



82nd TEXAS LEGISLATURE

REPORT ON LEGISLATION IMPACTING CHILDREN

July 25, 2011

CHILDREN AT RISK improves the quality of life for Texas' children through strategic research, public policy analysis, education, collaboration, and advocacy.

For questions or comments, please contact Mandi Sheridan Kimball, Director of Public Policy and Government Affairs, mkimball@childrenatrisk.org
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Overview

Executive Summary.....	3
Budget	6
Education.....	7
Physical Health.....	12
Nutrition and Childhood Obesity	17
Mental Health.....	19
Child Welfare	22
Juvenile Justice	24
Human Trafficking.....	28
Final Analysis	32

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Executive Summary

The 82nd Texas Legislature commenced on January 11th with many freshman lawmakers and a historic budget shortfall. The Regular Session ended on May 30, 2011 and the First Called Session began the next day for a total of 170 days. Governor Perry signed a budget of \$172.3 billion for the 2012-2013 biennium, which is a \$15.2 billion or 8% decrease from the 2010-2011 biennial level.

Public education faced significant challenges and budget cuts during the 82nd Regular and Special Sessions. Early recommendations of cutting education by \$10 billion resulted in a \$4 billion cut to the Foundation School Program and numerous cuts to other education programs and grants. During the special session the Legislature passed a package that allows school districts flexibility by making it easier to receive waivers to increase class size, implement teacher furloughs, and minimize salary requirements. In efforts to improve the quality of education for Texas' children, there was progress in the areas of teacher training in early child care, school discipline, and extended learning time for at-risk students. Despite progress in some areas, students in public education will have larger class sizes, fewer pre-k programs, elective courses, and extra-curricular activities. In addition, school districts are already laying off thousands of teachers and faculty support and parent outreach staff.

The need for basic health services continues to impact the physical and mental development of children, as well as overall quality of life for all Texans. Again, the budget shortfall took a toll on health services and resulted in Medicaid being underfunded by \$4 billion (approximately underfunding the biennium by 5 months), a reduction in CHIP and Medicaid provider reimbursements, and a reduction in the amount, duration, and scope of community services. Advancements in physical and mental health include a 15% increase in children's mental health services (due to a 15% reduction in juvenile justice funding), increased requirements and awareness of immunizations, expansion of training for community volunteers and health navigators, and the opportunity to study the cost-effectiveness and benefits of community health care workers.

The impact of hunger and obesity on children is a concern of many Texans. As a rapidly growing epidemic, childhood obesity affects 20.7% of Texas' children. In 2009, Texas ranked 20th in the nation for obese and overweight children; in 2010, Texas ranked 7th. An important victory in the fight against child hunger in 2011 was the elimination of the finger imaging requirement for people enrolling in nutrition, financial, and public health coverage assistance programs. Although school breakfast was not expanded to assist students most in need, the Legislature passed legislation that directly addresses hunger by widening the reach of summer nutrition programs at schools. Progress was also made with an increase in the amount of data that the Texas Education Agency will receive from school districts regarding student physical fitness. Despite this progress, Texas took a step backwards in the fight against obesity this session. Grant programs designed to expand middle school fitness programs were eliminated and

the state mandate of fitness assessment was waived for students not participating in physical education courses, hampering the availability of student and campus data at the middle and high school levels. Juvenile justice reform was a focus of the 82nd Texas Legislature in efforts to reduce costs by over \$154 million and to increase efficiency. Progress has been made over the past few years through the reduction in Texas Youth Commission (TYC) commitments by nearly one half, and also through the decline in the number of allegations of sexual abuse. Recent budget cuts for both TYC and the Texas Juvenile Probation Commission (TJPC) have provided an opportunity for the reallocation of funds for more effective juvenile justice programming. The TYC and TJPC were merged into a single state agency, the Texas Juvenile Justice Department (TJJD). The hope is youth will be directed away from the juvenile and criminal justice systems. More children will be kept within their respective families, communities, and local service organizations, subsequently integrating these entities into the rehabilitation process. Adult certification was also addressed by limiting the circumstances in which a child can stand trial as an adult in criminal court. In addition, a bill was passed that will allow increased information sharing and communication among state agencies. This ability is needed in order to appropriately treat and meet the needs of youth in the juvenile justice system and CPS.

Redesigning the foster care system was also a priority of the 2011 Texas Legislature. The Legislature restructured the way that services are provided and paid for in an effort to create a continuum of services across a variety of geographic regions. The provision of monetary incentives was also restructured in order to shorten the amount of time children spend in foster care. The redesign will be implemented in stages over time in order to assess the effectiveness of the new system. Other issues in child welfare that were addressed include child placement instability, the establishment of a Foster Children's Bill of Rights, and the inconsistent monitoring and oversight of prescription drugs provided to foster children. An Interagency Council to Address Disproportionality was also established in order to take a comprehensive approach to examining the over-involvement of minority children in foster care, special education, and juvenile justice and criminal justice systems.

Human trafficking is modern day slavery. As a global epidemic, it is the fastest growing criminal industry in the world, second only to drug dealing and tied with arms dealing. Unfortunately, Texas has been identified as a hub for this horrific crime. Texas has been on the forefront of anti-human trafficking laws. CHILDREN AT RISK helped to draft language and advocated tirelessly for the passage of anti-human trafficking legislation. Several bills passed that increased penalties for traffickers, pimps, and "johns" who prey on young children. Although budget restraints allowed little money to be appropriated for victim services, some restitution will be provided to child trafficking victims. Employment harmful to children was addressed and the Texas Alcohol and Beverage Commission (TABC) was given more authority to intervene in establishments where human trafficking is occurring. Most importantly, in addition, steps were taken to provide more protections and assistance to domestic minor victims.

CHILDREN AT RISK tracked over 650 pieces of legislation introduced during the 82nd Legislative Session and testified on over 30 crucial bills. Approximately 14,000 emails were sent out to CHILDREN AT RISK's network during the session to provide timely updates on issues impacting children and to encourage

constituents to contact the Legislature. As a result, children were given a voice. This report provides an overview of our areas of priority in addition to a synopsis of what was achieved on behalf of children this Legislative Session.

Victories for children during the 82nd Legislative Session:

- SB 260 (West) Increases minimum training standards for employees and directors of child care facilities.
- HB 1555 (Thompson) Extends learning time for educationally disadvantaged students at specific schools.
- HB 2610 (Guillen) Expands training for community volunteers and health navigators as well as allows the opportunity to explore and maximize the benefits of community health care workers while saving money and reducing dollars to Texas taxpayers.
- SB 226 (Nelson) Increases data collection of the Texas Education Agency on student performance and physical fitness.
- SB 89 (Lucio) Requires school districts with 50% or more low-income students to provide summer nutrition programs.
- HB 710 (Walle) Eliminates the barrier of electronic fingerprint-imaging requirement for those applying for SNAP and TANF while saving over \$3 million.
- SB 1106 (Harris) Facilitates greater interagency exchange of information of a child's health and governmental service information in order to better assess and treat youth.
- SB 24 (Van de Putte) Increases penalties for traffickers, pimps, and "johns" who prey on young children.
- HB 3000 (Thompson) Establishes the offense of continuous trafficking of persons and penalties.

Budget

Overview of Children's Finance Issues

Agency	Year Ending Aug. 31, 2010	Year Ending Aug. 31, 2011	Year Ending Aug. 31, 2012	Year Ending Aug. 31, 2013	Difference from 2010-2011 biennium
Children with Disabilities	\$167,230,260	\$172,999,678	\$171,035,314	\$171,035,314	+\$1,840,690
Children with Special Needs	\$43,471,343	\$43,612,966	\$35,631,626	\$35,631,627	-\$15,821,056
Family and Protective Services	\$1,293,397,848	\$1,360,354,493	\$1,363,909,773	\$1,384,060,519	+\$94,217,951
Juvenile Probation Commission	\$182,774,142	\$179,815,944	\$162,598,138	\$162,799,028	-\$37,192,920
Mental Health Services for Children	\$66,307,943	\$66,238,093	\$75,537,904	\$77,938,014	+\$20,929,882
Texas Education Agency	\$23,578,363,776	\$25,585,646,613	\$17,113,112,602	\$16,446,158,352	-\$15,604,739,435
Texas Youth Commission	\$233,191,500	\$222,692,522	\$171,165,456	\$167,854,231	-\$116,864,335
WIC/Farmer's Market Nutrition Services	\$870,526,293	\$879,347,250	\$886,195,920	\$886,186,180	-\$22,508,557

With nearly 28% of Texas' population under the age of 18 and 23.2% of our children living in poverty, it is imperative for Texas to prioritize and adequately fund programs and services to meet the basic needs of our children and to ensure a healthy society. Drafting the budget is of primary importance, as allocations determine the type and amount of funding programs will receive. Along with Texas' current challenges such as high birth rate, high uninsured rate, and low graduation rates, the country was trying

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to climb out of a severe economic recession heading into and during Texas' 82nd Legislative Session. Fortunately, Texas had the assistance of federal stimulus money in 2010 and 2011 that allowed the state to create a budget without dipping into the Rainy Day Fund during the 81st Legislative Session. However, Governor Perry made it very clear before the Texas Legislature convened in January 2011 that he did not want to use all of the Rainy Day Fund and that the budget would have to be balanced without increasing taxes or fees for new revenue.

After months of divisive and often partisan debate, the 82nd Texas Legislature passed a budget of \$172 billion from all fund sources, a \$15 billion cut from the FY 2010-2011 budget which is an 8% drop from the 2010-2011 budget. There was a 6% cut across the board for 2012 and \$2 billion in targeted cuts for 2013. Extensive discussions around tapping into the \$9.4 billion Rainy Day Fund ended with a final decision to allocate \$3 billion from the Rainy Day Fund to cover the shortfall, thus leaving over \$6 billion untouched. However some argue that the remaining funds are accounted for due to the underfunding of Medicaid in the just-passed budget.

Policymakers allocated \$86.9 billion in General Revenue and Dedicated Funds for the 2012-2013 biennium (a 1.9% reduction from the 2010-2011 biennium). The General Revenue Budget allocated the following: 57% for K-12 and Higher Education; 26% for Health and Human Services; 9.3% for Public Safety and Criminal Justice; and 7.7% for all other areas.

Texas faced serious budget challenges during the 82nd Legislative Session, and the revenue which legislators chose to allocate within the budget was insufficient when compared to the need throughout the state. Texas continues to be ranked in the lowest percentile on health and human services spending in the nation. Funding continues to significantly lack in health coverage, expenditures per student in the classroom, and services for victims of human trafficking. Texas must make children a priority and draft a balanced budget that reflects their importance, meets their most basic needs, as well as invests in their future.

Education

School Finance and Efficiencies

One of the most controversial items to be discussed during the 82nd Legislative Special Session was the school finance plan. SB 1 passed out of the Finance and Appropriations Committee and was sent to the Governor's desk for approval. With cuts across the board, the Foundation School Program received a \$4 billion cut to districts statewide largely impacting the breadth and depth of educational programming currently offered. Additionally, two lofty bills were passed into law: **SB 6 (Shapiro)** and **SB 8 (Shapiro)**. SB 6 repeals the Technology Allotment and creates an annual Instructional Materials Allotment which will provide school districts flexibility in purchasing textbooks, state-produced workbooks, technology, and technological support. It is worth noting that unused funds in one year can roll over to the following

school year. With a reduction of \$4 billion from the Foundation School Program's budget for the upcoming 2012-2013 biennium, the amount of money projected for allocation to these schools will be less than the funding allocated for these resources in the past.

SB 8 can be summed up as the "flexibility" bill. This bill will allow school districts to implement teacher furloughs, modify minimum salaries and notification of termination requirements, and expand the Texas Education Agency's (TEA) authority to grant waivers for the 22:1 student-teacher classroom ratio in order to manage the drastic state funding cuts.

Early Education

Education levels the playing field. More notably, research confirms the value of early education for our youth. Early educational programs such as Head Start and pre-kindergarten programs have proven to be excellent opportunities for our youth to develop cognitive skills, social competence, and intellectual abilities crucial to their future academic success.

In 2009, 1,548 facilities were licensed under the Child Care Licensing Program within the Texas Department of Family and Protective Services in Harris County with a capacity to serve 170,358 children. Despite rigorous state training requirements for many service industries, licensed child care providers were only required to complete 8 hours of training prior to licensure. This standard is in great disparity with other service jobs in the state. For instance, hair dressers are required to complete 1,500 training hours and manicurists 600 training hours. The Legislature passed **SB 260 (West)**, which increases the minimum training standards for employees and directors of child care facilities. Starting on September 1, 2011 child care providers must complete 24 initial hours of pre-service training, 24 hours of annual training (up from 15 hours), and 30 hours of director training (up from 24 hours).

Additionally, **SB 265 (Zaffirini)** passed requiring early childhood education trainers to be registered and have basic credentialing. Thereby, trainings for child care employees will be conducted by knowledgeable individuals with relevant expertise in specific subject areas such as age-appropriate curriculum or growth and development.

Middle School

While studies show that any number of circumstances can result in the student's incompleteness of his/her high school career, indicators should be assessed amongst middle school students to decrease dropout rates. Many individuals would agree that it is essential to catch students as soon as they begin to fall behind or become disengaged in order to implement successful intervention strategies to get the student back on track towards graduation.

Although **SB 518 (Shapiro)** failed to pass, it attempted to focus solely on the educational infrastructure of middle schools to prevent more dropouts from occurring. The bill would have required school districts to identify annually students enrolled in grades 6, 7, and 8, who are at risk of dropping out or are likely to become at risk of dropping out. Furthermore, high schools would be provided a list of these

students as well as specific interventions used to address the needs of students at risk of dropping out. Among the interventions used to keep these students on track towards graduation, eligible students would be assigned to a student advisory class. These advisory periods would be designed to improve performance of public school students in the aforementioned grades by covering such topics as study skills, positive academic behaviors and school procedures. Under the high school readiness program, participating high schools would also engage parents by providing annual high school orientation sessions for parents and students enrolled in grades 6, 7, and 8 in the high school's attendance zone. Additionally, SB 518 would have improved teacher certification by focusing on subject certification and directing the TEA to develop standards for both the student advisory class and the orientation sessions.

School Discipline

While ensuring that public schools are a safe place for learning, it is equally important that the programs in place to deal with disruptive students are not merely punitive, but also preventive and rehabilitative. The Texas Legislature passed **HB 1942 (Patrick)** which defines bullying and requires bullying policies and procedures in public schools. Methods for preventing, identifying, responding to, and reporting incidents of bullying would be included in the student code of conduct, health curriculum, and staff professional development offerings. More so, the bill allows for the transfer of a student engaging in bullying to another classroom, campus, or school district.

Beginning with the adoption of the Texas Safe Schools Act in 1995, all Texas public school districts are required to operate Discretionary Alternative Education Programs (DAEPS), to serve students removed from regular instruction. With the passage of **HB 968 (Strama)** aggravated robbery has been added to the felony offenses for which a student is subject to mandatory removal to a DAEP and also subject to discretionary expulsion and removal to a DAEP or a Juvenile Justice Alternative Education Program (JJAEP). **HB 1224 (Reynolds)** further mandates that a student now be expelled to a DAEP for criminal acts involving a school computer, computer network, or computer system owned by or operated on behalf of a school district.

School districts are currently required to offer a student in a DAEP the opportunity to complete coursework before the beginning of the next school year at no additional cost so that the student is able to stay on track with graduation requirements. It has been suggested, however, that students and parents are not always fully informed of this obligation. In an effort to increase student equity surrounding graduation rates, CHILDREN AT RISK actively advocated for the passage of **SB 49 (Zaffirini)**. SB 49 mandates school districts to provide the parents of a student removed to a DAEP with written notice of the district's obligation to provide the student with the opportunity to complete coursework required for graduation.

Dropout Prevention

Students drop out of school for a variety of reasons. Some of the obstacles that can detract a student from graduating range from emotional challenges to poor grades to behavioral problems and low

attendance. According to the TEA, Texas ranks last in the nation in the percentage of adults with a high school diploma; only 79.6 percent of Texans have a high school diploma. For this reason, it is important to turn our attention to increasing high school graduation rates within the state of Texas.

During the Legislative Session, **SB 975 (Hinojosa)** and **HB 3708 (Hochberg)** were both passed in an effort to increase graduation rates. These bills allow eligible junior colleges to partner with school districts within the junior colleges' area to provide a dropout recovery program for individuals to obtain their high school diploma. Stipulations require that an individual participating in this program be no older than 25 years of age and within 3 course credits of graduation, or that an individual failed to perform satisfactorily on a statewide assessment. The bills target counties with a population greater than 750,000 who have dropout rates greater than 15 percent. For now, Hidalgo County is the only county that would meet the eligibility requirements for the first year of the program. Beginning in fiscal year 2014, the bill would allow such partnerships statewide. The program will include career and technology education courses, research-based strategies to assist students in pursuing higher education, and advanced placement courses. Funding for this program will filter in through partnering school districts and from the Foundation School Program's Dropout Prevention Fund.

Among other conversations taking place around dropout prevention, interested parties expressed concern that Texas schools are being penalized in the state public school accountability system for serving high school students at risk of dropping out of school. Should **HB 1311 (Shelton)** have passed, this bill would have created a separate designation for dropout reduction charter schools and streamlined the process by which successful charter schools may grow. The campuses added under the provisions of this bill would have been limited to those that serve only high school students, would be located in the charter's specific geographical area, and would enroll a student body with at least 50% representing students who did not graduate with a ninth grade cohort.

Transparent and Accurate Data

While Texas has been recognized nationally for its leadership in creating an exceptional student tracking system, TEA policy allows students to register as "homeschooled" without tangible evidence that the student has left public school to actually continue their education at home. Removing these students from the cohort without official written documentation from the student's parent allows for misuse of this leaver code. Such misuse can inflate the graduation rate and hide the dropout problem. In order for the dropout rate to be lowered or eliminated entirely, members of the Texas Legislature and all concerned Texans need to know the exact magnitude of the problem. CHILDREN AT RISK drafted language and supported **HB 196 (Walle)/SB 207 (Gallegos)** in an effort to create a more accurate and transparent methodology to calculate graduation rates. HB 196/SB 207, if passed, would have required written documentation indicating a student was being homeschooled. Fortunately, TEA adopted this procedure into their rules and regulations for the immediate school year. This new sanction will hold schools accountable for securing proper leaver codes and written documentation of a student leaving school to receive home school instruction.

Teacher Quality

With regard to teacher certification, **SB 54 (Zaffirini)** seeks to improve the quality of education provided to students with visual impairments. Under current law a student with a visual impairment is required to be taught by a certified teacher. Yet, teachers of students with visual impairments can obtain the supplemental visual impairment certification in several ways, not all of which require the completion of certain approved course work. The passing of SB 54 amends current law by requiring teachers who seek such certification to complete course work for this certification in an approved educator preparation program or an alternative educator certification program approved for this purpose by the State Board for Educator Certification.

Bills that did not pass related to teacher quality include **HB 1054 (Patrick, Diane)** and **SB 570 (Shapiro, Shelton)**. HB 1054 would have modified continuing education requirements so that 25% of teacher training every five years would include instruction regarding: collecting and analyzing information to improve effectiveness in the classroom, integrating technology into the classroom, educating diverse populations, and each teacher's individual subject area. SB 570 would have enhanced and expanded the current teacher mentoring program for teachers with less than two years of teaching experience in the subject or grade level to which the teacher was assigned. This bill would have provided a plan for providing high quality induction and mentoring to beginning teachers through technical assistance, planning, and program guidance.

Extended Learning

While it may not be popular with kids, the research is clear: more time learning equals improved academic achievement and enhanced student learning. Extended learning time can be defined as schools adding more time to the existing school day, adding days to the school year, or providing after-school programs and summer school sessions. Expanding the school year has been a top priority for the Houston Independent School District (HISD), particularly because a large portion of their student populations come from high poverty communities, a student population that is at higher risk of dropping out before graduating. In 2009, 53.9 percent of students in Harris County public schools, compared to 48.3 percent of students in Texas, were considered at risk of dropping out. Some risk factors contributing to the likelihood of a student not completing high school include low socioeconomic status, poor performance in school, limited English proficiency, and living in a single-parent home. According to the George H.W. Bush School for Government and Public Service at Texas A&M, if schools provided the needed support for at-risk students to graduate Texas could gain approximately \$9.6 billion in state revenue. Studies show that expanded learning time is one of the systemic changes needed to keep more children active in school and on track towards graduating.

HISD recently launched an initiative to improve student academic achievement in certain schools. One of the initiative's main points of emphasis is increased instructional time added at the beginning of the school year to provide students additional time to prepare for statewide standardized testing in the spring. With the passage of **HB 1555 (Thompson)**, 60 qualifying campuses (approximately 20 percent of

HISD campuses) that serve educationally disadvantaged students would be authorized to lengthen the school year by using local funds to begin school instruction before the fourth Monday in August.

Currently, the state is preparing to implement the new academic assessment program, the State of Texas Assessments of Academic Readiness (STAAR). Under STAAR, an eighth grade student who is enrolled in Algebra I would be required to take the eighth grade STAAR math assessment as well as the end-of-year exam for Algebra I. In an effort to avoid this duplication of assessment testing, **HB 2135 (Hochberg)** redefines the promotion standards for students within a school district. Starting with the 2011-2012 school year a school district shall consider the recommendation of the student's teacher, the student's grade in each subject or course, the student's score on assessments, and any other necessary academic information as determined by the district, for promotion. The bill allows an eighth grade student enrolled in a higher level course to be exempt from a STAAR exam in lieu of an end of year assessment that will earn him or her high school credit.

The Legislature passed **SB 290 (Watson)** which mandates that Texas Essential Knowledge and Skills (TEKS) require instruction in personal financial literacy. SB 290 aims to imbed financial concepts at an early age with hopes of leading to personal financial gain. Dissemination of this material will be delivered through math instruction for students in K – 8th grade and through one or more courses required for high school graduation. Furthermore, **HB 34 (Branch)** will revise the Economics TEKS to include methods of paying for postsecondary education and training. Combined, SB 290 and HB 34 aim to supply our youth with the tools and skill set necessary to make informed decisions regarding their future finances.

While the number of minorities going to college each year is on an upward trend, one question still lingers – students are college-bound, but are they college-ready? According to the College Board, when comparing SAT scores of the graduating class of 2009 for all 50 states, Texas continues to rank in the lowest quartile. Indeed, Texas was ranked the lowest it has been in four years, at 45th in the nation. To offset this statistic **HB 3468 (Patrick)** passed and will require the TEA, in coordination with the Texas Higher Education Coordinating Board, to study best practices and existing programs that offer early assessments of high school students to determine college readiness. A full review of adult education assessments, developmental education offerings, and additional coursework for which course credit could be earned will also be evaluated. The result of this will allow school districts to provide intervention to address deficiencies before high school graduates enter college.

Physical Health

With substantial budget cuts set to take effect in all arenas, Texas must brace for a difficult upcoming biennium. Appropriations bill **HB 1 (Pitts)** allocates merely \$54.2 billion for SFY 2012-2013 in general revenue funding for health and human services, a decrease of \$11 billion, or 17 percent, from the previous biennium. While total Medicaid funding will be reduced by \$6.4 billion, total funding for the Children's Health Insurance Program (CHIP) will also be reduced, from \$2.2 billion in SFY 2010-2011 to

\$2.0 billion in 2012-2013. The budget underfunds Medicaid by approximately \$4 billion in general revenue, requiring a supplemental appropriation for Medicaid in the next session because funding is expected to run out within the first few months of 2013. With such limited funding available, it is more imperative than ever to utilize cost-effective strategies and approaches in order to ensure that our children continue to have access to quality health care services and resources.

The Texas Legislature also broached the issue of the federal Affordable Care Act (ACA), which requires all states to adopt a health insurance exchange plan by year 2014. **HB 636 (Zerwas)** was the most notable piece of legislation addressing this requirement; however, it failed to pass in the 82nd Session. Although the adoption of a health insurance exchange plan is a federal requirement, Governor Perry indicated that he would veto any legislation regarding it. If Texas does not adopt its own plan by 2014, the state will be required to adopt a federally-planned health insurance exchange program.

Medicaid and CHIP

CHIP, enacted by Congress in 1997 with the intention of expanding child health care coverage, currently provides health insurance for over half a million children in the state of Texas. In conjunction with Medicaid, CHIP helps to ensure that children in lower-income families receive the quality health care they need. These two programs, however, constitute a significant portion of our state's budget. Thorough research must be conducted and evidence-based practices should be implemented in order to sustain the continuum of health coverage for children.

To properly assess the funding of both CHIP and Medicaid, the Texas Legislature mandated the Health and Human Services Commission (HHSC) several years ago to review expenditure disparities throughout the state. Focusing specifically on the rate and expenditure discrepancies between the Texas-Mexico border region and other areas of the state, the committee seeks to develop strategies to eliminate these disparities. **SB 1220 (Hinojosa)** will extend the authority of this advisory committee until December of 2014.

SB 7 (Nelson) passed as an omnibus bill that addresses several areas of health coverage. Following are some key changes that will impact children: HHSC is required to ensure that all children residing in the same household have the opportunity to enroll in the same health plan; the bill, which aims to reduce spending while increasing efficiencies, abolishes the State Kids Insurance Program (SKIP); and it requires HHSC to establish a process to ensure automatic enrollment of eligible children in CHIP. Administrative procedures will be modified to ensure that children maintain continuous coverage. Under another provision of Article I, the bill will create a new Medicaid and CHIP Quality-Based Payment Advisory Committee to advise HHSC. Together, the advisory committee and HHSC will develop quality-based outcome and process measures and payment systems for CHIP and Medicaid, increasing incentives for effective care.

TIERS

In 2006, faced with devastating budget shortfalls, HHSC launched an initiative to redesign the eligibility and enrollment system for certain health and social services, including CHIP and Medicaid. It was the Commission's hope that, by streamlining the system and integrating it with modern technology, the newly-created Texas Integrated Eligibility Redesign System (TIERS) would cut costs while simultaneously increasing access to public benefit programs.

Patient navigators guide individuals through the online TIERS application process, and **HB 2610 (Guillen)** will help maximize the accuracy and efficiency of the TIERS system by providing standardized training for navigators. In order to allow applicants to take full advantage of the benefits of TIERS, it is of the utmost importance that these navigators receive proper training.

In addition, **HB 2244 (Zerwas)** was amended to HB 2610 in an effort to maximize the benefits of community health workers. HB 2610 mandates HHSC, along with Department of State Health Services, to study the desirability and feasibility of employing promotoras and community health workers to provide publicly and privately funded health care services in Texas. Community health care workers and promotoras facilitate access to and awareness of health care services and resources. They also provide culturally appropriate health information within their respective communities, all while reducing costs to taxpayers. CHILDREN AT RISK assisted in drafting HB 2610 and testified for its passage, and believes this is a step in the right direction in providing appropriate community-based health services.

Immunizations

Although Texas has witnessed a significant increase in childhood immunization rates within the past decade, progress still needs to be made in the expansion of vaccine coverage, data collection, and public health education. As a low-cost preventive health care strategy, increasing access to early immunizations and fostering awareness of its overall benefits will decrease infant and early childhood mortality rates.

During the 82nd Session, the Legislature enacted crucial legislation on specific childhood immunization issues. With regards to pertussis, better known as “whooping cough,” **HB 3336 (Coleman)** will require information about the disease and its corresponding vaccine to be provided in both English and Spanish to parents of newborns. Because pertussis is most widespread among infants and has the potential to cause serious problems, the provisions of this bill will be invaluable towards the cultivation of awareness of pertussis symptoms and available vaccines. Another noteworthy piece of legislation that passed this session is **SB 1107 (Davis)** which will extend the requirement of mandatory bacterial meningitis vaccination to all entering college students.

With respect to data collection, Texas currently maintains an electronic registry of immunization records that contains data from all individuals who provide consent, or opt-in—a number that consists of approximately 95 percent of Texas residents. If passed, **HB 574 (Howard)** would have designated the database as an opt-out instead of an opt-in system, automatically storing immunization records unless

individuals explicitly requested the removal of their information. The implementation of this policy would have saved the state money and helped to create a comprehensive, complete repository of immunization data for public health efforts such as disease prevention and control.

Teen Pregnancy

Although teen pregnancy rates have declined in the United States, Texas' rate has increased in the past decade. In 2008, one Texas teenager became pregnant every ten minutes. Texas is currently ranked as having the third highest teen pregnancy rate in the country and is first in the nation for repeat births by current teen parents. In 2004, the National Campaign to Prevent Teen Pregnancy estimated that teen childbearing cost Texas taxpayers roughly \$1 billion in both federal and state funds. Linked to increasing poverty rates, dropout rates, and abuse rates, teen pregnancy is of critical concern to the state. Funding for Family Planning suffered significant budget cuts and was reduced from \$111 million to \$37.9 million in the FY 2012-2013 budget.

Although teen pregnancy remains an acute issue in Texas, bills filed to decrease the teen (repeat) birth rate failed to pass. Representative Farias introduced several bills regarding health education. **HB 827 (Farias)** required entities not affiliated with school districts to have their presentations on sex education be approved by local school health advisory councils. **HB 828 (Farias)** required districts, upon consulting with local school health advisory councils, to inform parents of all human sexuality instruction presentations.

HB 1624 (Castro) proved slightly more controversial, challenging Texas' longstanding policy of abstinence-only sex education. The bill sought to amend Texas' health curriculum to include information on contraception, although abstinence was still identified as the best course of action. Material for the curriculum would have been evidence-based with age-appropriate information. Skills taught would have expanded to include strategies to promote communication within families, to learn goal setting, to develop responsible decision-making, and to avoid unwanted sexual and verbal advances.

Dental

Access to dental and oral health care is a barrier that has been identified for many children living in low-income families, and is often a luxury that many low-income families cannot afford. **HB 1248 (Villareal)**, which did not pass, was filed in an effort to eliminate barriers and to improve oral hygiene by proposing that mobile dental units provide permanent molar sealants in schools where at least 51 percent of the students participate in the National School Lunch Program (NSLP). Before performing medical care, the dentists would have to possess written parental permission, hold a permit from the State Board of Dental Examiners, and distribute information regarding the importance of dental health. Currently, through the medical assistance program, there are resources available for low-income dental care; providing child dental care at schools would increase access and would have been an extremely convenient solution for low-income families. Furthermore, by going to schools with high rates of

participation in the NSLP, dentists would be able to treat target populations in need of medical assistance.

Helmet Safety

In Texas, many high school students participate in the popular sport of football. Recently, the safety of Texas' student athletes has come into question due to increased awareness regarding the dangers of concussions. The Nationwide Children's Hospital indicates that roughly 100,000 concussions are reported each season for high school football athletes. Concussions have been linked to memory loss, depression, slowed reflexes, and dementia. While all helmets are designed to prevent fractures, aged helmets are not effective at preventing concussions. **HB 675 (Lucio)** will address the need for adequate helmet safety for Texas' many athletes. Incorporating recommendations from the helmet industry, the bill will ban the use of helmets that are older than 16 years, require helmets older than 10 years to be reconditioned every two years, and mandate that all districts keep documents that verify when helmets were purchased and reconditioned. The passage of this bill will ensure sufficient protection for high school football players during their games, allowing the sport to remain a cause for celebration instead of concern.

Domestic Violence/School Health Advisory Councils

School health advisory councils remain a valuable asset in putting forward ideas to better the state of children. Members of the council represent a variety of fields, including teaching, health care, business, law enforcement, and nonprofit work, each contributing a unique perspective. **SB 736 (Hinojosa)** will add one more perspective to the mix by authorizing school districts to appoint representatives of local domestic violence programs to such advisory councils. In 2009, the Texas Council on Family Violence reported that 15,905 children received shelter from domestic violence, indicating that the newly-added council members will represent a very crucial viewpoint in the effort to increase overall student well-being.

Child care Facilities

In a nation filled with working professionals, parents and guardians frequently take advantage of child care facilities. Because employees in these facilities interact extensively with children, certain standards of conduct must be in place. **HB 434 (Parker)** will add to the minimum standards for licensed child care facilities and registered family homes by addressing specialized medical assistance. With the passage of HB 434, these facilities will be required to follow the directions of a child's health care provider in situations concerning specialized medical assistance. Additionally, the facilities will be required to follow the medical instructions within a reasonable time frame.

Nutrition and Childhood Obesity

Physical Fitness

National projections indicate that this is the first generation in which children run the risk of having shorter lifespans than their parents. The cause for this concern is childhood obesity. As a rapidly growing epidemic, childhood obesity affects 20.7 percent of Texas' children. In 2009, Texas ranked 20th in the nation for obese and overweight children; in 2010, Texas ranked 7th. Rooted in both food insecurity and a sedentary lifestyle, childhood obesity can be combated by increasing awareness and access to nutritious foods and physical activity. During the 82nd Legislative Session, multiple bills made headway into reducing childhood obesity and food insecurity.

Of key interest to state legislative officials was acquiring more information on the status of children's physical health. CHILDREN AT RISK supported **SB 226 (Nelson)**, which increases the Texas Education Agency's (TEA) data collection regarding physical fitness. The passage of SB 226 (Nelson) requires school districts to now submit reports of individual student performance to the TEA; however, these reports may not include any information that could give away the specific identity of the student, such as a student's name, teacher's name, social security number, or date of birth. CHILDREN AT RISK also supported **SB 224 (Nelson)**, which sets up a rewards system to recognize schools that have distinction in wellness and health; however this bill failed to pass.

Texas took a big step backwards in efforts to combat obesity with good data by eliminating the current fitness assessment for grades 3 through 12. Instead, Texas will now require assessment of only those students in physical education or equivalent courses. The provision was included in **SB 8 (Shapiro)** and was promoted as a cost-saving measure. The result of the change will be less data concerning the health needs of middle and high school students.

Food in Schools

While the extent of childhood obesity in Texas is certainly an indication of an increasingly sedentary population, it also reflects the impact of food insecurity on Texas' youth. Facing severe financial strain, many households resort to consuming low-cost, high-calorie foods. Several bills were filed seeking to combat household food insecurity and to increase access to nutritious foods by providing healthy meals through existing federal nutritional assistance programs, such as the National School Breakfast Program, the National School Lunch Program, and summer nutrition programs.

CHILDREN AT RISK worked tirelessly to prevent students from starting the day hungry by drafting language for **SB 88 (Lucio)** and **HB 642 (Rodriguez)**, which both sought to implement Universal School Breakfast at schools that have many students living in low-income families. The provision of breakfast ensures that students do not begin the day hungry, increasing academic achievement and leading to improved health and nutrition. Although many eligible students have access to free or reduced-price

breakfast, there is often a social stigma associated with receiving this breakfast. Only 42 percent of students eligible for free or reduced-price breakfast participated in the breakfast program. With Universal School Breakfast, all students have the opportunity to enjoy the benefits of breakfast without fear of being judged or stigmatized. Conscious of this, SB 88 and HB 642 further proposed that school districts in which 80 percent of students qualify for free or reduced-price breakfast would be required to offer universal breakfast to all students. This proposal was practically cost neutral to the state and would have brought in additional federal funds. Though SB 88 and HB 642 did not pass, CHILDREN AT RISK would like to thank all who contributed towards advancing the conversation around the importance of Universal School Breakfast.

When school is out, children from food insecure families are hard-pressed to find nutritional meals. **SB 89 (Lucio)** directly addresses this issue by widening the reach of summer nutrition programs. With the passage of the bill, districts with at least 50 percent of students eligible for free or reduced-price meals must provide or arrange for a summer nutrition program for at least 30 days during the summer. Because of this bill, more food insecure students will have access to nutritional meals for at least one month of summer, thereby curbing intake of food that would contribute to obesity.

A crucial component of improving child nutritional habits is raising awareness about agriculture and agricultural products. While students of many small schools in rural areas have strong knowledge of agriculture, many urban students lack knowledge of it entirely. **SB 199 (West)** allows the Texas Department of Agriculture (TDA) to provide grant funding to urban elementary and middle schools that collaborate with nonprofits interested in establishing greater awareness of agriculture and agricultural products. By establishing the program, the TDA will hopefully encourage urban middle and elementary schools and nonprofits to think of creative ways to spur student interest in agriculture and agricultural products.

Supplemental Nutritional Assistance Programs

Given the state's financial challenges, the Legislature also actively searched for ways to make existing state programs more cost-effective and efficient. CHILDREN AT RISK supported **HB 710 (Walle)**, which saves the state an estimated \$3,128,850 by eliminating the requirement of mandatory electronic fingerprint-imaging to confirm participants' identities when applying for Supplemental Nutrition Assistance Programs (SNAP) and Temporary Assistance for Needy Families (TANF). Intended for fraud prevention, mandatory fingerprinting proved cost-ineffective compared to other technology, slowed distribution of nutritional assistance, and deterred potential applicants to SNAP and TANF. With the passage of HB 710, these programs now have the opportunity to use more economical technology to verify members' identities.

Soda Tax

In an effort to generate revenue and decrease the consumption of soft drinks, **SB 1004 (Lucio)** and **HB 2214 (Farias)** introduced the concept of a tax on sweetened beverages, which can be carbonated or un-

carbonated, are nonalcoholic, and contain natural or artificial sweeteners. If the bill had passed, sweetened beverages would have been taxed one cent per ounce, and the burden of the tax would have fallen on the ultimate consumer. Profits from the tax would have been appropriated by the Texas Education Agency and Department of State Health Services for the purpose of promoting nutrition and health.

Mental Health

There were victories and missed opportunities in the area of mental health during the 82nd Session. Several bills that impacted mental health are covered in other sections of this report such as juvenile justice reform, domestic violence and child abuse policies, and school discipline. Children's Mental Health Services did receive a 15 percent increase in funding that was transferred from the cuts in juvenile justice. Although there were positive steps taken that will benefit the mental health of children, missed opportunities include expanding mental health coverage, training for service providers, and mental health assessments.

Comprehensive Community Behavioral Health Intervention Programs

The effectiveness and cost-efficiency of community-based mental health services is of prime interest to service providers and policy makers. Studies suggest a child's mental health needs are complex and overlapping and often more effectively treated with community-based services. Community-based services are likely to be coordinated across key providers, engaged parents, teachers, family members, and the youth themselves. Community-based services often include wrap-around teams which typically include the child and family members, people who provide services and support for the family, and people from the family's social support network. Team members work together to create, implement, and monitor individualized plans designed to meet the needs of both the child and the family. This all being stated, there is a need for more evidenced-based practices when it comes to treating youth in the community.

The Legislature passed **HB 35 (Mendez)** which enables the behavioral health intervention pilot program, Bexar Cares, to provide further comprehensive analysis of program efficacy by allowing additional time to study the impact of the program beyond the previous deadline of December 1, 2012 to September 1, 2013. By extending the time of the pilot program, a more complete analysis can be undertaken to fully understand the impact of wrap-around services and behavioral health interventions as well as the overall socioeconomic implications associated with consolidation of behavioral health intervention services. The opportunity to study the Bexar Cares pilot program provides long-term implications for Texas.

Suicide/Bullying Prevention

Suicide and bullying are serious public health concerns particularly affecting school-aged children. According to the Centers for Disease Control and Prevention, for youth between the ages of 10 and 24, suicide is the third leading cause of death and results in approximately 4500 lives lost each year. A nationwide survey of youth in grades 9-12 in public and private schools in the U.S. found that 15 percent of students reported seriously considering suicide, 11 percent reported creating a plan, and 7 percent reporting trying to take their own life in the 12 months preceding the survey. In regards to bullying, current estimates suggest nearly 30 percent of adolescents reported at least moderate bullying experiences as the bully, the victim, or both. Attempts to define bullying lead to much variability; however, scholars agree that bullying includes not only physical aggression, but also verbal aggression and harassment, spreading rumors, social rejection, and isolation.

The passage of **HB 1386 (Coleman)**, creates a comprehensive suicide prevention program by addressing the public health threat presented by youth suicide, along with prevention techniques, including deterrence of discrimination, harassment, bullying, and cyber-bullying. HB 1386 will provide harassment prevention training to district employees and require public schools to report incidents of harassment annually to the Texas Education Agency. This also puts into effect the calls for the prohibition of discrimination based upon association with a person, and serves to protect parents of students and whistleblowers who report harassment and discrimination. HB 1386 also gives school districts the authority to transfer the person who is the harasser or bully instead of transferring the victim, which was the previous policy. By increasing appropriate intervention and educational resources, HB 1386 will deter youths at risk of suicide.

Children with Serious Emotional Disturbance

In Texas, an estimated 600,000 children suffer from a serious emotional disturbance (SED). According to the United States Department of Health and Human Services, it is estimated that 36 percent of children with SED do not graduate high school. In addition, 50 percent of youth with SED are arrested within five years of leaving school. Many youth in the juvenile justice system suffer from mental illness or SED, and oftentimes the juvenile justice system is their first encounter with mental health treatment.

HB 1192/SB 574 (Castro/Van de Putte) defines serious emotional disturbance as a severe emotional or behavioral disorder that substantially interferes with a child's ability to function successfully at home, school, or in the community. Currently, children who are insured under state programs such as Medicaid and the Children's Health Insurance Plan have access to comprehensive treatment of SED and related disorders. Under the Texas Insurance Code, certain group health plans are required to include coverage of serious mental illness; however, children covered under these plans who are suffering with an emotional or behavioral disorder are often denied treatment regardless of the recommendations provided by a psychiatrist. HB 1192/SB 574, if passed, would have helped children with mental disorders most in need of access to treatment by requiring private group insurance plans to provide coverage for

children with SED. Additionally, **HB 1258 (Kolkhorst)**, if passed, would have required Federally Qualified Health Centers to provide mental health services. Together, HB 1192 and HB 1258 would have ensured that children affected by SED and their families are not denied the necessary treatment they need to fully recover, allowing them to function successfully at home, at school, and within their communities.

Trauma-Informed Services

It is suggested that children in foster care and kinship care experience traumatic and complex situations and require intervention and treatment that meet their mental health needs. Children in foster care and kinship care are highly susceptible to the effects of trauma, which can result in altered psychobiological development, poor academic performance, increased likelihood of high-risk behaviors, and difficulties with relationships throughout a child's life. It is imperative that professionals fully understand the impact of trauma informed services on a child's mental and behavioral health.

The Legislature passed **SB 219 (Nelson)** which will allow for more effective health and mental health services for children in foster care and kinship care systems. SB 219 will require training in trauma informed programs for Department of Family Protective Services staff, foster parents, adoptive parents, kinship caregivers, and physicians and health care providers serving children in CPS. Annual evaluations to evaluate effectiveness of trauma , informed training, and annual refresher courses will also be provided for caseworkers. SB 219 will also allow for exploration of opportunities to increase telemedicine services in medically underserved areas of Texas by providers who use STAR Health and other managed care programs.

Juvenile Justice, Chemical Dependency, Mental Health

For more than 20 years, substance abuse has consistently and negatively affected the life of youth in the U.S. According to the Department of State Health Services, alcohol, tobacco, and marijuana were the top three drugs used by youth in 2008 in the state of Texas. Youth referred to the juvenile justice system historically have not been referred to appropriate substance abuse programs. Under current statute, a juvenile court is authorized to order a child detained in a detention or correctional facility to undergo an evaluation to determine whether the child has a mental illness or mental retardation. If passed, **HB 164 (Raymond)** would have added chemical dependency to the list of afflictions for which a juvenile court is authorized to conduct a mental or physical examination. Through HB 164, if a youth was determined to suffer from chemical dependency, the probation department would have referred the youth to the local mental health or mental retardation authority or other appropriate agency for evaluation and services. By facilitating an intervention through the juvenile justice system, more appropriate and systemic procedures can be enacted in an effort to decrease the socioeconomic burden of chemical dependency among youth.

Child Welfare

Training / Awareness

In 2008, 193,254 reports of abuse or neglect of children were made, and 11 percent of the investigations completed by the Department of Family and Protective Services (DFPS) stemming from those reports involved child sexual abuse. According DFPS, 51 percent of those reports were made by teachers or other school professionals. It is clear that school personnel are a vital part of detecting and preventing child maltreatment. Last session, the Texas Legislature passed legislation to address the prevalence of child sexual abuse by requiring school districts to adopt and implement policies for increasing teacher, student, and parent awareness of issues regarding sexual abuse of children, and providing counseling options for students affected by sexual abuse. This session, the 82nd Texas Legislature passed **SB 471 (West)**, which CHILDREN AT RISK supported, expanding on the provisions of the prior enacted bill. Now, school district policies must also provide for training on the prevention of child sexual abuse as well as all forms of child maltreatment. In an effort to reduce the risk that a child will be abused, the training provided must address techniques for preventing child sexual abuse or other maltreatment, factors that indicate a child is at risk of being abused and ways to reduce that risk, and must include internal procedures for seeking assistance from a school counselor or other professional for a child at risk of sexual abuse or maltreatment.

Domestic Violence / Child Abuse

Due to the complexities involved in providing for the needs of children and families who experience both child abuse and domestic violence, the Legislature passed **SB 434 (Nelson)**. Research shows that children who are exposed to domestic violence are at a greater risk of being abused and neglected. Furthermore, there is currently no specific protocol established by state law for the state to use in responding to the co-occurrence of domestic violence and child abuse. SB 434 establishes a task force to examine the relationship between domestic violence and child abuse and neglect. Under the terms of the bill, the task force is to take testimony from state and local agencies, community organizations, survivors of family violence, and young adults who, as children, were affected by both family violence and DFPS investigation and intervention. Its function is to make policy recommendations and develop best practice guidelines for DFPS and family violence shelters in order to address the effects on children of witnessing family violence.

Foster Care

Foster children represent a vulnerable population. They face many challenges both while in the state's custody and when they age out of care. They can be victims of multiple forms of abuse or neglect and often have experienced instability in their lives at home, indicating the need for a high level of services and care once in the state's custody. Research has shown that children who age out of foster care face

many challenges, which puts them at higher risk of incarceration and homelessness. During the 82nd Legislative Session, several bills passed that seek to address the challenges foster youth face both while in the state's custody and when they transition out of care.

In January 2010, the Texas Department of Family and Protective Services submitted a report to the Texas Legislature, which made recommendations for redesigning the foster care system. According to DFPS, the current foster care system often cannot provide placements for children in their home communities because service providers are not always located in the same geographic region as the children's homes. Children are often placed, therefore, in areas they are unfamiliar with, away from siblings, peers, their schools, churches, and local support networks. In addition, service providers are paid more for children with greater needs, which DFPS reports creates a perverse incentive to keep children in care. The report recommends restructuring the way that services are provided and paid for to create a continuum of services across a variety of geographic regions and to provide monetary incentives to shorten the amount of time children spend in foster care. The passage of **SB 218 (Nelson)** mandates the implementation of the recommendations made in the department's report. The redesign is structured to take place in stages over time in order to assess the effectiveness of the new system.

SB 993 (Uresti) was passed and establishes guidelines for "Parental Child Safety Placements," which are the placements arranged between DFPS and parents for children who cannot safely reside with their parents during child abuse investigations or while parents are participating in services provided by the department. Often, when children are placed with relatives or family friends, such placements break down because of inadequate planning for the child's needs, or because a relative may later be found inappropriate for long term care of a child. In order to reduce the incidence placement breakdowns and therefore the number of placement changes children often experience, the law sets out requirements for how DFPS must evaluate potential caregivers and requires that placement agreements include plans for a child's schooling and the provision of any necessary medical care. The 82nd Texas Legislature passed **HB 848 (Guillen)** and **HB 826 (Farias)**, which similarly seek to address placement instability. HB 848 allows parents to authorize a person with whom their child is placed to make important decisions regarding the child's schooling and medical care so that a child's needs in a placement can more easily be addressed. HB 826 seeks to address complications that often arise and cause delays in the provision of education to children who move between placements. It facilitates a foster child's enrollment in or transition to a public school by appointing a school district employee to act as a liaison for foster youth so that consistent education services can be provided to children in care. It will be important to monitor the implementation of HB 826, as little guidance has been provided regarding the role and responsibility of the appointed liaisons.

HB 2170 (Pena) was passed to address the challenges foster children face. The bill has two important benefits. First, the bill establishes a Foster Children's Bill of Rights. In a system that often leads to instability in a child's life and difficulty transitioning to independent living, HB 2170 seeks to provide tools to foster youth so that they can advocate for themselves. The law mandates that foster children be made aware of their rights regarding abuse and neglect, exploitation, discrimination, harassment,

food, clothing, shelter, education, medical and mental health services, placement with siblings and contact with family members, privacy, participation in extra-curricular and community activities, contact with caseworkers, attorneys, and court appointed advocates, and participation in court hearings. The passage of this bill also mandates that the department promote the participation of foster and former foster children in educating other foster youth about the bill of rights. The second benefit afforded foster children by the passage of HB 2170 is that, effective September 1, 2011, DFPS will be required to provide foster children ages 16 and older with a free copy of their credit report each year until they are discharged from the state's custody, along with information regarding interpreting the report and strategies for correcting any inaccuracies contained in the report.

A serious problem that exists in the foster care system in Texas is the inconsistent monitoring and oversight of prescription drugs provided to foster children. Foster youth who experience problems with their mental health often either go untreated or are overmedicated, implicating potentially serious problems for their growth, development, and placement stability. The passage of **HB 3531 (Strama)** amends the government code to require the Health and Human Services Commission to utilize Medicaid prescription drug data to monitor the prescribing of psychotropic drugs for foster youth, and to include medical reviews of prescriptions as part of that monitoring process.

Disproportionality

Statistics show that minority children are disproportionately represented in the foster care, special education, juvenile justice, and criminal justice systems. In terms of children involved with the Texas Department of Family and Protective Services, a higher percentage of minority children are removed from their homes, a lower percentage are successfully reunited with their families, and a high percentage age out of foster care. **SB 501 (West)** was passed and establishes the Interagency Council to Address Disproportionality in order to take a comprehensive approach to examining the over-involvement of minority children in each of these areas. The Council is to examine the points of entry into each of these systems for minority children, points at which treatment decisions are made, outcomes, issues related to disproportionate delivery of services to these children, unmet needs these children have, and to finally make recommendations regarding best practices to reduce the involvement of minority children in each of these systems.

Juvenile Justice

TYC and TJPC Merger

Following the 2007 sex scandal that rocked the Texas Youth Commission (TYC), policymakers enacted a series of key legislative reforms intended to increase agency transparency, promote effective programs, maximize available resources, and eliminate structural issues. Although the number of commitments to

TYC facilities have since been cut in half, and allegations of sexual abuse have declined, recent budget cuts for both TYC and the Texas Juvenile Probation Commission (TJPC) have provided an opportunity for reallocation of funds for effective juvenile justice programming.

SB 653 (Whitmire) represents a milestone in juvenile justice reform. When placed into effect, the bill will merge the TYC and TJPC, establishing in their place a single system agency, the Texas Juvenile Justice Department (TJJD). The structure of the new department includes, among other provisions, a 13-member board and a separate advisory council. In addition, to aid in the organization and implementation of restructuring goals, the bill will inaugurate a seven-member transition team charged with the overseeing and drafting of short-, medium-, and long-term transition goals to be presented to the board.

Amidst the structural and administrative overhaul, SB 653 will also focus on correctional strategies that utilize cost-efficient services. TJJD will prioritize the appropriation of funds for a continuation of effective youth services in conjunction with public safety concerns. More importantly, however, the department will be built upon a foundation that emphasizes rehabilitation over incarceration. Directing youth away from the criminal justice system will result in more children being kept within their respective families, communities, and local organizations, subsequently integrating these entities into the rehabilitation process. New methods to be implemented include post-release integration assistance, criminal prevention and intervention, mental health assessments, and rehabilitative programming. Proper implementation of this bill is key to juvenile justice reform.

School Law Enforcement

In an attempt to increase student safety and prevent misbehavior within school settings, most Texas school districts have established their own police departments or have come under contract with local law enforcement agencies to provide school resource officers on campus. Under current statute, school resource officers or peace officers may ticket youth for Class C misdemeanors, which include nonviolent offenses such as misbehavior on a school bus, disorderly conduct, use of profanity, disruption of class, and truancy. Reports indicate that students 10 years of age or younger are being ticketed—with some students as young as six being cited for such minor offenses. Instead of focusing efforts on improving child safety and fostering positive academic environments, these law enforcement tactics, more commonly applied to adult offenders, effectively criminalize youth for low-level offenses. In addition, fines that accompany Class C citations often present fiscal challenges to youth in low-income families.

With the passage of **HB 1964 (Villarreal)**, a defendant under the age of 17 who is assessed a fine for a Class C misdemeanor will be able to discharge all or part of the costs by performing community service. Similarly, **HB 350 (Walle)** will allow a defendant under the age of 17 who is cited for a Class C misdemeanor on school grounds to discharge all or part of the fine by performing community service or attending a tutoring program. Not only do these two bills serve to lessen the financial burden on children in low-income families, but they also provide opportunities for academic enrichment that divert children away from the juvenile justice system.

Another significant piece of legislation that passed, **HB 359 (Allen)**, will further limit the use of disciplinary measures on school campuses. The bill will prevent students in the sixth grade and lower from being ticketed for the Class C misdemeanor of intentional disruption of class or other school activities, as well as from being charged with certain offenses pertaining to disorderly conduct. In addition, a provision of this new legislation will allow a parent or legal guardian to provide a written, signed statement prohibiting a child from being subjected to the disciplinary method of corporal punishment. By defining the circumstances and age at which a student may be issued a citation or disciplined for certain offenses on school grounds, HB 359 appropriately limits the authority of district educators and prevents unnecessary waste of correctional and judicial resources for minor misconduct.

In regards to the arrest or referral of a student for certain offenses, **HB 1907 (Madden)** will expedite the process by which the information pertinent to such offenses is communicated to relevant school district educators and employees. Under the provisions of the bill, a law enforcement agency must notify the school district superintendent of the arrest or referral within 24 hours or before the next school day, whichever comes first. Subsequently, HB 1907 will require the school district superintendent to immediately notify all instructional and support personnel who have direct supervisory responsibility over the student. With this quickened dispatch, school district personnel will be able to readily respond to the information for educational or protective purposes.

Furthermore, another landmark piece of legislation that passed this session was **SB 1489 (Whitmire)**, which amends current law pertaining to the offense of truancy. Studies indicate that in 2009, approximately 120,000 charges for the Class C misdemeanor of failure to attend school were filed in the state of Texas, a dramatic increase of 40 percent since 2005. SB 1489, which draws from an evidence-based disciplinary model, adds to the conditions constituting the offense of failure to attend school, requiring that the child be 12 years of age or older, and under 18. A child 10 years of age or older who is truant from school will only be eligible to be charged with conduct indicating a need for supervision. It also makes the offense inapplicable to an individual who voluntarily enrolls in school between the ages of 18 and 21, thus removing the disincentive for an adult dropout to return to school. Additionally, if an individual ultimately graduates from school, the court will be required to seal his or her truancy criminal record. With the implementation of SB 1489, schools will also be required to apply truancy prevention measures designed to address the issue of truancy and to reduce referrals to juvenile court for offenses relating to failure to attend school. Instead of directing students to the costly juvenile justice system for unexcused absences, concurrently increasing the school dropout rate, SB 1489 facilitates a more appropriate response to truancy and does not limit adjudicated students' opportunities to attain future employment.

Though the 82nd Legislature enacted critical pieces of legislation pertaining to law enforcement in schools, a few key bills fell short of passage. **HB 3758 (Giddings)** attempted to set the limit to 12 years or older the age at which a student could be cited for offenses that are nonviolent, not sexual-related, and not harassment-related. On the jurisdiction of school law enforcement officials, **HB 349 (Walle)** sought to require every school district to adopt a policy on the administration of restraints and issuance of

citations by school district peace officers. Finally, **HB 348 (Walle)** attempted to provide peace officers with the specialized education and training necessary to work with children in academic environments.

Juvenile Placement in Penal Institutions

Upon certification of a child to be prosecuted as an adult in a criminal proceeding, the child must be detained in adult county jail until the trial is completed. Current law requires a child within such a facility to be separated, by ordinance of sight and sound, from adults incarcerated in the same building. With the passage of **SB 1209 (Whitmire)**, juvenile boards are mandated to establish policies that specify whether juveniles under age 17 transferred to an adult criminal court will be detained in a juvenile facility pending trial or an adult county jail.

Access to Confidential Information

In order for school district personnel and juvenile courts to implement appropriate disciplinary measures and apply specialized, quality treatment, they must be able to take into account several factors constituting a child's personal background. The passage of **SB 1106 (Harris)** during the 82nd Session will ensure greater access to a child's educational record, which is composed of such critical information as attendance records, educational accommodations, disciplinary records, special needs, and medical records. In the event that a child is taken into custody or referred to juvenile court for certain misbehavior, the bill will require a school district superintendent to disclose the child's educational records to relevant juvenile service providers. Additionally, SB 1106 will facilitate greater interagency exchange of a child's previous health and governmental service information. The greater the amount of information available, the easier it will be for juvenile service providers to gather a complete, accurate picture of a child's background and circumstances.

Although counties with populations over two million currently have the discretion to appoint magistrates to hear truancy cases, these magistrates do not have access to certain juvenile records. **SB 1241 (West)** contains crucial provisions that will authorize these magistrates, in addition to county, justice, or municipal courts, to access confidential information contained in the juvenile justice information system. With more records available pertaining to children's criminal backgrounds, courts will be better able to make informed decisions in truancy case proceedings.

Council for Disproportionality

Several studies have indicated significant overrepresentation of racial and ethnic minority groups within the juvenile justice, child welfare, and mental health systems. In order to counteract these disparities, the 82nd Legislature passed **SB 501 (West)**, establishing the new Interagency Council for Addressing Disproportionality. By examining the disproportionate numbers at each stage—including time of entry, point at which a treatment decision is made, and outcomes at time of exit—the agency will be able to make recommendations to reduce racial and ethnic minority involvement in such systems. The creation of the agency is a tremendous step towards understanding the relationship between race, ethnicity, and involvement in juvenile justice and child welfare systems.

Sexting

SB 407 (Watson) was passed this session, addressing the growing issue of sexting. Once effective, this piece of legislation will outline the conditions under which sexting, the act of a minor sending a sexually explicit text message to another minor, is classified as a misdemeanor offense. In lieu of prosecution under adult pornography laws, SB 407 will designate the electronic transmission of certain visual material depicting a minor as a Class C misdemeanor, thus aligning the crime with a more appropriate penalty. The bill will raise the charge to a Class B misdemeanor if the court finds that the offender promoted the sexual material with intent to harass, torment, annoy, or otherwise harm the victim, or if the offender has previously been convicted of an equivalent offense; if the actor repeats the offense twice or more, the bill enhances the penalty to a Class A misdemeanor. By specifying the conditions that constitute sexting, SB 407 will result in more effective prosecution of the crime. Further, under the provisions of this bill, the Texas School Safety Center will be required to develop educational programs to address the topic of sexting, to be used in school districts throughout the state.

Human Trafficking

Human trafficking is modern day slavery. As a global epidemic, it is the fastest growing criminal industry in the world, second only to drug dealing and tied with arms dealing. An estimated 27 million people are enslaved worldwide today in labor or sexual servitude. It is both an international and domestic problem; between 14,500 and 17,500 individuals are trafficked into the U.S. each year, and within our borders, thousands of U.S. citizens and legal permanent residents fall victim. In fact, as many as 1.7 million child runaway or throwaway episodes occur in the U.S. each year, and statistics show that 1 in 3 of these children will be approached by a trafficker within 48 hours of leaving home; the average age of entry into child trafficking being between 12 and 14 years of age. Texas has been identified as a hub for human trafficking in the U.S. In collaboration with legislators and key stakeholders, and as a member of both the Attorney General's Human Trafficking Prevention Task Force and the Juvenile Probation Commission Committee on Alternatives to the Juvenile Justice System for Youth Involved in Prostitution, CHILDREN AT RISK focused on efforts to increase penalties against traffickers and Johns, decriminalize minors engaged in prostitution, and to advocate for shelter and victim services. Many of the policy recommendations from the Task Force and the Juvenile Probation Commission committee were encompassed in bills passed in the 82nd Texas Legislative Session.

Omnibus Bills

The first anti-trafficking bill passed during the session was omnibus bill **SB 24 (Van de Putte)**. Child trafficking was in the spotlight this session, and SB 24 was a major victory on behalf of child victims. SB 24 strengthened the trafficking of persons statute, through the enumeration of specific offenses which constitute child trafficking, including sexual assault, prostitution, sexual performance by a child, and possession of child pornography. In addition, the requirement for a prosecutor to prove a trafficker's use

of force, fraud or coercion in cases involving minor victims was removed, thus easing the prosecutorial burden to bring traffickers to justice and bringing Texas in line with federal law.

Some of the most severe crimes are included in a list under the Texas Code of Criminal Procedure, known as the “3g” offenses. These are the crimes that the Legislature has deemed to warrant certain limitations on probation, bail, and parole. SB 24 adds the offense of trafficking of persons to this list. Along with this heightened treatment in the severity of the trafficking in persons offense, defendants who have any prior felony conviction are automatically sentenced to life imprisonment upon a child trafficking conviction. Also, prior to SB 24, the penalties under section 43.05 of the Penal Code for compelling prostitution were the same regardless of whether the victim was a child or an adult. SB 24 changes the penalty from a second degree felony to a first degree felony when a child under the age of 18 is involved.

Human trafficking cases may often take several years from beginning to completion because of the extensive investigation involved. Unless specifically listed otherwise, all criminal indictments must be brought within three years from the date of the commission of the offense, which may not always be sufficient time to charge the defendant. SB 24 eliminates the statute of limitations to bring a felony indictment against a defendant in cases involving a child trafficking victim, and it extends the statute of limitations to ten years in cases involving adult victims. SB 24 also extends the statute of limitations to bring a civil cause of action for personal injury to five years, previously two years, thus providing victims with additional time to recover financial damages from their traffickers.

In an effort to reduce demand for commercial sex, SB 24 also enhanced criminal penalties against the purchasers, or Johns. Prior to SB 24, the highest penalty a John could face is a state jail felony, and no penalty distinctions were made when a child victim is involved. SB 24 increases the penalty to a first degree felony if a child is solicited for sexual services, regardless of whether the purchaser knew the age of the child at the time of the offense.

Many human trafficking cases are never reported, and victims often go unidentified. The Texas Family Code requires teachers, day-care providers, doctors, nurses, and juvenile correction officers to report child abuse or neglect to law enforcement within 48 hours of suspecting the abuse. Certain acts are listed in the Family Code under the definition of “abuse” which explicitly requires reporting and investigation. SB 24 adds trafficking, prostitution, and compelling prostitution to this list of definitions, thus requiring the reporting to law enforcement of all potential child trafficking victims that these professionals may encounter.

Another significant bill which passed this session is **HB 2014 (Thompson)**. Like SB 24, HB 2014 implements a wide range of anti-trafficking policy solutions. Despite the fiscally restrictive session, HB 2014 was able to provide funds for victim rehabilitation through mandatory restitution for child victims of trafficking. Upon consideration of the financial circumstances of the defendant, the court must order the defendant to pay an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment for victims under the age of 18. This is a significant

first step in ensuring that victims receive the necessary rehabilitative services to reestablish their lives. However, much work is still left to be done to create additional funding for victims' services, especially for the creation of a safe house for domestic minor sex trafficking victims.

The Texas Alcoholic Beverage Commission (TABC) plays an instrumental role in the anti-trafficking movement. HB 2014 requires TABC to refuse to issue a permit or license for a period of one to three years for establishments which have had their permits canceled or voluntarily surrendered due to acts of prostitution or trafficking of persons occurring on the premises. Thus, these establishments will be significantly impacted by the loss of revenue from the sale of alcoholic beverages. Furthermore, as TABC agents monitor establishments for permit violations, they are also able to look out for signs of prostitution or trafficking occurring in these establishments. However, without TABC licensure, establishments have begun to operate as "BYOB" establishments. One bill which could have remedied this problem, **HB 175 (Jackson)**, did not pass. HB 175 would have created the "On Premises Consumption Only License," which would require BYOB establishments to also have a TABC license, thus extending TABC's jurisdiction to monitor them for signs of human trafficking and prostitution.

Recognizing the importance of strengthening the protections for child victims, HB 2014 enhances penalties against persons who offer a child for sale through trafficking, prostitution, or compelling prostitution. Enhanced penalties are also imposed upon Johns through HB 2014, with penalties for solicitation of a child age 14 and older but younger than 18 increased to a third degree felony, and penalties for solicitation of a child younger than 14 increased to a felony of the second degree (both previously Class B misdemeanors).

It is difficult to determine concise numbers for human trafficking incidences and victims, as a statewide data collection system does not currently exist to monitor all reported cases. Changes to the Government Code were made by HB 2014 to help address the gathering of trafficking data by requiring district and county courts to provide a monthly report on the number of cases filed for trafficking offenses to the Office of Court Administration of the Texas Judicial System. In addition, the Department of Public Safety is now required to develop a case reporting mechanism that enables the creation of a statistical breakdown of cases involving human trafficking and compelling prostitution.

Continuous Human Trafficking

Prior to the 82nd Legislative Session, consequences for traffickers for multiple offenses were not explicitly enumerated in the trafficking statute. **HB 3000 (Thompson)** established the "Continuous Trafficking of Persons" offense for persons who engage in trafficking two or more times during a period of 30 days or greater. This offense is a felony of the first degree, punishable by life imprisonment or a minimum of 25 years. Defendants face additional restrictions upon conviction for this offense, such as limitations on eligibility for bond, parole, and mandatory supervision, and also mandatory life without parole upon conviction for a second Continuous Trafficking of Persons offense.

Exploitation and Illegal Employment of Minors

Many child trafficking victims are exploited through illegal employment in sexually oriented businesses. **HB 289** and **HB 290 (both by Jackson)** address this problem. HB 289 adds employment of a minor at a sexually oriented business, trafficking of persons, and sexual conduct or performance by a child to the list of activities which constitute a common nuisance. HB 290 increases the penalties associated with employment harmful to children for persons who have been previously convicted of the same offense.

Children in Need of Supervision

Prostitution is a significant avenue for the commercial sexual exploitation of child trafficking victims. These children are required to provide sexual services for a fee and to forward all of their earnings to their pimps/traffickers. In June 2010 the Texas State Supreme Court held that children under the age of 14 are victims of sexual exploitation and should not be charged with the offense of prostitution. However, while law enforcement recognizes the importance of treating these children as victims, they are left without an alternative to the juvenile justice system for placement options once these children are removed from the streets. A safe house for domestic minor sex trafficking victims does not exist in Texas; in fact, there are less than 100 beds for this population of victim nationwide. In an effort to address this problem, **HB 2015 (Thompson)** added prostitution to the list of conduct in the Family Code indicating a need for supervision. This would allow a child to be taken into custody and grants the juvenile court jurisdiction over children who are picked up by law enforcement for prostitution. HB 2015 also requires the sealing of records for these children.

Final Analysis

The 82nd Legislative Session resulted in several missed opportunities to improve the quality of life of Texas' Children. Although the passage of some positive measures for Texas' children were made, budget cuts to vital programs, particularly in health and education, give indication that our children are not a public policy priority.

During this time of economic hardship felt throughout the state as well as the nation, it is imperative to ensure that children do not become economic casualties. Children must be at the forefront of public policy priorities in Texas, and this is especially true since Texas falls among the lowest in the nation in indicators of health, safety, and the most basic of needs.

The research conducted by CHILDREN AT RISK shows that the quality of life for Texas' children continues to require much improvement. Change is needed to provide greater access to health care, to hold accountability for our children's educational needs, and to address issues concerning their safety and overall well-being. Our children truly are our future, and improving the quality of life for our children today will benefit their lives as well as the community as a whole for years to come.

CHILDREN AT RISK applauds the advocates and policy makers who work diligently to help make children a priority in Texas. With their continued efforts we will work together to improve the lives of Texas' children.