

SPEAKING OUT FOR HOUSTON'S YOUTH

children
at Risk

80TH TEXAS
LEGISLATURE

REPORT ON LEGISLATION IMPACTING
CHILDREN

July 18, 2007

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

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Executive Summary

The 80th Texas Legislative Session began on January 9, 2007 with a stronger fiscal outlook than previous years. Governor Perry signed a budget of \$151.9 billion which invests additional resources in college financial aid, appropriates hundreds of millions of dollars to help Texans purchase private and employer-sponsored health insurance, provides more money for the Children's Health Insurance Program (CHIP), slightly expands state investment in clean air programs, and provides hundreds of millions of dollars for teacher incentive programs.

CHILDREN AT RISK worked to improve education for Texas' children by introducing legislation to strengthen the transparency and accuracy of schools' dropout rate calculation. Unfortunately, the Legislature failed to advance these measures and others that would have improved the transparency of high school graduation rates. Yet, lawmakers approved measures to improve graduation rates by funding additional services for students identified as at-risk of dropping out and worked to address school finance equity. State policymakers also impacted early childhood education policy by increasing child care subsidies, strengthening dropout prevention programs, and facilitating professional development for early childhood education professionals.

Access to physical and mental health services significantly impacts the quality of life of Houston children. Legislators filed more than 50 bills during the session to restore funding following cuts made to CHIP in 2003. State policymakers introduced initiatives to increase the number of children enrolled in CHIP and passed legislation impacting the immunization registry by improving the state's preparedness for a flu epidemic. Additionally, legislators passed measures to address childhood obesity by transferring the physical education requirements from the State Board Education to school districts and requiring students in certain grade levels to participate in physical education programs for a specified amount of time. The Legislature introduced other measures that will take steps to reduce infant mortality and facilitate information sharing among agencies serving the state's most vulnerable children.

Unfortunately, mental health was not a priority during the 80th Legislative Session. The National Institute of Mental Health estimates that 20% of the nation's children have a diagnosable mental illness and that 5% are severely emotionally disturbed. Those numbers mean that, in 2004, more than 210,000 Houston children had a mental illness and approximately 53,000 had a severe emotional disturbance. Measures that would have improved access to mental health care failed to advance.

CHILDREN AT RISK worked to raise the profile around human trafficking and introduced legislative solutions to assist and protect those victims. One measure expanded the definition of human trafficking and another mandated a human trafficking hotline be posted in bars and certain hotels. Additionally, lawmakers passed a measure that establishes a funding mechanism for programs that offer services to human trafficking victims. Police officers most often are the ones that have first contact with human trafficking victims. Although many strides were made this session regarding human trafficking, the need for mandatory training of law enforcement regarding human trafficking was unsuccessful.

The Legislature continued its reforms of child welfare by strengthening policy changes begun in 2005. During the 80th session, legislators revised the implementation of privatizing child welfare services and improved the regulation of child-care service providers. Legislators also authorized the creation of a mother-baby program in the Texas Department of Criminal Justice; mothers who give birth during their incarceration learn parenting skills and bond with their newborn children before their release.

Lawmakers were successful in addressing the management and structure of the Texas Youth Commission (TYC). CHILDREN AT RISK collaborated with other juvenile justice advocates to establish an independent ombudsman office that will advocate for incarcerated youth. The 80th Legislature started the conversation around much needed reform to alternative education for at-risk youth. However, policymakers did not fully address what is known as “the school to prison pipeline” in Texas and therefore the Legislature failed to advance significant legislative reforms in this area. Consequently, much work continues to be needed to improve school disciplinary policies.

Improving Texas’ environmental standards was not a priority for the 80th Legislature. The Legislature’s failure to advance measures in this area is problematic due to the high number of mercury emissions, ozone pollution, and water quality. Texas has the highest mercury emissions in the country, largely from coal-fired power plants which are the nation’s most dangerous polluters. Approximately 1.5 million Texas children live within 30 miles of a coal-fired power plant. Texas failed to adopt an integrated energy plan to provide electricity needs, protect the health and safety of residents, and protect the products produced in this state.

CHILDREN AT RISK tracked hundreds of pieces of legislation introduced during the 80th Session. Through CHILDREN AT RISK’S network of communication, over 1,500 letters were sent to the Legislature. Hundreds of faxes, phone calls and face-to-face meetings also impressed the importance of meeting the needs of children. This report offers an overview of our advocacy and public education priority areas, in addition to a synopsis of what was achieved on behalf of children this Legislative Session.

Overall, legislators filed 4,140 bills in the House and 2,050 bills in the Senate. As of today, the Governor has vetoed 53 bills.

Bill Activity Overview

Chamber	Filed	Passed	Passage Rate
House	4,140	955	23%
Senate	2,050	526	26%
Total	6,190	1,481	24%

CHILDREN AT RISK Tracked Legislation

Education			
HB 828	Hochberg	Inserts a minimal funding level in school financing formulas	Passed
HB 1609	Crownover	Funds Communities in School programs to reduce dropouts	Passed
HB 2237	Eissler	Established programs for dropout prevention, high school success, and college and workforce readiness in public schools	Passed
HB 3621	Noriega	Strengthens greater transparency and accuracy to dropout calculations	Left pending in committee
SB 9	Shapiro	Enhanced criminal background check policies for educators and other school employees	Passed
SB 1031	Shapiro	Replaces TAKS with end of school exams	Passed
SB 1995	Van de Putte	Strengthens greater transparency and accuracy to dropout calculations	Left pending in committee
Physical and Mental Health			
HB 109	Turner	Facilitates higher enrollment in Children Health Insurance Program	Passed
HB 921	Delisi	Facilitates information sharing across agencies including Health and Human Services	Passed
HB 1059	Parker	Established school immunization awareness program	Passed
HB 1098	Bonnen	Implemented requirements regarding educational information about HPV.	Passed
HB 2313	Rose	Established Obesity Awareness Week	Passed
HB 2439	Truitt	Expands MHMR capacity	Passed
HB 1919	Smith	Mandates insurance companies provide coverage to children, ages three through five, with autism spectrum disorder	Passed
SB 11	Carona	Relating to homeland security and established policies for the state immunization registry	Passed
SB 143	West, Royce	Authorizes local health boards to establish infant mortality review teams	Passed

SB 530	Nelson	Requires student physical activity to prevent childhood obesity	Passed
SB 556	Lucio	Establishes and interagency Obesity Council	Passed
SB 568	Ellis	Expands mental disorder coverage through private health insurance	Left pending in Committee
SB 802	Nichols	Expands Child Fatality Review Team Committee	Passed
Human Trafficking			
HB 1121	Anchia	Enables judges to issue an official verification, or judicial finding, that a victim is truly a victim of a severe form of trafficking, as defined by federal law	Passed
HB 1751	Cohen	Facilitates funding for programs that provide services to human trafficking victims.	Passed
SB 1287	Van de Putte	Requires certain businesses to post information about forced labor for human trafficking victims	Passed
SB 1288	Van de Putte	Requires certain hotels to post victim hotline information	Passed
Child Welfare			
HB 8	Riddle	Enhanced penalties sentencing for repeat child sex offenders	Passed
HB 199	Madden	Establishes mother-baby residential program for state prison system	Passed
SB 758	Nelson	Omnibus child services legislation	Passed
Juvenile Justice			
HB 425	Madden	Establishes educational requirements for alternative educational programs	Passed
HB 426	Madden	Mandates that all DAEP instructors be fully certified	Passed
HB 790	Dutton	Instituted a parent's right to a conference meeting if their child is sentenced to more than 3-days in school suspension or out-of-school suspension for any period of time	Left pending in committee
HB 846	Olivo	Established a parent's right to be notified if child placed in a DAEP	Left pending in calendars
HB 2532	Patrick	Requires entry and exit tests for DAEP students placed 90 days or longer	Passed
HB 2835	Strama	Required consideration of student's conduct when the student may be placed in a DAEP or JJAEP.	Left pending in committee

HB 3701	Miles	Established Independent Ombudsman for TYC	Rolled into SB 103
SB 103	Hinjosa	Omnibus TYC reform bill	Passed
Environment			
HB 3457	Hochberg	Regulated the idling of schools buses for certain time periods	Vetoed
SB 1294	West, Royce	Requires TCEQ to establish an air pollutant watch list	Left pending in committee
SB 860	Ellis	Placed a two-year moratorium on authorizations for new or modified coal-fired EGFs	Left pending in committee

Budget

Drafting the budget is of primary importance, as allocations determine the type and amount of funding programs will receive. The 80th Legislature passed a budget of \$151.9 billion for the 2007-2008 biennium. Policymakers allocated \$80.1 billion for general purpose spending. This amount represents an increase of \$8.8 billion or 12.3 percent over the anticipated 2006-2007 biennial spending level. Ninety percent of this growth is due to increased funding in education, human services, criminal justice and the environment. Governor Rick Perry also used his line-item veto power to reduce the two-year budget in House Bill 1 by \$570 million, as well as \$76.6 million from House Bill 15.

The 2008-09 budget invests an additional \$146 million in college financial aid, appropriates hundreds of millions of dollars to help Texans purchase private and employer-sponsored health insurance, provides more money for CHIP, slightly expands state investment in clean air programs, and provides hundreds of millions of dollars for teacher incentive programs. Additionally, the budget also funds increases for classrooms, mentoring for the children of prisoners and other important criminal justice priorities.

Budget allocations to the Texas Education Agency (TEA) serve over 4.4 million children on a daily basis in our public schools. The number of students funded to participate in pre-kindergarten grant programs is over 46,700 annually, while the number of students funded for Disciplinary Alternative Education Programs (DAEPs) is over 102,000 each year. The Texas Youth Commission is expected to serve an average daily population of nearly 2,300 youth and provide treatment to 2,750 children on a daily basis. The budget priority during the 80th Session was clearly the juvenile justice system, rather than prevention and intervention through early childhood education.

The Texas Workforce Commission expects to provide services to facilitate workforce participation for low-income families. Those programs include funding at-risk childcare facilities. The agency expects to serve nearly 100,000 children annually in at-risk services where the average child care cost per day is \$14.37. Additionally, over 29,000 children are on the waiting list each year for participation in state low-income child care programs.

The Department of State Health Services will provide slightly more than 11,100 children with mental health services on a monthly basis. Because of limited funding, advocates are concerned

that mental health needs of children will not be met. Substance abuse treatment leads to more productive members of society and cuts costs later on in crisis intervention, juvenile justice programs, and costs related to crime in general. Inadequate funding restricts services and only allows for the most severe cases to be admitted to residential services. Parents and families have to give up their children to the juvenile justice system in order for them to receive mental health services, including substance abuse treatment, because they do not have health insurance or their private insurance does not cover substance abuse treatment.

Although there was not a budget shortfall during the 80th Session, the revenue legislators had to allocate within the budget remained insufficient when compared with the need throughout the state. Texas continues to be ranked in the lowest percentile on health and human services spending in the nation. Some restoration to improve health and human service programs was achieved this session, but much of what was “restored” simply brought program funding to 2003 levels and is inadequate for improving the quality of life for Texas children.

Funding allocated to improving the quality of life for Houston’s children includes:

Overview of Children’s Financing Issues

Agency	Year Ending Aug. 31, 2008	Year Ending Aug. 31, 2009
Children with Disabilities	\$160,639,657	\$166,181,075
Children with Special Needs	\$39,074,424	\$39,074,424
Family and Protective Services	\$1,261,593,755	\$1,300,046,144
Juvenile Probation Commission	\$161,781,492	\$166,500,347
Mental Health Services for Children	\$65,682,268	\$65,492,081
Texas Education Agency	\$17,328,829,030	\$18,678,761,786
Texas Youth Commission	\$255,584,248	\$233,407,969
Women and Children’s Health Services	\$73,779,998	\$73,864,867
WIC/Farmer’s Market Nutrition Services	\$731,513,554	\$743,990,781

Education

Graduation Rates

The high dropout rate present in public schools in Texas represents a crisis in our education system. With a graduation rate of only 69%, Texas ranks 36th in the nation for overall rates of graduation.¹ Although everyone involved readily admits that something must be done to address this issue, opinions differed within the legislature on the severity of the problem and possible solutions.

In 2006 the Texas Education Association (TEA) reported a dropout rate of only 12.5% for the Houston Independent School District, while alternative calculation methods have exposed a rate

as high as 50.1%.² One of CHILDREN AT RISK's primary goals for the 80th Session was to bring greater transparency and accuracy to the methods by which Texas calculates its dropout rate. House Bill 3621 (HB 3621) and Senate Bill 1995 (SB 1995) attempted to create a clear and transparent methodology to calculate the graduation rate. By providing a more detailed definition of a high school graduate, these bills sought to ensure that graduation rates across the state accurately reflect the number of students who earn a high school diploma within four years of their enrollment in high school. Unfortunately, the bills died in their respective committees.

Dropout Prevention

Despite this failure, the 80th Legislative Session did directly address the issue of dropout prevention in two other important bills.

House Bill 2237 (HB 2237) was designed to improve high school graduation rates by funding additional services for students identified as at-risk of dropping out. The bill creates the Collaborative Dropout Reduction Pilot Program under which school districts may receive grants to implement dropout reduction programs that work to increase the job skills, employment, and continuing education opportunities for students through collaborative efforts with local businesses and the community-at-large. The bill also funds the creation of more student club activities to directly serve at-risk students. In addition to funding these programs, as well as many other direct service programs, the bill also creates the High School Completion and Success Initiative Council and charges it with the task of researching and identifying strategic priorities for improving the effectiveness of high school completion and college and workforce readiness efforts. A rider on the 2008-09 budget stipulates that TEA shall allocate \$57,420,000 toward the service programs outlined in this bill and \$50 million to provide research-based instructional support and professional development to high schools serving at-risk students.

House Bill 1609 (HB 1609) also aimed at reducing the dropout rate by allocating approximately \$42.5 million in funding for the Communities in Schools program. This represents a \$7.3 million increase in funding over that of the 2006-07 budget. Communities in Schools is a campus based organization that combines parental involvement, supportive guidance, academic support, career awareness, social services, and cultural enrichment to empower at-risk students in grades K-12 to be successful in school.

School Finance

The Legislature also made strides to improve educational equity via reform of the school finance system. In 2006, the 3rd Called Session of the 79th Legislature reconfigured the school finance system in Texas with the addition of a new tier of equalized enrichment funding. This new tier, referred to as the 'golden pennies' tier, equalizes funding across school districts of varying property wealth through a guaranteed yield mechanism. Under House Bill 1 (HB 1) of the 79th Session, the guaranteed yield on the golden pennies is linked to that of the Austin Independent School District (AISD), making other Texas school districts vulnerable to the fluctuations of the Austin real estate market. House Bill 828 (HB 828), passed by the 80th Session, eliminates this vulnerability for school districts by inserting a floor (minimum funding level) in the formula. This bill sets the guaranteed level of state and local funding for the golden pennies tier for a

given school district at either the yield on the golden pennies available to AISD or the yield on the golden pennies for that district for the previous year, whichever is higher.

TAKS Testing and Accountability

The 80th Session also worked to reform teacher accountability and student assessment by recognizing that the TAKS testing regime has created some negative consequences and has outlived its usefulness. Senate Bill 1031 (SB 1031) replaces the TAKS exam with an assessment method that better reflects school achievement and college readiness. SB 1031 will phase out TAKS and replace it with end-of-course exams in four core subject areas in grades 9-12. More specifically, end-of-course exams will be administered in the following subjects: Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history. Course exams will focus on assessing students' retention of academic content and on college readiness. For most courses, the end of course exam will count as 15% of a student's overall grade rather than depending on a single pass/fail test. However, in order to be eligible for graduation, students will be required to score an average of 70% or above.

End-of-course exams aim to maintain the accountability for schools gained through the use of these standardized exams without the negative effects of basing a student's satisfaction of graduation requirements on a single pass/fail exam. The bill promotes college readiness by allowing satisfactory performance on AP/IB or similar college level standards to substitute for end-of-course exams. The transition from TAKS to end-of-course exams is set to begin with students entering the 9th grade in the 2011-2012 school year. The bill also seeks to increase college readiness by requiring students in 8th and 10th grades to complete college readiness diagnostics and by giving students in 12th grade the option to complete college entrance exams at state expense.

Criminal Background Checks

The safety and security of our children in school is extremely important to parents and advocates. The passage of Senate Bill 9 (SB 9) ensures that students are placed in a safe learning environment by requiring a national criminal history background check for all certified public school employees. A rider on the budget sets aside an additional \$13 million in funding for the TEA over the 2008-09 biennium to implement the criminal history record information review. Since Texas started administering background checks for candidates for educator certification in October 2003, nearly 200 candidates have been found to have serious offenses. As recently as 2004-2005, 35 certified educators were registered sex offenders. CHILDREN AT RISK is excited to see progress during the 80th Legislative Session toward more secure school environment for children.

Early Childhood Education

Quality early care and education initiatives for children received strong support from advocates this session. Research shows that investing in early childcare and education has a positive effect on the health and future prospects of children and the community-at-large. Children who receive

quality early education are less likely to dropout of school and show reduced rates in drug use and teen pregnancy. Recent studies report that every dollar invested in early childhood education yields \$3 in savings on future social services such as health care and the criminal justice system.

Child advocates have long pushed for early care and education, not only to ensure basic health and safety for children in care, but also to provide a nurturing, stimulating environment that can influence healthy brain development. Despite the documented positive effects of early childhood education, a shortage of affordable quality childcare options exists due largely to the lack of adequate funding for quality providers and facilities. Even state-funded childcare facilities cannot afford to provide quality care, as provider reimbursement rates are pitifully low.

The 80th Session attempted to address these problems by increasing funding for early child care and education. One rider on the 2008-09 budget directed the Commissioner of Education to allocate \$82,620,000 in General Revenue and \$9,180,000 in federal Temporary Assistance for Needy Families (TANF) funds in each year of the 2008-09 biennium for the purpose of providing grants for pre-kindergarten programs. Another rider stipulated that the Texas Workforce Commission shall be appropriated \$10 million in fiscal year 2008 and \$10 million in fiscal year 2009 in Child Care and Development Funds (federal funds) for the purpose of increasing child care reimbursement rates for certain child care providers that participate in a school-readiness integration project. The rider further states that \$2 million of these funds are to be used to fund the management of early childhood education partnership projects, to facilitate increased participation in professional development by early childhood education professionals, and to encourage professionals to seek additional education.

Although progress was made in early childhood education, the 80th Legislative Session did not reflect a major leap forward regarding accessible early education to all children. Quality education that is accessible to all children that not only holds the basic standards but prepares our children for college, work force, and economic security remains a goal for Texas.

Physical and Mental Health

Children's Health Insurance Program and Medicaid

Restoration of Children's Health Insurance Program (CHIP) was a priority during the 80th Legislative Session with over 50 bills filed in attempt to restore funding following cuts made to CHIP in 2003. The reductions to the CHIP program in 2003 left advocates, parents, and service providers outraged and eager to speak out for children during the 80th Legislative Session.

The Insure Texas Kids Campaign message was the following:

- Implement 12 months continuous eligibility for CHIP and Children's Medicaid.
- Eliminate bureaucratic roadblocks to encourage personal responsibility and help low income families achieve self-sufficiency:
 - a. Fix problems with the Integrated Eligibility System to prevent eligible kids from losing CHIP and Medicaid coverage

- b. Eliminate the CHIP asset test
- c. Eliminate the CHIP 90-day waiting period for uninsured children
- d. Deduct childcare and child support expenses when calculating income for CHIP
- Provide adequate reimbursement for Medicaid and CHIP providers
- Invest in outreach and education to ensure that all eligible children get the care that they need

CHIP was created in 1999 and has provided valuable medical resources to working families in Texas who are unable to obtain private health insurance and are not eligible for Medicaid. During the 78th Legislative Session in 2003, significant cuts were made to the program. Although partial restoration was implemented during the 79th Legislative Session in 2005, significant obstacles remained and enrollment dramatically dropped. CHIP policy changes, a new contractor, and a shift in focus to local CHIP outreach have all contributed to reduced numbers of children covered by the program. Texas CHIP enrollment declined from 505,566 in January 2003 to 305,991 in May 2007.

The commitment, hard work, and collaboration of champions in the legislature, child advocates, parents, business and faith leaders, physicians and other health care providers achieved significant gains during the 2007 legislative session. House Bill 109 (HB 109) by Representative Sylvester Turner (D-Houston) and Senator Kip Averitt (R-Waco) was successful and will allow for an increase in enrollment of 127,000 Texas children, in the CHIP program through the following measures:

- Waives the 90-day waiting period for uninsured children. Only children who drop private health insurance (and do not qualify for an exception) will have to wait 90 days to enter in the CHIP program
- Deducts child care expenses when calculating income
- Doubles the asset test limit from \$5,000 to \$10,000. The first vehicle allowance has been increased from \$15,000 to \$18,000 and the second vehicle allowance increased from \$4,650 to \$7,500
- Restores outreach through community-based organizations. Outreach must be conducted in English and Spanish as well as conducted through school-based health clinics
- 12-months eligibility with required electronic checks every six months for families with an income between 185% and 200% of the poverty level. The state will use a third-party computer database to see if the family's income has exceeded 200% (CHIP limit). The income checks will be phased in and implemented by September 2008

Rising Medicaid costs is a challenge to Texas. Due to low reimbursement rates, service providers are unwilling or unable to provide appropriate outreach and needed services to children. The *Frew v. Hawkins* lawsuit was filed in 1993 against the state of Texas based on inadequate Medicaid services to children. The case was settled during the session and was designed to improve health care for 2.8 million children who received Medicaid each year. Reimbursements for doctors are to be increased by 25%, at an estimated cost of \$203 million GR and dental fees are to be increased by 50%, at a cost of \$258.7 million GR.³

Immunization

Childhood immunizations save children's lives. After months of controversy and contention over immunization bills and policies, lawmakers expanded the Texas immunization registry with many provisions in Senate Bill 11 (SB 11), by Senator John Carona, this session's omnibus homeland security bill. The bill expands the scope of the registry. For instance, it allows individuals over the age of 18 to keep their immunization data in the registry. Permitting people to keep their records beyond 18 will help keep track of immunizations that are needed for entry into college and other advanced degree programs, and eliminate revaccination costs. The bill also grants health officials and health care providers use of the registry for, or during, a public health emergency, including the storage of adult immunizations should an emergency occur. This could save emergency personnel millions of dollars in revaccination costs and enable them to allocate their limited resources effectively and deliver care to those with the highest need.

Parent and provider education is a vital step in raising immunization coverage. House Bill 1059 (HB 1059) establishes a public school immunization awareness program beginning in the 2007-2008 school year. HB 1059 is also known as the Emily Lastinger Act in honor of a young child who died due to complications of influenza in the 2004 flu season. School districts that maintain a website will be mandated to list immunizations that are required for admission to school, recommended immunizations for school-age children, and health clinics in the district that offer the influenza vaccination. Childhood immunizations protect children and the general community from infectious diseases. CHILDREN AT RISK views this legislation as a convenient and cost effective way to convey information and educate parents.

On February 2, 2007 Governor Rick Perry issued an Executive Order mandating that all females receive the human papilloma virus (HPV) vaccine before they reach the 6th grade. However, the Texas Legislature challenged his authority by passing House Bill 1098 (HB 1098) which made the Governor's Executive Order ineffective and allowed for more review of the vaccine. Supporters of HB 1098 viewed the Executive Order as premature and potentially put the children's health and safety at risk because the vaccine was new to the market and side-effects and long-term consequences remain unclear. Opponents of HB 1098 believe the bill undermines the ability to provide effective health care to women for a preventative cancer and gave the option to opt-out of receiving the vaccine. Instead of mandating young female students to have the vaccine, the Legislature is requiring Health and Human Services to provide educational information about the vaccine at the age-appropriate time in the immunization schedule.

Although progress was made regarding immunizations during the 80th Legislative Session, health advocates were hoping for stronger policy outcomes. SB 11 expands the current state immunization registry by allowing records to stay in the registry if the individual, parent, or guardian consents in writing to stay in the registry; however, due to lack of awareness and convenience, advocates were pushing for an immunization registry for a lifespan and a voluntary exclusion system. Allowing people to voluntarily exclude themselves rather than include themselves would provide privacy and security while ensuring the registry maximizes its full potential and is populated for use in public health emergencies.

Childhood Obesity

Childhood obesity is a public health epidemic in the state of Texas, including the Greater Houston area. Recently published data has unfortunately reconfirmed that childhood obesity is rising. The percentage of children in Houston who are obese or overweight is 21.6%. Additionally, another 16% percent of children are at-risk of becoming overweight. Since the 77th Texas Legislature, legislation has aimed to prevent and treat the public health epidemic through multiple avenues. In 2001, the Legislature passed Senate Bill 19 (SB 19) in effort to curb childhood obesity rates. The three-section law requires schools to implement coordinated health and physical education programs and establish School Health Advisory Councils. The Coordinated Approach to Child Health (CATCH) program teaches elementary students the importance of nutrition and an active lifestyle. The Texas Department of Agriculture also imposed stricter school nutritional standards in 2004. The regulations include a ban on foods of minimal nutritional value during school hours.

The 80th Legislature again focused on the school and student level to address childhood obesity. Senate Bill 530 (SB 530) transfers the physical education requirements from the State Board of Education to school districts, and beginning in the 2007-2008 school year, requires students from K-5th grades to participate in moderate to vigorous daily physical activity. Students in grades 6th to 8th, starting in the 2008-2009 school year, must participate in 30 minutes of daily activity for at least four semesters during those grade levels as part of the districts' physical education. SB 530 also mandates that school districts assess the physical fitness of their students in grades 3rd to 8th. CHILDREN AT RISK views these public policy decisions as steps to improve health education and prevent childhood obesity. Physical activity requirements and the assessment of children's health will encourage students and schools to recognize the importance of physical fitness for children's health and well-being.

In attempt to raise awareness of childhood obesity, House Bill 2313 (HB 2313) mandates the second full week in September as Obesity Awareness Week. The State Legislature seeks to raise awareness about the health risks associated with obesity and to encourage Texans to achieve and maintain a healthier lifestyle. Awareness is only one factor in addressing obesity. Senate Bill 556 (SB 556) fills a gap in communication and coordination that exists with obesity health issues in Texas between current state administrators. The bill creates an interagency council between the Department of Agriculture, Department of State Health Services, and the Department of Education to monitor programs from each department that prevent and treat the obesity epidemic in both adults and children. Both of these bills promote awareness and recognition of the public health problem through all channels and recognize that thwarting obesity will require efforts from the whole community and state, not simply individuals and families.

Infant Mortality Legislation

The legislature took a few important steps to reduce infant mortality in the state of Texas. Senate Bill 802 (SB 802) added two representatives to the state child fatality review team in hopes of enhancing communication between leaders at the state level and improving the overall safety and

protection of children with fresh perspectives and contributions from the Department of Health and Human Services and the Department of Transportation. The legislature also passed Senate Bill 143 (SB 143) which authorizes local health boards to establish infant mortality review teams to facilitate better investigations of infant and fetal deaths within the community. With improved investigations and focused research and discussion by these local review teams, city or county leaders will know more about the overall health and health environment of mothers and infants and how to improve these at the community level so that the incidence of infant mortality will eventually decrease.

Mental Health

Facing a budget shortfall in 2003, the 78th Legislature drastically cut general revenue funds from the Health and Human Services budget. Limited funding significantly reduced mental health services provided by the state and had a negative impact on child welfare. Although there has been some restoration of HHS appropriations since 2003, mental health services have not seen significant funding and the 80th Legislative Session did little to improve access to services.

Mental health parity is needed to meet the needs of children, increase access, and improve the quality of care. Senate Bill 568 (SB 568) was an important bill that could help people with mental illnesses receive coverage for mental disorders through their private health insurance plan. The bill would have required a group health plan that provides coverage for mental disorders to ensure that the coverage was equal to the coverage of other medical and surgical conditions. Unfortunately, the bill never made it to a floor debate. Some of the language was attached to House Bill 1919 (HB 1919), a brain injury bill; however, the language was stripped out before it was sent to the Governor.

Advancements were made in mental health regarding the autism spectrum disorder. House Bill 1919 (HB 1919) mandates that insurance companies provide coverage to children, ages three through five, with autism spectrum disorder. Treatment must be prescribed by the child's primary care physician and must be provided by a healthcare practitioner who is licensed, certified, or registered by the appropriate state or federal agency, or who is certified as a provider under the TRICARE military health system. The list of services that are reimbursable includes applied behavior analysis. This is a victory for children with autism spectrum disorder and their families.

House Bill 2439 (HB 2439) works to expand the reach of local Mental Health Mental Retardation Authorities (MHMR) by delegating responsibility and authority of planning, coordination, resource development and oversight of MHMR services in a particular service area. Although this bill improves community based-services and accessibility of mental health care, it is limited in scope as it carries no fiscal appropriations.

Mental health was not a priority during the 80th Legislative Session. State and national studies have consistently demonstrated that untreated mental health issues, in both children and adults, have been linked with high emergency room utilization, incarceration, and increased risk for involvement in the child welfare system. In 2004, 44% of the children committed to TYC were diagnosed as needing or receiving mental health services. Children's mental health needs are

being left untreated, and will not spontaneously improve. Policy-makers and government officials must recognize the severity of this problem and how critical an issue it really is before they can begin to find solutions. Collaboration is needed among state and local governments, families, and mental health consumers to build an effective and accountable unified mental health services system that serves the needs of children and adolescents.

Information Sharing

Navigating the health and social services system can be strenuous: Texans seeking assistance frequently must provide the same personal information several times and juggle conflicting appointments scheduled by multiple agencies. Standardized data-sharing would alleviate frustration of both clients and agency employees in managing health and social services and would ultimately save tax payer money. The 80th Legislature passed House Bill 921 (HB 921) which helps break down the walls across state agencies that collect client data. This bill establishes a pilot program by Texas Health Care Policy Council in conjunction with Department Information Resources (DIR). The bill specifically provides for client confidentiality and prevents unauthorized release of information. The bill would end the problem of the “many clipboards” clients must fill out with the same information on different forms when seeking assistance. Electronic record sharing allows for an improved data-supported service model that utilizes barrier-free communication between the child, family, and providers to meet health and social service needs and achieve successful outcomes.

Human Trafficking

Human trafficking in Texas is a continuing and sobering problem that, despite law enforcement’s efforts to date, continues to worsen. The term “trafficking” is a bit of a misnomer. What is involved is not so much the smuggling of individuals, but forcing individuals to perform sexual or labor services for another by the use of fraud or coercion. In 2003, the State of Texas became the first state to pass anti-trafficking laws; however, there have been zero prosecutions in Texas jurisdictions.

Recently the 1-10 corridor between El Paso and Houston was identified as the main human trafficking route, and Houston is recognized as one of the main hubs and destinations for traffickers. Since the enactment of our state law, many barriers have been identified as obstacles to protect victims of human trafficking. CHILDREN AT RISK’s Public Policy and Law Center, along with the offices of Senator Leticia Van De Putte, Representative Senfronia Thompson, and Rescue and Restore, drafted bills that address necessary changes and courses of action concerning the fight against human trafficking. Other advocates combating the human trafficking problem include the Women of America, Catholic Charities, Daughters of Liberty, and the Immigration Law Clinic at the University of Houston. Due to heightened awareness, several pieces of legislation were introduced during the 80th Legislative Session and many gains were made, strengthening the Texas-Anti-Trafficking Act to address the on-going and significant human trafficking problem in the state.

Victims of human trafficking very rarely self-identify because of fear and lack of resources. Eighty percent of human trafficking victims work in locations where alcohol is served. With the

support of CHILDREN AT RISK, Rescue and Restore, and TABC, Senate Bill 1287 (SB 1287) was passed mandating that bars post a sign in both English and Spanish about forced labor and a toll-free referral number for victims of trafficking. The sign must be displayed in a clear and visible manner to the public and employees. Senate Bill 1288 (SB 1288) also requires a sign be posted with a toll-free referral number for victims in hotels or motels that are considered a common nuisance.

One of the main obstacles of verifying that human trafficking occurred is due to the limited definition of forced labor and the required element of transportation. House Bill 1121 (HB 1121) expanded the definition to include threatening bodily injury, restraining the person, and destroying or threatening to destroy the person's identification documents. This bill also enables judges to issue an official verification, or judicial finding, that a victim is truly a victim of trafficking, as defined by the federal law. With the passage of this law, more victims will be verified, obtain a T-VISA, and be eligible for services. The majority of human trafficking victims are women and children who are forced to perform sexual labor. House Bill 1751 (HB 1751) establishes an account to fund grants to support programs for sexual assault victims, human trafficking victims, and human trafficking investigations.

Lack of awareness limits the public and professionals from identifying human trafficking activities or possible victims since police officers most often are the ones that have first contact with human trafficking victims. The need for mandatory training of law enforcement regarding human trafficking is essential however, unsuccessful this Session. CHILDREN AT RISK along with partners will continue to raise the awareness of human trafficking in Texas and monitor the implementation of legislation passed this session.

Child Welfare

The Department of Family and Protective Services (DFPS) administers the state's child welfare program through the Child Protective Services (CPS) system. The department investigates allegations of child abuse and neglect and determines if any state intervention is necessary. CPS may offer services to stop or prevent abuse or neglect while the child stays in the home, or may remove the child for placement in foster care. CPS also places children in foster care into adoptive families and assists children in the transition from foster care into adulthood and emancipation. DFPS regulates all child-care facilities and child-placing agencies.

Abuse

The Legislature prioritized child welfare reform during the 80th Session. It is estimated that less than half of child abuse and neglect cases are reported.⁴ During the 79th Legislature, the passage of Senate Bill 6 (SB 6) was a comprehensive reform package that called for the privatization of the protective services system. The focus was on increasing the investigative capacity of CPS and decreasing the investigative caseloads. SB 6 required the outsourcing of substitute care and case management services to occur on a region-by-region basis with the first region privatized by December 31, 2007, and all regions outsourced by September 1, 2011. Case management, as defined by SB 6, includes a variety of services provided to children for whom the department has been appointed temporary or permanent managing conservator.

Many advocates and legislators were concerned with privatization and wanted to insure that the entities serving the state's most vulnerable children and adults were well equipped, experienced, and prepared for this new responsibility. As a result, the 80th Legislature passed Senate Bill 758 (SB 758), which revises the implementation of outsourcing and narrows the scope of privatization outlined in the 79th Legislature. With the passage of SB 758, the state limited the mandated contract of case management services to "at least 10-percent" of the cases in Texas no later than September 2008.

Additionally, SB 758 changes the regulation of child-care facilities and the movement of foster care homes among child-placing agencies. DFPS would ensure that the division regulating child-care service providers was independent from CPS. SB 758 also impacts child welfare in other significant ways, including by adding a relative of the child related by third degree kinship to the list of people able to file suit requesting managing conservatorship; providing funding for funeral and burial expenses for a child that dies in foster care; and creating a Safety Specialist position who is trained to review and evaluate intake reports.

Criminal Justice

House Bill 8 (HB 8), also known as Jessica's Law, would make defendants convicted of a second serious sexual offense against children eligible for the death penalty or life without parole, increases the penalties for certain sex crimes against young children, prohibits release from prison on parole or mandatory supervision for certain repeat sex offenders and others with child victims, extends the time frame in which criminal charges can be filed for certain sex offenses with child victims, and places certain requirements on the tracking of sex offenders under the state's civil commitment program.

House Bill 199 (HB 199) requires the Texas Department of Criminal Justice (TDCJ) to implement a residential infant care and parenting program for incarcerated mothers. During 2006, Texas incarcerated more than 12,000 women in prisons and state jail facilities. Nationally, there are estimated to be more than 80,000 mothers among the women in prison and jail. They have approximately 200,000 children aged under 18.⁵ The majority of incarcerated women have children and most of the inmate-mothers regain the responsibility for the care and support of their children upon their release from prison.

Juvenile Justice

The Texas Youth Commission (TYC) reform turned out to be one of the major successes for children during the 80th Legislative Session. This success was the direct result of the horrific sex abuse scandal which came to light through media scrutiny right after the start of the Session.

The omnibus reform bill Senate Bill 103 (SB 103) was signed into law by Governor Perry after intensive work by members of both the House and Senate. The final version of the bill came out of the conference committee's efforts to combine SB 103, originally sponsored by Sen. Juan Hinojosa, and House Bill 2807 (HB 2807), which was originally sponsored by Rep. Jerry Madden.

Of particular interest to CHILDREN AT RISK were the Independent Ombudsman provisions first introduced by Rep. Borris Miles in House Bill 3701 (HB 3701) and then rolled into HB 2807. Our staff worked closely with Rep. Miles' office, as well as other juvenile justice advocates, to draft these provisions. We advocated for these provisions through committee testimony, legislative visits, phone calls, and drafting committee substitute language and applicable bill analyses.

SB 103 includes the following provisions regarding the Office of Independent Ombudsman:

- The office is established as a separate agency, fully independent from TYC
- Appointment is by the governor for a two-year term (after initial appointment by TYC)
- Duties and powers of the ombudsman include review and investigation of complaints other than those alleging criminal behavior; inspection of facilities; recommendation of changes in procedure; and assessment of whether a child's rights have been violated
- Ombudsman can hire assistants
- Ombudsman will submit a report quarterly
- Ombudsman will be required to keep confidential
- Ombudsman must promote awareness of office
- Whistleblower protection is included
- Training requirements are included
- Ombudsman must have access to TYC, DPS, and local law enforcement records as well as to information of private entities regarding children in TYC custody.

Alternative Education Programs

Juvenile Justice Alternative Education Programs (JJAEPs) and Disciplinary Alternative Education Programs (DAEPs) were created in 1995 by separate statutes. These alternative education programs separate and discipline students who violate the student code of conduct. The ultimate goal of the programs, following the student's separation from the other students and completion of their disciplinary period is to bring students up to grade level and reintegrate them into regular instruction classrooms. Even so, many students placed in alternative education become frustrated and drop out of school or become involved in more serious misconduct or criminal activity. The Texas 80th Legislature began the work of reforming alternative education, but did not address the key problems of the school-to-prison pipeline.

Juvenile Justice Alternative Education Programs

JJAEPs currently operate seven hours per day for 180 days per year, and are administered jointly by school districts and juvenile probation boards. Placement of students in JJAEPs may be mandatory or discretionary by the school district, or can be a condition of probation imposed by a juvenile court. Academic progress is tracked yearly by TAKS, and students placed for longer than 90 days are administered entry and exit tests to track progress within the program. House Bill 425 (HB 425) requires the TEA commissioner to determine the length of instructional time (as opposed to operational time) each day, number of days in the school year, and the curriculum taught. It also mandates that TEA, TJPC, and TYC coordinate to ensure that youth in residential facilities have access to and continuance of education.

Disciplinary Alternative Education Programs

DAEPs are administered by school districts. Currently, only off-campus DAEP instructors must be certified. If a student is removed from a regular classroom for student code of conduct violations, the default placement is a DAEP. Academic progress is measured solely by TAKS, so students in DAEPs are only assessed year-to-year and against students at other schools. House Bill 426 (HB 426) mandates that all DAEP instructors, both in on-campus and off-campus facilities, be fully certified. The bill also requires a school day of seven hours, but does not set a minimum for actual instructional time. Many DAEPs offer as little as two hours of instructional time per day. HB 426 requires TEA to adopt minimum standards regarding DAEP students' health and safety; student/teacher ratios; reporting of abuse, neglect, or exploitation; transitioning students back to regular classrooms; and training for teachers in behavior management. However, the bill does not define "health and safety," and neither does the current education code. House Bill 2532 (HB 2532) requires entry and exit tests, similar to those administered in JJAEPs for students placed 90 days or longer, in order to track students' academic progress within the program.

House Bill 2532 (HB 2532) provides that if any student is required to register as a sex offender, the school district must remove that student from the regular classroom and place the student in an alternative education program. It also prohibits placement of a student with learning disabilities in an AEP without a review by the student's ARD committee. This second requirement is no change from current law, and does not adequately address the over-representation of special education populations in alternative education.

Several bills that failed to pass would have increased procedural safeguards for students placed in a DAEP or JJAEP. House Bill 790 (HB 790) sought to ensure the rights of the student and parent or guardian to a conference if the student receives an in-school suspension of more than three days or an out-of-school suspension of any length. House Bill 846 (HB 846) would have required school districts to notify parents by 5 pm on the first business day after removal if a child is placed in DAEP. And, House Bill 2835 (HB 2835) would have required consideration of additional factors in the student's conduct when the student is placed in a DAEP or JJAEP.

Environment

The Greater Houston area leads the nation in severe air pollution problems. Pollution increases health problems for children, as it has been linked to an increase in allergies, chronic asthma, and cancer. Airborne toxins that include dust, carbon monoxide, and radioactive elements pollute the air we breathe, the water we drink, and the food that we eat. In 2004, there were 45 days that Houston's air quality was designated unhealthy or very unhealthy by the EPA's Air Quality Index.

Environmental Finance

CHILDREN AT RISK worked closely with other advocacy organizations to improve environmental standards for Houston's children. While air pollution in general impacts the health and welfare of Houston's population, children who ride school buses are at even higher risk of the negative effects of air pollution. Diesel pollution levels can be five times higher inside school buses than outside air levels.⁶The 79th Legislature established the Texas Clean School Bus

Program to address this problem. In partnership with Environmental Defense, CHILDREN AT RISK urged legislators to allot funding to the program and achieved success in gaining substantial funding. Rider 28 for the Texas Commission on Environmental Quality's (TCEQ) allots \$3,750,000 during each fiscal year over the biennium to implement the Clean School Bus Initiative. The funding will allow the installation of "cleaner" closed crankcase filter systems on about 60% of eligible buses.⁷

Failed Legislative Measures

Significant environmental legislation impacting Texas' children did not pass during the 80th Legislature. House Bill 3457 (HB 3457) reduced diesel exhaust at public schools and school events. In many instances school buses idle outside schools or at a school event for lengthy periods of time. Children and bus drivers are often exposed to health risks when the tailpipe exhaust generated by diesel engines accumulates on and around the bus. School bus idling increases costs due to money spent on fuel. Additionally, breathing air and particles can be dangerous, even over a short time, because these particles are so miniscule they can enter the circulatory system and damage blood vessels. Generally, the average school bus burns approximately one-half gallon of diesel fuel for each hour it idles. The less school buses idle, the more money school districts can save. Governor Perry vetoed HB 3457 citing that local jurisdictions rather than state policymakers should regulate and enforce school bus idling policies.

The Legislature's failure to advance air quality measures is problematic due to the high number of mercury emissions, ozone pollution levels, and poor water quality. Proposed legislation included the establishment of a public air pollutant watch list, reduction of greenhouse house gas emissions, and a temporary moratorium on coal-fired plants.

The Legislature failed to advance several measures that restricted TCEQ's ability to accept or issue permits for new or modified electric generating facilities (EGFs) using technology currently allowed. Texas has the highest mercury emissions in the country, largely from coal-fired power plants, the nation's most dangerous polluters. 1.5 million Texas children live within 30 miles of a coal-fired power plant. Senate Bill 860 (SB 860) would have placed a two-year moratorium on authorizations for new or modified coal-fired EGFs. This bill would have adopted an integrated energy plan for Texas that would have provided for electricity generation needs, protect the health and safety of the residents, and protect the products produced in this state.

Senate Bill 1294 (SB 1294) would have required TCEQ to establish and maintain a publicly available air pollutant watch list. The measure also would have required TCEQ to hold annual public meetings in each area on the watch list to order to inform residents of their pollution levels. According to the federal Environmental Protection Agency (EPA), the average adult breathes over 3,000 gallons of air daily. Children breathe in even more air than adult per pound of body weight because of the rate at which they breathe. Consequently, children are more susceptible to illness and ailments from air pollution. Additionally, the effects of air pollution are greater for children with respiratory complications.

Final Analysis

The 80th Legislative Session resulted in mixed outcomes for policy changes that impact the state's most vulnerable children. The 80th Legislative Session did result in gains for children. Despite these gains, children are not yet an overall public policy priority in Texas.

As the state experienced in previous periods, when budget shortfalls are possible, health and human service programs continue to be most likely to be eliminated or reduced. As a result, services impacting the state's children continue to be at risk. Maintaining and improving a system that is safe and healthy for children should be a priority for a state that continues to rank among the lowest in the nation for the most basic needs, health, and safety indicators.

The research conducted by CHILDREN AT RISK reveals that the quality of life for Houston's children continues to decline and children continue to be at risk for poor outcomes. Legislators can improve the quality of life for our children by implementing responsible policy decisions that will result in positive outcomes including improved access to healthcare and equitable education.

CHILDREN AT RISK applauds the work of advocates and policy makers working hard to improve the quality of life for children. We will work throughout the interim to insure that children are a policy priority for Texas through continued collaboration and public education.

¹ Jay P. Greene and Marcus A. Winters, "Leaving Boys Behind: Public High School Graduation Rates", *Civic Report*, No. 48 (2006) http://www.manhattan-institute.org/html/cr_48.htm, (accessed January 3, 2007).

² *Texas' Dropout Crisis*. Children at Risk, January 2007.

³ Center for Public Policy Priorities, May 2007

⁴ *Growing Up In Houston: Assessing the Quality of Life of Our Children 2006-2008*

⁵ D Johnston, "Effects of Parental Incarceration," in K Gabel and D Johnston eds, *Children of Incarcerated Parents*, Lexington Books, New York, 1995.

⁶ Santos, Betin, "Email: Cleaner School Buses for Kids!" Environmental Defense (June 1, 2007)

⁷ Ibid.