

children at Risk

86th TEXAS LEGISLATIVE SESSION

REPORT ON LEGISLATION IMPACTING CHILDREN

JUNE 2019

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EXECUTIVE SUMMARY

With 27 freshman lawmakers along for the ride, the 86th Texas Legislative Session began on January 8, 2019 and regular session ended 140 days later on May 27, 2019. On May 26, 2019, Governor Abbott signed a \$250.7 billion budget for the 2019-2021 biennium. During the 86th, legislators wrestled with topics critically important to Texas children, including school finance, property taxes, child care and early childhood education, health and human services, disaster recovery, human trafficking, the foster care system, and the juvenile justice system. However, with nearly fifty percent of children living in low-income families, there is still much to be done to ensure all children are safe, healthy and receive quality education.

CHILDREN AT RISK tracked hundreds of bills over the course of this session and testified or supported over 80 pieces of legislation in committee hearings. Some of CHILDREN AT RISK's priority bills dealing with early childhood education, public Pre-K, school finance, mental health and human trafficking became law. These victories represent important steps in the right direction for Texas' youngest citizens, but myriad other bills, especially those related to healthcare coverage for Texas children and mothers, failed to pass. The following is a breakdown, by issue area, of this session's successes and shortcomings with respect to Texas children.

Highlights from the 86th Legislative Session

- **HB 680 (Deshotel/Watson)** – Improves transparency, efficiency, and accountability in early childhood education programs at the Texas Workforce Commission (TWC).
- **SB 568 (Huffman/Bonnen)** – Enhances oversight and regulations for child care programs; sets sleep standards, establishes penalties, and creates a safety training account.
- **HB 3 (Huberty/Taylor)** – Reforms Texas’ school finance system, increasing overall funding for early childhood and K – 12 education, while also decreasing property taxes and “recapture.”
- **HB 2184 (Allen/Huffman)** – Improves supports for students transitioning from alternative education programs to regular classrooms.
- **SB 11 (Taylor/Bonnen)** - Allocates funding for school safety initiatives and increases access to mental health services for students.
- **HB 18 (Price/Watson)** – Requires trauma-informed mental health trainings for teachers and school personnel.
- **SB 670 (Buckingham/Price)** – Increases access to school-based behavioral telemedicine so more districts and students receive mental health services
- **HB 2335 (Walle/Kolkhorst)** – Requires the Health and Human Services Commission (HHSC) to coordinate with county judges to more rapidly deploy natural disaster benefits (D-SNAP).
- **SB 20 (Huffman/Thompson)** – Enhances criminal penalties for “buyers” of sex, mandates community supervision for “sellers” of sex, and allows victims of trafficking or promotion of prostitution to obtain a court order of nondisclosure of criminal activities.
- **SB 1801 (Huffman/Hunter)** – Reforms the order of nondisclosure process for sex trafficking victims, allowing survivors to more easily obtain employment and housing.

EARLY EDUCATION

CHILD CARE QUALITY, SAFETY, & ACCESS

Quality child care enables parents and guardians to work and boosts the health of the Texas economy; quality child care also prepares children to be successful in their K – 12 educations.ⁱ Texas still faces challenges with child care affordability and, therefore, accessibility. However, significant progress was made in improving the quality of existing child care in Texas during the 86th Legislative Session. Several important bills improve educational outcomes for children transitioning from child care to K – 12 education, to ensure children’s safety at child care providers, and to support children’s health and wellbeing, especially with respect to nutrition, physical activity, and screen time.

The Texas legislature took important steps to ensure families, communities, and policy makers are better able to identify quality child care providers in Texas. The Texas Workforce Commission (TWC) oversees a federal program providing child care subsidies to low-income families to support parents and guardians in working and/or attending workforce trainings.ⁱⁱ Currently, roughly half of the 15,000 child care providers in Texas accept these subsidies. The TWC currently collects some data about the type and quality of child care being utilized, however, the TWC previously was not required to report this data. **HB 680 (Deshotel/Watson)** requires TWC to report this data, increasing transparency and opening opportunities to identify child care providers best serving Texas children. In addition, this bill improves coordination between TWC and the Texas Education Agency (TEA), enabling TEA to work with child care providers to assign a public school identification number (PEIMS number) to children. In addition, the bill allows for Local Workforce Development Boards (LWDBs) to contract with quality child care providers (those earning three stars or higher according to TWC’s quality standards). Contracted subsidy slots have many benefits including providing stability to child care businesses, allowing for the provision of quality child care in high-need areas, and ensuring the viability of partnerships with other taxpayer-funded early childhood programs, such as public Pre-K. Lastly, to improve the quality of the child care workforce, each board shall, to the extent practicable, ensure professional development offered for child care providers, directors and employees funded by TWC. The professional development can be used as credit toward a certification, credential, or degree, or it can contribute to meeting Texas Rising Star (TRS) requirements. Currently, TEA estimates only 47% of Texas children are ready for kindergarten upon entering elementary school.ⁱⁱⁱ **HB 680 (Deshotel/Watson)** enables child care providers to offer children better care, close educational gaps, and create a stronger future for Texas’ workforce.

The Texas Legislature also took steps to increase children’s safety with respect to child care providers. Currently, there are several types of child care providers in Texas: licensed child care

facilities, registered family homes, and listed family homes. Listed family homes have not been subject to the same regulatory standards as other child care providers in the state, resulting in reports of violations that place children at serious risk of harm. **SB 569 (Huffman/Bonnen)** closed an existing loophole so that listed family homes will now be subject to similar regulatory standards that apply to all other child care providers. This bill requires the Health and Human Services Commission (HHSC) to adopt minimum standards in the areas of safety, health, supervision, and liability insurance coverage for listed family homes.

SB 568 (Huffman/Bonnen) transfers certain regulatory authority from the Department of Family Protective Services (DFPS) to the Health and Human Services Commission (HHSC) in the interest of improving children's safety in registered family homes and licensed child care facilities. Specifically, this bill seeks to prevent child injury and death by establishing sleeping standards for children and requiring notification to parents and/or guardians when standards have been violated. The bill also requires inspection data of registered family homes and licensed child care facilities to be kept in a database for a minimum of five years. These child care providers will be subject to certain liability insurance coverage requirements, and HHSC can impose administrative penalties on facilities that violate certain high-risk regulations. Finally, the bill creates a Safety Training Account, which provides safety training materials at no cost to registered family homes and licensed child care facilities.

SB 708 (Zaffirini/Raney) gives families, communities, and policy makers access to important information about the nature and safety of child care in Texas, setting expectations for data collection and reporting on child safety issues at registered family homes and licensed child care facilities. These reporting requirements are aimed to give policy makers a better understanding of child care group sizes and their effects on high risk factors for children in care. A report detailing data on caregiver to child ratios, group size standards, and serious violations, injuries, and deaths in registered family homes and licensed child care facilities will be published each year on the Health and Human Services Commission's (HHSC's) website.

To ensure compliance with these safety laws and others pertaining to child care, **SB 706 (Watson/Guerra)** requires the Health and Human Services Commission (HHSC) to maintain an investigation unit whose primary responsibility is to identify child care providers operating without a license, certification, registration, or listing required by law. If child care providers are found to be in violation, the investigative unit will initiate appropriate enforcement actions against those providers.

SB 952 (Watson/Lucio) updates and aligns the state's standards for physical activity, screen time, and nutrition for child care providers with nationally-recognized best practices. For example, meals and snacks will be required to include a greater variety of vegetables and fruit, more whole grains, and less added sugar and saturated fat.^{iv} In addition, children will have the

opportunity to engage in at least two hours of active play^v and to have limited screen time.^{vi} This bill ensures Texas children are forming healthy nutritional, physical, and play habits, leading to decreases in childhood obesity and longer-term prevention of chronic illnesses.

In addition, **HB 4090 (Noble/Kolkhorst)** eliminates an unnecessary burden for operating summer and after-school child care services. Historically, child care licenses are automatically revoked if the child care operation changed locations. This bill enables child care providers who provide school-age children afterschool care to update their location information without having to apply for new child care licenses if they change locations during the summer to accommodate child care needs.

Despite substantial progress this legislative session in supporting quality child care, the Legislature missed an opportunity to provide Texas families with easier access to information on child care. **HB 3738 (Goldman)** would have required HHSC to create an Internet website listing all child care providers in Texas, including licensed child care facilities, registered family homes, and listed family homes, as well as local Headstart and Pre-K programs. Without HB 3738, information about these programs will continue to be scattered across multiple websites, making it difficult for parents and guardians to access information about child care opportunities and the quality of child care providers in their areas.

PRE-K FUNDING & ACCESS

Public Pre-K is a valuable early education opportunity for Texas children and families. Quality public Pre-K programs improve school readiness and lower short-term costs for school districts, as they prevent child retention during elementary school.^{vii} During the 2017 – 2018 school year, however, only 43% of children in Texas attended public Pre-K.^{viii} During this legislative session, the Texas Legislature reformed school funding and committed to funding full-day public Pre-K for eligible four-year-old Texas children.

HB 3 (Huberty/Taylor), a major school finance reform bill, increases funding for Pre-K and K – 12 public education. The bill provides an allotment of \$780 million for full-day public Pre-K, an increase in teacher pay, and the implementation of early reading and mathematics strategies. School districts are required to expand half-day Pre-K programs to full-day for eligible four-year-old students. (Previously, they could utilize state funding to provide half-day Pre-K for eligible three and four-year-old students; funding for half-day Pre-K for three-year-old students will remain in place.) HB 3 provides a 0.1 weight for every K-3 economically disadvantaged and/or English Language Learners student (.02 if both) in the formulas. School districts with economically disadvantaged and/or Limited English Proficiency students will receive more funding for full-day Pre-K to help boost student achievement amongst these higher-need groups of students. A portion of the additional funds must be used to increase the pay of non-administrative staff, mostly teachers. If seat capacity is an issue, districts can apply for a waiver

to delay implementation of public Pre-K programs for up to three years. To find additional seats and classrooms for public Pre-K students, schools are required to evaluate opportunities for public-private partnerships with high quality child care or Headstart programs before they apply for a waiver, and consider constructing, repurposing, or leasing buildings to find additional classroom spaces. The bill also provides additional funding to school districts that opt to provide an additional 30 half-days of instruction for students enrolled in public Pre-K through 5th grade to help reduce the “summer slide.”

In addition, another bill, **SB 1679 (West/Turner)**, ensures continuing eligibility for public Pre-K for some students. Any child who was eligible for public Pre-K classes at age three will remain eligible for Pre-K the following school year. Previously, parents and guardians were required to demonstrate a child’s eligibility each year, causing some children not to be reenrolled in public Pre-K at age four.

K-12 EDUCATION

PUBLIC EDUCATION FUNDING

The Texas Legislature prioritized public education funding and property tax reform during this session in response to ongoing concerns from Texas’ independent school districts and a high-profile court case. School districts raised concerns about the funding system’s reliance on “recapture,” which requires the state to fund school districts through the redistribution of property tax revenue from higher-value property areas to lower-value property areas.^{ix} In 2016, the Texas Supreme Court ruled Texas’ educational funding system was constitutional; however, the Court strongly asserted that the system could be better.^x

HB 3 (Huberty/Taylor) addresses these concerns, increasing school funding overall to improve the quality of Texas public education. This bill reduces property taxes and decreases the amount of money collected from school districts for the purpose of “recapture” by \$3.6 billion. The bill also allocates an additional \$6.5 billion for public education and increases per pupil allotment from \$5,140 to \$6,160, a 20% increase. The bill requires school districts to use at least 30% of revenue gained to increase non-administrative pay, prioritizing teachers with five years of experience or more to increase teacher retention and competitiveness. The bill also allocates additional funding for school districts that serve students at-risk of dropping out, those from low-income households, or those who are English Language Learners. During the 2017 – 2018 school year, 51% of students were classified as at-risk, 58% came from low-income households, and 19% were English Language Learners.^{xi} The bill also requires school districts to use a phonics curriculum, train teachers in literacy best practices, and create plans for early childhood literacy and postsecondary readiness. Finally, the bill allocates additional funding to school districts that

elect to extend the school year by 30 days or more to increase time on-task and prevent “summer slide.”

STUDENT SUPPORT

The Legislature also passed several bills to support students facing additional challenges, including lack of access to the Internet or electronic devices, contact with the criminal justice system, and transitions from alternative education to regular education environments.

HB 391 (Blanco/Zaffirini) supports students who lack access to the Internet and/or electronic devices. The bill requires school districts and open-enrollment charter schools to make hard copies of textbooks or printed materials available to students upon a parent’s request if the student does not have access to the Internet or electronic devices at home. This bill is most helpful to low-income students, who are more likely than their peers to lack access to the Internet and/or electronic devices at home.

SB 1746 (Miles/White) supports students who have had contact with the criminal justice system. It adds students who have either had contact with the criminal justice system themselves or who have an incarcerated parent or guardian to the “at risk of dropping out of school” classification. This classification gives these students access to certain accelerated instruction or alternative education programs with the intent of decreasing their likelihoods of dropping out.

HB 2184 (Allen/Huffman) improves behavioral health supports for students transitioning from alternative education programs to regular education classrooms. The bill improves coordination between alternative education programs and the campuses to which students are transitioning, requiring the alternative education program to report certain information to the new campus. The bill then requires the administrator at the new campus to create a personalized transition plan for the incoming student, working with the school counselors, teachers, and the student’s parents or guardians.

PHYSICAL HEALTH

The Legislature attempted to promote children’s academic, physical, emotional, and social wellbeing by passing **HB 455 (Allen/Watson)**; however, the bill was vetoed by the governor. This bill would have required the Texas School Health Advisory Committee (TSHAC) to develop model school recess policies, which local school districts could reference when crafting local policies. Rather than mandating a specific recess policy, the bill would have allowed for local flexibility, requiring local school districts to adopt and implement a formal recess policy customized for local needs. Research shows a positive relationship between student achievement and time allotted for unstructured play, exercise, and socialization with peers; research also

shows a positive relationship between improved student behavior and time spent at recess.^{xii} This bill's defeat by the Governor's Office will allow for continued disparities in children's time at recess, possibly contributing to lower student achievement.

SCHOOL SAFETY

After several mass shootings at schools across the United States, including the tragic deaths of students in Santa Fe, Texas in 2017,^{xiii} policy makers recognized the need to increase resources for school safety and develop effective interventions to prevent and respond to threats. **SB 11 (Taylor/Bonnen)** allocates funding for school districts to implement a broad range of school safety initiatives. The bill implements several threat prevention measures focused on increasing mental health services for students, such as trauma-informed care education for school staff and parents, healthy-relationship curriculum for students, and requirements for school districts to implement threat assessment teams and policies. In the event of an emergency, SB 11 requires improved emergency response training requirements for school staff, provides funding for improvements to building safety features, and establishes emergency notification and evacuation procedures.

PRIVATE SCHOOL SAFETY

The Texas Legislature also took steps to protect the safety of all students in Texas, regardless of where they attend school. **SB 1230 (Bettencourt/Meyer)** requires chief administrative officers (CAOs) of private schools to report the misconduct of any educator found to have had inappropriate relationships with students. Previously, only administrators of public schools were required to report this to the state. This bill closes this potential loophole in reporting requirements, ensuring private school students have the same protections from educators engaged in misconduct as public school students.

SB 1231 (Bettencourt/Meyer) also strengthens safety protections for private school students by requiring private school administrators, including those of Pre-K programs, to be provided with information regarding Department of Family Protective Services (DFPS) child abuse and neglect investigations and allegations. Previously, only public school administrators received this information. This bill ensures children enrolled in private schools will have similar protections to those enrolled in public schools.

PARENTING

The Legislature also passed bills that honor the role families play in the lives of children. These bills support the formation and maintenance of healthy, happy families and aid parents and guardians in educational decision-making for their children.

The Texas Legislature took steps to ensure the state is effectively using federal funds to promote evidence-based prevention services for mental health, substance abuse, and in-home intensive parenting for adults whose children are at imminent risk of entering the foster care system. **SB 355 (West/Klick)** requires the Department of Family Protective Services (DFPS) to develop a strategic plan for coordination between community-based care and foster care prevention, ensuring Texas effectively implements prevention and early intervention services to comply with recent changes in federal funding for children at imminent risk of entering the foster system. President Trump signed the Family First Prevention Services Act in 2018, which shifts federal funding from exclusive support for the foster system to the inclusion of supports for prevention programs. This federal law intends to preserve families and prevent children from entering into the foster care system. **SB 355 (West/Klick)** enables Texas to maximize this funding to accomplish the goals of the new federal law.

SB 232 (Menendez/Bernal) requires school districts to inform parents of curriculum requirements to earn a high school diploma, including the benefits of graduating with a distinguished level of achievement. Specifically, the bill requires school districts to notify parents and guardians of high school students of possible consequences of not taking Algebra II. Algebra II is sometimes a prerequisite requirement for enrollment in degree programs at colleges and universities. Previously, parents and guardians of high school students may not have understood the impact of this course's omission on their students' access to college and career choices.

Despite passing bills with significant benefits for parents and families, the Texas Legislature missed an opportunity to pass **HB 507 (White)**. This bill acknowledges parents are often a child's first and best teachers. In keeping with this understanding, this bill would have established a task force to examine evidence-based parent education and quality engagement programs, aiming to increase access in the state. The bill would have also improved inter-agency coordination at the state level.

CHILDREN'S HEALTH

MENTAL HEALTH

Many Texas stakeholders and policy makers, including Governor Abbott, came together to address children's mental health concerns during this legislative session, responding to needs outlined in a 2017 state report on mental health in Texas.^{xiv} These bills address a variety of issues, including providing training for school personnel to identify mental health needs, funding for mental health professionals to develop and implement mental health trainings and programs, funding for the evaluation of the effectiveness of these trainings and programs, and funding for coordination with other mental health experts across the state.

HB 18 (Price/Watson) provides training for school personnel to identify students' mental health needs, intervene earlier, and prevent school violence. The trainings will outline standards for mental health first aid programs and reporting for local mental health authorities and school district personnel. It also specifies evidence-based requirements for curriculum, counseling programs, educational programs, state and regional programs and services, and healthcare services for students. Teachers are required to receive training in trauma-informed practices at least once every five years, and these trainings can be double counted toward teacher CPE hours.

HB 19 (Price/Watson) provides a resource for schools to train more school staff on mental health first aid and/or implement other trainings to increase awareness and understanding of mental health and co-occurring mental health and substance use disorders. Under the bill, a non-physician mental health professional employed by a Local Mental Health Authority (LMHA) will be housed at the educational service centers of local independent school districts to facilitate trainings or other assistance in mental health awareness and steps to address these issues in schools. This bill would improve school personnel training and education to better meet the mental health needs of students.

HB 1070 (Price/Watson) improves existing reporting requirements on mental health first aid training programs for school personnel in the state. Currently, Local Mental Health Authorities (LMHAs) are required to annually report certain information on mental health first aid training programs. HB 1070 requires LMHAs to include information regarding the number of active trainers of these programs, the number of trainers who left the program, and the number and type of educational employees trained in these programs. These reporting requirements will help the state better identify any gaps in mental health first aid training of school personnel.

HB 906 (Thompson/Powell) establishes a collaborative mental health task force to evaluate the effectiveness of school mental health trainings and services, including their impacts on school

safety. The task force will also make recommendations for how to improve trainings and expand students' access to effective mental health services.

Finally, **SB 504 (Seliger/Beckley)** allows the Texas OnCourse Academy, a postsecondary education and career counseling academy developed at the Center for Teaching and Learning at the University of Texas, to provide Texas' school counselors and advisors with support in identifying and addressing potential mental health issues that may arise when counseling middle and high school students.

HEALTH COVERAGE FOR CHILDREN & MOTHERS

During this session, the Texas Legislature made a few minor improvements to support Texas children in health coverage for mental health care and to support mothers' postpartum health. However, a need for improvement in health coverage remains.

SB 670 (Buckingham/Price) removes barriers to telemedicine and telehealth services by removing certain outdated telehealth regulations and prohibiting Medicaid managed care organizations from denying reimbursements for services based solely on being a telehealth service. This bill will increase healthcare access and reduce health care costs for Texans, specifically in rural areas and areas with fewer medical services available.

In addition, the Legislature passed some modest bills acknowledging infants and children benefit from having healthy mothers. **HB 25 (Gonzalez/Zaffirini)** creates a pilot program to allow postpartum women to use the Medical Transportation Program (MTP) to travel to covered healthcare appointments with their children. Previously, women were not allowed to use this service with their children, which prevented many mothers from obtaining the postpartum care recommended by the American College of Obstetrics and Gynecology (ACOG). In addition, **HB 253 (Farrar/Kolkhorst)** requires the Health and Human Services Commission (HHSC) to develop and implement a five-year strategic plan to improve access to postpartum depression screening, referral, treatment, and support services for postpartum women in Texas.

SB 750 (Kolkhorst/Button) builds on recommendations provided by the Maternal Mortality and Morbidity Task Force. This task force has studied the causes of maternal deaths in Texas and has made recommendations to improve healthcare for mothers and to prevent maternal deaths.^{xv} While this bill does not implement many of the recommendations, the bill requires the Health and Human Services Commission (HHSC) to assess the feasibility of providing beneficial postpartum care services through the Healthy Texas Women program. The bill also requires HHSC to work with Medicaid managed care organizations to implement measures to improve prenatal and postpartum care services. Finally, the bill would extend the functions of the task force under a new name, the Texas Maternal Mortality and Morbidity Review Committee.

Despite these modest gains in health coverage, the Texas Legislature missed critical opportunities to support Texas children in this area. Texas currently offers eligible Texas children continuous coverage in Medicaid for a period of six months, after which their eligibility can be terminated if the parent or guardian is determined to be ineligible for benefits. The *Center for Children and Families* found an average of 39% of Texas children were enrolled in Medicaid from 2009 – 2018.^{xvi} However, Texas still has the highest rate of uninsured children (10.7%). In addition, overall Medicaid enrollment in Texas has been declining, likely due to administrative issues and not in response to growing economic strength. The Texas Legislature missed critical opportunities to increase children’s access to Medicaid benefits and ensure a smoother enrollment and reenrollment process. If passed, **HB 342 (Cortez)** would have expanded Medicaid’s continuous coverage for children from six months to twelve months; unfortunately, however, the Texas Legislature failed to make it a priority this session. This decision will have negative impacts on children’s health until a solution to ensure health care coverage to all Texas children is found.

The Texas Legislature also missed critical opportunities to decrease Texas’ abnormally high rate of maternal deaths. Although the Legislature renewed its commission of the Maternal Mortality and Morbidity Task Force, it did not implement the Task Force’s primary recommendation to increase health coverage, especially Medicaid coverage, for postpartum women to twelve months. Several bills were filed this session to expand postpartum Medicaid coverage—**HB 1110 (Davis)**, **HB 744 (Rose)**, **SB 147 (Rodriguez)**, and **HB 411 (Theiry)**—but each failed to pass. **HB 1111 (Davis/Kolkhorst)** implemented several of the Maternal Mortality and Morbidity Task Force recommendations, including a pilot program to explore the effectiveness of covering telemedicine services for maternal and newborn healthcare. Although HB 1111 did not pass, the provisions of the bill were successfully added to **SB 748 (Kolkhorst/Davis)**, which did pass and was signed into law.

FOOD ACCESS

The Supplemental Nutrition Assistance Program (SNAP) is utilized by one in seven Texas residents, and roughly eight in ten SNAP recipients are households with children.^{xvii} During this session, some progress was made in promoting the health and food security of Texas residents.

SB 1834 (Alvarado/Rose) requires a study and pilot program to evaluate the use of incentives to purchase certain fruits or vegetables under SNAP. This bill’s purpose is to increase consumption of fruits and vegetables amongst low-income Texans, combatting obesity and preventing some chronic diseases. The bill also will support Texas farmers, grocery stores owners, farmers’ market vendors, and small retail stores, incentivizing the sale of locally grown produce.

In addition, **HB 1218 (Klick/Perry)** requires the Health and Human Services Commission (HHSC) to establish a schedule for the distribution of SNAP benefits, ensuring an even distribution of the benefits over a 28-day period as opposed to the current schedule that frontloads the first half of the month. This will reduce strain on grocery stores and lead to more availability of products for all consumers throughout the month.

Despite these gains, the Texas Legislature could have gone further in ensuring access to SNAP benefits for eligible Texans who need them. **HB 3931 (Meza)** or **SB 1445 (Perry)** would have simplified certification and recertification requirements for certain SNAP recipients, lessening the time and effort it takes for eligible Texans to receive benefits.

HURRICANE HARVEY

Texas was significantly impacted by Hurricane Harvey in 2017. The 86th Texas Legislature focused on ways to support schools after a natural disaster and to improve Texas' aid to people after a natural disaster. The Legislature also appropriated funds to improve infrastructure and flood planning to prevent future damage and loss of life during natural disasters.

HB 3 (Huberty/Taylor) is primarily focused on school funding. However, because school districts obtain a significant part of their funding based on average daily attendance (ADA), the bill gives guidance about what can be done when students are unable to attend school because of a natural disaster. The bill allows the commissioner of education to adjust the ADA school districts need to receive comparable funding to what is usually received, even when attendance is disrupted because of disaster, flood, extreme weather conditions, fuel curtailment, or another calamity. In addition, the commissioner can adjust the taxable value of property for a school district located in a disaster-declared area, ensuring districts' reduced property values are not taxed at an inappropriately high rate. The bill also details state funding sources for reimbursement of schools' disaster remediation costs.

Disaster-Supplemental Nutrition Assistance Program (D-SNAP) benefits are made available to people suffering the impacts of natural disaster.^{xviii} Texas experienced severe flooding when Hurricane Harvey made landfall. This deluge, coupled with complications in administering benefits to victims of other hurricanes impacting Florida and Puerto Rico, caused delays in the selection of D-SNAP application sites and inefficiencies in enrolling eligible people for benefits. Ultimately, the sign-up deadlines for D-SNAP benefits had to be extended.^{xix}

To ensure Texas is prepared to administer Disaster-Supplemental Nutrition Assistance Program (D-SNAP) benefits more effectively after any future natural disasters, **SB 981 (Kolkhorst/Zerwas)** requires the Health and Human Services Commission (HHSC) to collaborate with local governments to create a directory of points of contact, communication

methods, and lists of potential sites for distributing supplemental nutrition benefits in disaster situations. D-SNAP benefits are available to people from low-income households who have experienced a loss of income, destruction of home, or other disaster-related expenses, such as temporary shelter or home repairs. Eligible people must apply for D-SNAP benefits in person. After Hurricane Harvey, D-SNAP benefits were delayed as officials worked to select appropriate sites and staff them. In addition, once sites were selected, people stood in line for several hours to apply. This bill ensures HHSC and local governments will have established lines of communication and pre-selected sites for D-SNAP benefit applications. The selected sites will have adequate parking and the list will be comprehensive enough to allow close proximity to eligible people, enabling them to apply for and receive D-SNAP benefits quickly and efficiently after any future natural disasters.

HB 2335 (Walle/Kolkhorst) is similar to SB 981 in that it requires the Health and Human Services Commission (HHSC) to work with local governments to establish of a list of potential Disaster-Supplemental Nutrition Assistance Program (D-SNAP) application sites in the event of a disaster. In addition, HB 2335 directs HHSC to work with federal officials to determine the feasibility of removing the in-person application requirement for D-SNAP, allowing applications by phone or online.

Three million Texas children were living in disaster declared counties after Hurricane Harvey, and 1.4 million children missed at least one full week of school.^{xx} Therefore, the Texas Legislature took steps to ensure local officials are better prepared to aid families with debris removal, secure disaster recovery funding, and find short-term and long-term housing solutions for people affected by natural disasters. **SB 6 (Kolkhorst/Morrison)** requires the Texas Division of Emergency Management (TDEM) to develop a model guide for local officials regarding disaster response and recovery, including best practices for contracting debris removal, obtaining federal disaster funding, coordinating the availability and construction of short-term and long-term housing, and obtaining assistance from local, state, and federal volunteer organizations. The bill also requires TDEM and the Health and Human Services Commission (HHSC) to develop a single intake form. TDEM and HHSC must also coordinate with the Federal Emergency Management Agency (FEMA) and other state agencies to ensure this single intake form meets the requirements of all agencies.

Finally, to improve the safety and wellbeing of all Texans, the Texas Legislature passed bills to create a state flood plan and establish a flood infrastructure fund. **SB 8 (Perry/Larson)** provides a framework for the development of a state flood plan, bringing together a network of regional flood planning groups to provide input. The state flood plan will provide for orderly preparation and response to flooding conditions, preventing loss of life and property. It will also serve as a guide for state and local flood control policy and will contribute to water development where possible. **SB 7 (Creighton/Phelan)** establishes a flood infrastructure fund in the state treasury outside of the general revenue fund, appropriating \$3.26 billion from Texas' rainy-day fund to

the flood infrastructure fund. The Texas Water Development Board (TWDB) can use money from this fund to make grants, low-interest loans, provide matching funds, and pay expenses on flood infrastructure projects that meet the bill's criteria.

HUMAN TRAFFICKING

Texas made big strides to combat and prevent human trafficking during the 86th Session, from a complete reformation of our prostitution laws to help victims and punish buyers, to finally giving survivors a workable method of sealing convictions they received while being trafficked. Other major highlights include the long awaited and badly needed introduction of human trafficking trainings in our public education system and an equally important analysis of agency services and mandates. None of these bills received much media fanfare, but each is instrumental in ensuring Texas remains a model for the nation when it comes to ending human trafficking through effective public policy.

One major low-light of this legislative session was the failure to pass any legislation to address the burgeoning problem of illicit massage businesses (IMBs) in Texas. Our state has almost 700 entities engaging in human trafficking and commercial sexual exploitation under the cover of massage.^{xxi} IMBs exploit and traffick women and many are right next door to public schools. Despite a growing awareness of this ever-increasing problem and good bills being filed, little, if any, meaningful progress was made.

The attorney general's Human Trafficking Task Force's bill, or **SB 20 (Huffman/Thompson)**, increases penalties for buyers, connects potential victims with services, and creates the offense of online promotion of prostitution and aggravated online promotion of prostitution. Victims of sex trafficking will have a dedicated path to sealing records of convictions received while being trafficked, allowing them greater access to housing, employment and educational opportunities. The bill also gives the attorney general the authority to enter into a contract with an institution of higher learning to gather and analyze human trafficking related data. An institution of higher learning will be granted funding by the state to provide a treatment program for victims of child sex trafficking. In addition, municipalities and law enforcement can apply for funding to perform a needs assessment or to administer prevention programs, respectively. Finally, a state agency may not accept a bid or award a contract to a person who has been found guilty of a crime that promotes or contributes to human trafficking.

Research shows men who purchase sex are more likely to be sexually violent, and many buyers are aware that they could be soliciting sex from a victim of human trafficking but choose to buy nonetheless.^{xxii} This research also shows a fairly small percentage of men are responsible for the majority of commercial sexual transactions. CHILDREN AT RISK has been a long-time proponent of demand-reduction work. Although buyers are more culpable for their actions and

more sensitive to deterrents than prostituted individuals, they are nonetheless being arrested at lower rates across the state.^{xxiii} The “Texas Model” within **SB 20 (Huffman/Thompson)** is designed to change that.

The Texas model increases penalties for buyers to a Class A misdemeanor on the first offense (previously a Class B) and to a state jail felony on every subsequent offense. Sellers, meaning prostituted individuals and including potential trafficking victims, receive mandated community supervision on the first offense and fourth offense, which includes participation in diversion courts on the fourth offense. Many survivors do not identify as human trafficking victims until they receive some sort of counseling, and community supervision puts these victims into contact with service providers. Furthermore, diversion courts allow victims to keep a felony charge off their records, allowing them to have a chance at a new life.

SB 1801 (Huffman/Hunter) streamlines and reforms the process by which human trafficking victims can request an order of nondisclosure of criminal history record information. This order of nondisclosure is available for both victims of trafficking and victims of compelling prostitution. The changes will allow victims to consolidate multiple charges, and the State must make victims aware of the nondisclosure process. Many survivors of human trafficking have been unable to move on from their victimization due to their criminal records. After receiving an order of nondisclosure, survivors may apply for housing, jobs, and positions within the community without fearing that convictions related to their past abuse will make them ineligible.

HB 403 (Thompson/Huffman) requires school board members and superintendents to receive human trafficking training. During the 83rd Legislative Session, HB 1272 ordered a human trafficking training to be made available for teachers, but this training was not mandated. Historically, local control has been a very important issue for schools, giving local school leadership the power to require trainings. HB 403 ensures that school board members and superintendents know the facts about trafficking and the danger their students may face, empowering local school leadership to make effective decisions for their schools.

The Attorney General’s office will establish a Human Trafficking Prevention Coordinating Council. **SB 72 (Nelson/Birdwell)** requires this new council to create a five-year strategic plan to combat trafficking and evaluate ongoing anti-human trafficking efforts. The plan will be submitted to the Legislature, and the council will provide an inventory of human trafficking programs and services throughout the state. By providing a detailed catalogue of existing programs, the council will seek to reduce redundancies, increase efficiency, and identify needs. The council will also collect useful data in the pursuance of their duties.

House Concurrent Resolution (HCR) 35 (Miller/Huffman) recognizes human trafficking as a public health issue. Although a concurrent resolution does not determine statutory changes or

establish funding, this resolution symbolizes a fundamental shift in perception. By recognizing human trafficking as a public health issue, the Legislature signals they are viewing human trafficking within a different framework. In the past, human trafficking has been viewed as primarily a law enforcement issue, and funds have been allocated accordingly. If human trafficking is an issue of public health, the Legislature may choose to fund research, prevention, and treatment rather than focusing solely on enforcement.

The Governor missed an opportunity to pass meaningful criminal justice reform by vetoing **HB 1771 (Thierry/Huffman)**, which would have prevented children under the age of seventeen from being arrested, referred to a juvenile court, or prosecuted for selling sex. Had this bill become law, law enforcement would have instead attempted to deliver children to parents, guardians, or another person entitled to take possession of the child. If a suitable caretaker was not available, police would have connected the child to a local service provider, or in the absence of one, the department of family services would have taken possession of the child. The Texas Supreme Court ruled, *In the Matter of B. W.*, that it is paradoxical to charge a child for prostitution at an age when the child cannot legally consent to sex. Although the age of consent has changed from fourteen to seventeen since the Court issued this opinion, children continue to be arrested for prostitution and referred to juvenile court. As the Supreme Court dictated in 2007, “transforming a child victim of adult sexual exploitation into a juvenile offender was not the Legislature’s intent.”^{xxiv} This bill would have filled in the gaps left by the Supreme Court’s landmark opinion and made legislative opinion and intent abundantly clear.

In addition, as mentioned in above, the failure of **SB 498 (Huffman/Thompson)** represents a huge missed opportunity for Texas to reduce the astonishing number of storefront trafficking operations masquerading as massage parlors that plague nearly every city and town in our great state. SB 498 would have permitted commercial lessees to void their leases if their landlord or property owner rented to an unlicensed massage establishment within the same commercial vicinity.

FOSTER CARE

In the wake of last session’s flood of foster care legislation, many of the bills passed during the 86th Legislative Session are gap-fillers, albeit important ones. Texas has continued to improve its “aging out” process for children exiting foster care at the age of majority and improving their chances of future success. However, serious issues remain with the system, including a poor response to and inadequate prevention of child-on-child sexual assault and a critical lack of attention to children in permanent conservatorship with the state.

SB 355 (West/Klick), as previously mentioned (see Parenting above), requires Texas to develop a strategic plan for effectively utilizing federal funding to preserve families and prevent children from entering the foster care system.

Studies have found children in foster care or children experiencing homelessness are more likely to be referred for disciplinary action at school^{xxv}, like suspension from school or referral to alternative education programs, and that these disciplinary actions may contribute to poorer educational outcomes for these students. **HB 811 (White/West)** recognizes these disciplinary actions may not effectively help these vulnerable children and requires independent school districts formally to consider the status of children living in foster care or experiencing homelessness when making disciplinary decisions. This provision is similar to an existing requirement that school districts consider a student's disability status when making disciplinary decisions.

Although there are many programs and services geared toward helping children in foster care or those transitioning from foster care, these children are often missing important information related to life-skills and services available to them in adulthood. **HB 53 (Minjarez/Powell)** expands informational training services offered to youth in foster care, like trainings on registering to vote, filing taxes, preventing cyber fraud, preparing a budget, obtaining insurance, and utilizing mental health services. In addition, **HB 1702 (Howard/Hancock)** allows institutions of higher education to provide a designated campus liaison officer with the names and information of students attending the institution who were previously in foster care. This campus liaison officer can connect these students with available services. Allowing the campus liaison officer to reach out to students directly should lead to students' increased awareness of services available to them and increased access to these services.

Finally, recognizing children in foster care are more likely to become involved in the juvenile justice system and/or state or federal correctional systems, **HB 2229 (Johnson/Whitmire)** aims to help policy makers and advocates better understand this population of children. The bill requires the Texas Juvenile Justice Department (TJJD) to collect data about children in foster care and children previously in foster care who have entered the juvenile justice system. This data will be used to increase services to prevent foster children from entering the juvenile justice system.

The Texas Legislature missed some opportunities improve Child Protective Services (CPS) caseworkers' abilities to better serve the Texas children they are hired to protect. **HB 1362 (Wu/Watson)** would have required the Department of Family Protective Services to develop a scoring system to ensure equity in distribution of workloads amongst CPS caseworkers. The study would have considered the procedures for assigning cases, methods for managing caseloads, and factors considered in assigning scores of caseloads and caseworkers. The report

would have been submitted to policy makers, enabling them to implement policies to better support CPS caseworkers in their protection of children. This bill failed to come up for a vote in the senate.

In addition, children in foster care filed a lawsuit in 2011 alleging the state's poor maintenance of its foster care system exposed them to serious risks of abuse, neglect, and harm to their physical and psychological wellbeings.^{xxvi} **HB 3614 (Rose)** would have addressed one of the issues identified in that case, namely the lack of attention given to children in permanent managing conservatorship (PMC). The bill would have required the Department of Family Protective Services (DFPS) to have a monthly face-to-face meeting with each child in PMC, giving DFPS the opportunity to identify instances of abuse, neglect, and harm and providing children in PMC with an opportunity to voice concerns or ask for help with these serious problems. DFPS would have also been required to submit an annual report on the department's success in complying with this requirement.

Finally, given many non-profit agencies provide services to children and families in crisis, **HB 3389 (Sanford)** would have created a position at the Department of Family Protective Services (DFPS) for a nonprofit agency services coordinator. This would have provided a clear point-of-contact at DFPS for non-profit agencies, leading to better coordination of non-profit services with those of the agency.

JUVENILE JUSTICE

Record-sealing, while a seemingly simple process, has been difficult to uniformly enact in Texas, and the system has been plagued with gaps, inconsistencies and loopholes. Accordingly, the 86th Texas Legislature focused on improving juveniles' future employment and housing prospects by improving the protection of juvenile records. On a less-positive note, Texas still charges seventeen-year-olds as adults, despite the "raise the age" movement gaining considerable momentum and media attention.

The Legislature passed **HB 1760 (White/Perry)**, which protects the privacy of children who have been referred to the juvenile justice system. First, the bill clarifies the Family Code, including the conditions under which juvenile justice records can be released and/or should be sealed. The bill allows for the disclosure of juvenile records to specific people or entities, like parents and guardians, people assisting children in transitions between juvenile facilities and entities providing treatments or services, and attorneys involved in the children's cases. The bill removes previous requirements for these people or entities to sign a written confidentiality agreement for the records to be released; instead, the people receiving these records are required to keep them confidential and are prohibited from disclosing the information in them. The bill also alters some conditions under which juvenile records should be sealed. For example, if the

allegations that led to a child’s referral to the court turn out to be untrue, the child’s juvenile justice records should be immediately sealed without having to apply to a court. In addition, a child is eligible to have his or her juvenile records sealed at age seventeen (rather than age eighteen) if a full year has elapsed (rather than two years) since his or her discharge from the juvenile probation department.

However, there were some missed opportunities to meaningfully reform some aspects of the juvenile justice system. For example, **HB 1364 (Wu)** would have adjusted the age at which juvenile courts can exercise jurisdiction over children to a more appropriate age, redefining a “child” for the purposes of juvenile courts from age ten to age twelve. In addition, this change in definition would allow juvenile courts to reduce a backlog of cases against children who were previously charged in juvenile courts with delinquent behaviors before the age of twelve.

Finally, the Legislature also missed an opportunity to more appropriately house children in the juvenile justice system. **SB 2190 (Whitmire)** would have allowed children in the juvenile justice system to be housed in facilities that were previously utilized for adult offenders. These facilities had been excluded previously as housing options for juveniles, which led to an unintended consequence of children being housed further away from their families and in limitations to available services.

CONCLUSION

CHILDREN AT RISK applauds those legislators who worked tirelessly this session on behalf of children and families. Thanks to them, and to the advocates who lobbied, testified, and supported their legislation, the 86th session made significant improvements for Texas kids. Real efforts were made to bolster school funding, boost early education and student achievement, improve students’ mental health, and respond to human trafficking.

However, there were some significant missed opportunities. More could have been done to address healthcare coverage for children and postpartum mothers, prevent maternal deaths, and prevent human trafficking. CHILDREN AT RISK is hopeful that with more research, data, outreach, and effective advocacy, improved legislation and an even brighter future for Texas children will follow.

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