexual conduct for hire.

HB 2552 also directs the Texas Commission of Licensing and Regulation to require continuing education programs for cosmetologists that include information on activities commonly associated with human trafficking, how to recognize potential victims of human trafficking, and methods for assisting victims and reporting human trafficking. In addition, facilities holding a cosmetology license under the Texas Occupations Code will be required to display a sign with information on services and assistance available to victims of human trafficking.

In addition, the bill requires notice of arrest related to prostitution, promotion of prostitution, aggravated promotion of prostitution, compelled prostitution, or massage therapy or other massage services in violation of the Occupations Code, and the offense is taking place at a property leased to an individual operating a massage establishment, to each person maintaining that property.

HB 2552 makes the following changes to the Penal Code through floor amendments. The bill classifies the commission of an offense that results in the death of an unborn child of a person who is trafficked as a first-degree felony. In addition, the bill enhances the penalty for unlawful disclosure or promotion of intimate visual material from a Class A misdemeanor to a state jail felony. With respect to assault, HB 2552 adds the act of causing bodily harm against a pregnant woman to force that person to have an abortion to the list of offenses classified as third-degree felonies. The bill also classifies the offense of threatening with bodily injury or causing physical contact against a pregnant individual to force the individual to have an abortion as a Class A misdemeanor.

HB 29, the other comprehensive anti-trafficking bill passed this session, codifies the recommendations of the Texas Human Trafficking Prevention Task Force (Task Force), which are designed to improve Texas' response to human trafficking. HB 29 clarifies the language related to buyers and sellers of sex in the Penal Code and modifies the applicable penalty structure. The bill also requires registration as a sex offender by those who engage in continuous human sex trafficking based wholly or partly on conduct that constitutes prostitution or a sexual offense involving a child. HB 29 requires that individuals who register as sex offenders include their vehicle registration information on their sex offender registration form. The bill also includes "specialized care for a child who is a victim" in the definition of "pecuniary loss," with respect to the Crime Victims' Compensation Act.

HB 29 allows the attorney general to issue civil investigative demands before initiating a lawsuit for civil racketeering related to human trafficking. The bill also mandates preferential settings for child sex trafficking cases, so courts must prioritize such matters for trials and hearings. HB 29

expands membership of the Task Force. In addition, HB 29 eliminates the Task Force's expiration date of September 1, 2017.

HB 29 raises the penalty for promotion of prostitution from a Class A misdemeanor to a state jail felony. If the conduct involves a person under 18 who is engaged in prostitution, the offense will remain a second-degree felony. The bill raises the penalty for aggravated promotion of prostitution from a third-degree felony to a second-degree felony. If a prostitution enterprise uses one or more individuals under 18 as prostitutes, the offense will remain a first-degree felony.

HB 29 also addresses abuse reporting requirements. The bill increases the minimum age at which otherwise confidential information related to diseases and health information may be released from 13 to 14. However, individuals still have a mandatory duty to report suspected child abuse or neglect. The bill requires all sexually-oriented businesses to post a sign in each restroom with contact information that directs a victim of human trafficking to contact the National Human Trafficking Resource Center. Failure to post these signs will be a Class C misdemeanor. HB 2552 has a provision requiring that emergency rooms in hospitals and abortion facilities display signs in all restrooms and patient consulting rooms regarding human trafficking and forced abortions.

Nuisance and Abatement

Major culprits in the human trafficking problem are businesses that claim to offer massage services merely as a front for sex trafficking and forced prostitution. These illicit massage establishments (IMEs) tend to attract crime and are usually unlicensed. Harris County exemplifies the problem of pervasive IMEs—there, unlicensed, illicit massage parlors outnumber Starbucks. Dallas and San Antonio are home to over 120 IMEs each, and the problem is growing. The Texas legislature introduced several bills this session aimed at halting the proliferation of IMEs.

Nuisance and abatement lawsuits are the primary means used by local governments to shut down IMEs. HB 2552 builds upon current nuisance and abatement law to preserve the efficacy of nuisance and abatement suits in combating human trafficking. First, HB 2552 establishes that any incident of prostitution (including promotion of prostitution, aggravated promotion of prostitution, and compelled prostitution) at a place offering massage services is prima facie evidence that the activity was knowingly tolerated. Second, the bill makes failure to be licensed in accordance with Chapter 455 of the Occupations Code prima facie evidence that the related nuisance was habitual and knowingly tolerated. Lastly, HB 2552 makes evidence of a previously successful nuisance and abatement lawsuit against a property owner fully admissible to show that the same owner knowingly tolerated the activity in a subsequent suit.

HB 2552 empowers landowners to evict tenants and recover possession of their property in the event that a tenant exploits the leased premises for certain unlawful uses related to human trafficking. The bill sanctions termination of a tenant's right of possession, regardless of any provisions in the lease to the contrary, if the tenant is using the premises or is allowing the premises to be used for prostitution, promotion of prostitution, aggravated promotion of prostitution, compelled prostitution, or human trafficking or if a landlord reasonably believes a tenant is using the premises or allowing it to be used for the aforementioned purposes.

HB 2552 also adds to the list of false, misleading, or deceptive acts or practices the operation of a massage establishment that is not licensed, not in compliance with licensing requirements, or in violation of applicable local ordinances. This is significant because it will subject the operator of an unlicensed massage establishment to the significant statutory civil liability of \$20,000 per occurrence plus attorney's fees if suit by the state is successful.

SB 1196 (Kolkhorst) broadens the scope of common nuisances online. This legislation, signed into law, amends the Civil Practice and Remedies Code to provide that a person operating a web address or computer network connection with the activities related to human trafficking maintains a common nuisance. This is also contained in HB 2552.

SB 1196 authorizes an individual, the attorney general, or a district, county, or city attorney to bring a suit declaring that a person operating a web address or computer network is maintaining a common nuisance. The bill authorizes the attorney general to post a judicial finding on the attorney general's website or to notify internet service providers, search engine operators, browsing or hosting companies, or device manufacturers on which applications are hosted of the judicial finding.

HB 2631 (Dutton) would have authorized residents of a municipality to petition their municipality to file a lawsuit against an alleged public nuisance. Under this bill, if a court determined that the alleged nuisance was a public nuisance and a threat to the public health or welfare of the residents of the municipality, the municipality would be authorized to take certain actions including the purchase of property on which a use that constituted a public nuisance occurred and the exercise of eminent domain to acquire the property on which a use constituting a public nuisance occurred. HB 2631 was left pending in committee.

Awareness and Training

In its 2016 report, the Task Force identified professional drivers within the trucking industry as a significant yet untapped resource in the fight against human trafficking. **SB 128 (Garcia)**, signed into law by the Governor, will require commercial driver's license applicants to receive anti-trafficking education and training. The bill directs the Texas Higher Education Coordinating

Board to adopt rules requiring public junior colleges offering a commercial driver's license training program to include in the curriculum education and training on recognizing and preventing human trafficking. In addition, the Texas Workforce Commission will have to adopt rules requiring this information to be included in commercial driver's license training programs offered by career schools or colleges. Training for commercial driver's license candidates was also codified in HB 29. SB 128 requires the Department of Public Safety (DPS) to provide informational materials regarding the recognition and prevention of human trafficking for distribution to commercial driver's license applicants.

SB 2039 (Zaffirini) focuses on age-appropriate instruction on human trafficking as a form of early intervention for children. The bill provides for the inclusion of human trafficking and sexual abuse prevention instruction in a school district's health curriculum. It amends the Education Code to require the TEA commissioner to develop one or more sexual abuse and sex trafficking instructional modules that a public school district may use in the district's health curriculum. The bill authorizes the modules to include information on a wide range of topics, including risk factors for sex trafficking, the procedures for reporting sexual abuse and sex trafficking, information on overcoming peer pressure and recognizing potentially abusive or harmful relationships, myths about victims and abusers, victim blaming, and the role of language.

HB 1218 (Johnson) would have provided for a delay in criminal proceedings for certain prostitution offenses while encouraging participation in prostitution diversion programs in order to reduce recidivism and would have reduced the penalties for prostituted individuals who are convicted multiple times.

SB 1859 (Lucio) would have established a human trafficking unit within the Department of Public Safety to investigate and combat human trafficking. The bill provided that the unit could implement a public outreach campaign, which would involve collaboration with local law enforcement agencies, school districts, and faith-based organizations and places of worship in order to educate individuals under the age of 18 about the dangers associated with human trafficking. Unfortunately, this bill died in Senate committee.

Knowledge of a Victim's Age and Sexual Coercion

Ambiguous statutory language concerning sexual abuse of minors has allowed some individuals who have solicited a prostitute who is a minor to raise the defense that they were unaware of the prostitute's age at the time of the solicitation, and thus evade legal consequences. **HB 1808 (Meyer)**, signed by the Governor, is designed to preclude this line of defense by establishing that, in the context of certain criminal offenses relating to children, ignorance about the victim's

age at the time of the offense is irrelevant to whether the actor commits an offense. This was also codified in HB 29.

HB 1808 addresses the definition of “consent” in relation to sexual assault and aggravated sexual assault and establishes that an actor’s particular state of mind is not a viable defense. In addition, HB 1808 amends the sexual assault statute to include assaults accomplished by coercion or threat of harm to the victim. HB 1808 also created the offense of “sexual coercion,” classified as a state jail felony. A violation occurs when a person intentionally coerces a victim to engage in sexual conduct or to produce intimate visual material, or provide a valuable benefit, by means of threatening to commit an act of violence or a sexual offense if the victim does not comply. Sexual coercion as a punishable offense is also included in HB 2552.

HB 2529 (Meyer) clarifies the definition of coercion for purposes of the offense of human trafficking and was signed into law by the Governor. The bill specifies that the definition of “coercion” in the context of human trafficking includes destroying, concealing, confiscating, or withholding from the trafficked person, or threatening to do the same, the trafficked person’s actual or purported government records or identifying information or documents.

Records & Confidentiality

A perpetrator’s access to the home address information of a victim of family violence, sexual assault, human trafficking, stalking, or certain crimes against children is troubling, given the dangers that such access poses to the victim. This is true even if a victim has a protective order against their perpetrator. **SB 256 (Taylor)**, signed into law by the Governor, ensures the confidentiality of this sensitive information. SB 256 extends eligibility to participate in the attorney general’s address confidentiality program to victims of continuous sexual abuse or indecency with a child offense if the victim meets with a designated victim’s assistance counselor. In addition, SB 256 curbs the requirement for the attorney general to disclose a program participant’s true residential, business, or school address if requested by a law enforcement agency to a request for the purpose of conducting an investigation. Finally, the bill amends the Election Code and the Tax Code to expand confidentiality provisions to include certain victims of family violence, sexual assault or abuse, stalking, or human trafficking.

HB 269 (Thompson) would have established a judicial process for the setting aside and expunction of convictions for prostitution offenses committed by individuals who engaged in prostitution solely as victims of human trafficking or compelled prostitution. Convicted defendants would have the opportunity to petition the court to set aside the order of conviction. If the court determined that the defendant committed the offense solely as a victim, the conviction would be set aside and all arrest records expunged. While HB 269 passed the House, it failed to

report out of Senate committee. Because HB 269 failed to pass, certain victims of human trafficking and related prostitution offenses will continue to be punished for crimes that they were forced to commit. Without an adequate procedure to set aside and expunge these convictions, victims will be unable to live new healthy and productive lives. Such victims will be more likely to go back into a life of prostitution.

HB 761 (Hernandez) would have amended the Family Code to provide special immigrant juvenile status for certain victims of human trafficking. Unfortunately, HB 761 failed to report out of House committee.

HB 1435 (Wu) would have amended the Business and Commerce Code to authorize county and district attorneys to initiate enforcement actions under the Deceptive Trade Practices Act (DTPA). It would have had significant implications for human trafficking as well. HB 1435 would have enabled county and district attorneys to prosecute deceptive trade practices, one of which is the operation of unlicensed massage establishments (HB 2552). Unfortunately, HB 1435 never made it to a House vote.

CONCLUSION

CHILDREN AT RISK applauds those legislators who worked tirelessly this session on behalf of kids and families. Thanks to them, and the advocates who lobbied, testified, and supported their legislation, some significant changes were made for Texas kids in the 85th session. Real efforts were made to combat human trafficking, improve school accountability, tackle food insecurity, and protect youth in the juvenile justice system.

However, there were countless missed opportunities to improve the lives of children and families as well. More could have been done to address children's mental health, immunizations, recess policies, maternal mortality, funding for early education, capacity in the foster care system, and a litany of other issues.

It is no secret that Texas lags behind its peer states when it comes to developing public policies that allow children and families to reach their fullest potential. CHILDREN AT RISK is hopeful that with more research, data, outreach, and effective advocacy, improved legislation and a brighter future for kids will follow.

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