

# children **atRisk**

**84th TEXAS LEGISLATURE**

**REPORT ON LEGISLATION IMPACTING CHILDREN**

**July 2015**

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# Executive Summary

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The 84th Texas Legislature began on January 13, 2015 with 30 freshman lawmakers. The Regular Session ended June 1 for a total of 140 days in session. Governor Abbott signed a budget of \$209.4 billion for the 2016-2017 biennium, a 3.6% increase from the 2014-2015 biennial level. This session was characterized by substantive conversations on a variety of topics important to Texas citizens including transportation, public and higher education, health and human services, immigration, border security and energy. It was marked by a significant increase in filed bills compared to the previous year with a 6% increase for House and 8% increase for Senate bills, respectively. Conversely, this legislative session also saw a 12% increase in House bills passed and a 29% decrease in passed Senate bills compared to the previous legislative year.

CHILDREN AT RISK tracked hundreds of bills over the course of this session, and testified 55 times before legislative committees. Ten of CHILDREN AT RISK's priority bills passed. This progress gives Texas children a voice for issues affecting their futures. The following is a brief summary of this session's successes and shortcomings for Texas children, further detailed in this report.

## Education

This session saw important strides in several aspects of public education. CHILDREN AT RISK focused specifically on early childhood education, supporting funding to improve the quality of public Pre-K. Other bills passed focused on accountability programs, teacher training, and graduation rates. Schools are also given greater flexibility in curriculum and structuring the school year.

## Health

Health encompasses areas of nutrition, prevention and treatment of illnesses, healthcare, and mental health. School employees must undergo training to better understand mental health, and

schools must provide information on resources available to students. Access to healthcare was improved by allowing physicians to communicate and prescribe treatments remotely with the help of parents and school nurses. Unfortunately, a measure to increase information for parents about rates of exemption from public school immunizations did not pass. Another missed opportunity was a bill to extend Medicaid coverage for new mothers with a focus on treating postpartum depression.

## **Parenting and Families**

Family services often include parenting classes to improve the wellbeing of children and families. Key bills and funding were passed to strengthen parent and family support. One important bill this session requires that the majority of public funding goes to evidence-based parenting programs. This ensures that the most vulnerable children will have better outcomes if their parents or guardians are receiving education that has been shown to improve family wellbeing. Funding was also secured for several key programs such as the Texas Home Visiting Program and Healthy Outcomes through Prevention and Early Support Project.

## **Child Welfare**

Bills this session addressed the foster care system to improve the wellbeing of children in state care. Laws passed provide better structure for education, mental health, placement, and reporting mistreatment of children in foster care. The legislature recognized kinship care as an important aspect of the foster care system, and calls for research and recommendations for the future. Other bills passed will provide better prevention and treatment of child abuse or neglect, through parental requirements and state transparency.

## **Juvenile Justice**

One of the main goals of juvenile justice is to prevent children from becoming “career criminals,” constantly in and out of jail. To that end, lawmakers have recently focused on

rehabilitative and diversion programs to keep children away from the criminal justice system when possible. This session passed bills to increase eligibility for alternative punishment and educational programs. Additionally, school infractions such as truancy will be handled within the school system rather than the criminal system. Several steps were taken to ensure confidentiality of minors, particularly sealing and expunging juvenile records so these incidents do not follow an otherwise law-abiding adult through life.

## **Human Trafficking**

Texas is an enormous hub for trafficking in the United States, second only to California. Because of this tragic reality, Texas must continue to be a leader in the fight against trafficking. The crime of human trafficking does not in fact require migration or movement of victims. An individual forced or coerced into prostitution is a victim of sex trafficking. Prostitution laws and policies can help prevent and respond to trafficking problems. A key bill passed will clarify buyers and sellers of commercial sex within the criminal code. Laws passed this session will also allow for easier prosecution of those who purchase sex from children, provide better resources for child victims, and extend the *Texas Human Trafficking Prevention Task Force* for another two years with a new focus on demand.

## Highlights from the 84<sup>th</sup> Legislative Session:

- **HB 4 (Huberty et al/Campbell)** - Creates a grant program (\$130 million) to implement high quality standards for pre-kindergarten education as well as increases transparency and data collection.
- **SB 925 (Kolkhorst/Aycock)** and **SB 972 (Kolkhorst/Deshotel)** -Establishes “Reading-to-Learn” and “Teacher Literacy Achievement” academies for teachers.
- **HB 2398 (White, James/Whitmire)** - Changes the court process and responses for truancy cases. Ends the practice of sending students who skip school to the adult court system.
- **HB 839 (Naishtat/Rodriguez)** - Suspends a child's eligibility for CHIP or Medicaid coverage during the period the child is placed in a juvenile facility and to reinstates the child's eligibility after the child's release from the facility.
- **HB 2079 (Thompson, Senfronia/Huffman)** - Designates May as Postpartum Depression Awareness Month.
- **SB 830 (Kolkhorst/Dutton)** - Requires the executive commissioner of the Health and Human Services Commission (HHSC) to appoint an ombudsman for children and youth in foster care.
- **HB 2630 (Thompson, Senfronia/Uresti)** - Allocates 75% of the state’s parent education funds to evidence-based programs and 25% to promising practices.
- **HB 263(Miles/Huffman)** -Makes it easier and expedites the process to seal juveniles’ records.
- **HB 10 (Thompson, Senfronia/Huffman)** -Large omnibus bill that improves the identification and reporting of human trafficking, bolsters prosecution of this offense, and creates a Child Sex Trafficking Prevention Unit in the Governor’s Criminal Justice Division to address sex trafficking of children
- **HB 2511 (Thompson, Senfronia/Huffman)** - Creates the Human Trafficking Business Partnership program in the Secretary of State Office to promote voluntary efforts to combat human trafficking among the business community.

# Education

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Ensuring that our students receive a quality education is crucial to giving children the tools that will propel them towards a successful future. Major education bills this legislative session dealt with issues such as early childhood education, improving teacher quality, school choice, curriculum, and integrating public school accountability measures and early childhood education initiatives. Important advances were made in providing quality prekindergarten programs.

## *Early Childhood Education*

Early education provides students a foundation for their academic careers. **HB 4 (Huberty et al)**, a priority education bill for CHILDREN AT RISK, was passed with bipartisan support in an effort to provide eligible students access to quality public prekindergarten. A \$130 million grant program will be allocated over two years for school districts that want to improve quality standards in curriculum, teacher development and training, data collection, accountability, and family engagement. Lawmakers passed this bill with the premise of improving how existing prekindergarten programs are working, rather than extending half day programs to full day.

Similarly, **HB 731 (Lucio III/ Lucio)** established a pilot program that will provide public prekindergarten to low income students that currently do not qualify for the program. The intent of this legislation is to invest more in early education in certain districts with early high school graduation programs. This program will evaluate the benefits of providing additional funding at the prekindergarten level for low income students, specifically in school districts located in a county that borders the United Mexican States and the Gulf of Mexico. The funding is based on a formula that takes into account the number of low income prekindergarten students as well as the number of students who graduated early as a result of participation in an early high school graduation program operated by the district.

## *Performance and Accountability*

Reforming public school accountability continues to be a hot-button issue. This session was marked with bills intended to change how Texas rates public schools, replacing the current “Met Standard/Needs Improvement” measures with five weighted domains on an A-F grading system. **HB 2804 (Aycock & Meyer/Taylor)** establishes a new accountability system that will make school performance much easier to understand, and will assist parents in becoming involved in their student’s education by providing them clear information regarding school effectiveness. This bill also creates the Texas Commission on Next Generation Assessments and Accountability, which is charged with making recommendations for new systems of student assessment and school accountability.

Additional changes to school rankings and accountability were made through **HB 1842 (Aycock et al./Taylor)** which imposes interventions and sanctions for schools with at least two consecutive years of “improvement required” accountability ratings, including a board of managers, closure, or alternative management. It also allows traditionally higher performing schools to be designated as “Districts of Innovation” and provides autonomy to those schools to regulate their own education systems through “innovation zones”. These schools will be exempt from the typical state or district compliance-driven requirements, which were only previously afforded to charter schools.

## *Teacher Training and Development*

A significant win for teacher training is **SB 972 (Kolkhorst/Deshotel)** which requires the commissioner of education to develop and make available Reading-to-Learn Academies for teachers who provide reading comprehension instruction to students at the 4<sup>th</sup> and 5<sup>th</sup> grade levels, and **SB 925 (Kolkhorst/Aycock)** which creates Literacy Achievement Academies to train K-3<sup>rd</sup> teachers. The “Reading-to-Learn Academy” or “Reading Academies” will serve as professional development for guiding teachers on effective instructional practices that promote student development of reading comprehension, inferential and critical thinking, training in the

use of empirically validated instructional methods for struggling readers, and material on writing instruction. The commissioner will determine selection criteria for who may attend the Reading-to-Learn Academy and make provisions for appropriated funds.

It is important that individuals working with children have information on strategies and resources for helping youth who may be experiencing a crisis or mental health issues. Without training, school employees may not be able to recognize the signs of self-harm or even suicide, which is the third leading cause of death among teens in America. **SB 133 (Schwertner/Coleman)** expands the availability of free mental health first aid, an evidence-based training program, beyond teachers to include counselors, nurses, aides, bus drivers, principals, and school resource officers.

## *Curriculum*

As a result of recent education reform, changes to high school graduation requirements and curriculum have given students greater flexibility in their coursework, allowing them to tailor their courses to reflect their future goals for college success and career preparation. **HB 505 (Rodriguez, Eddie et al./Estes)** amends the current law by prohibiting limitations on the number of dual credit courses or hours in which a public high school student may enroll. **HB 1613 (Gullien/Perry)**, amends current law regarding the use of certain assessment tools the Texas Higher Education Coordinating Board designates to determine college readiness of high school students. The bill eliminates the requirement of the state-administered end-of-course tests for college preparatory mathematics or English language arts courses if the student receives a passing score on the Texas Success Initiative (TSI) test for the applicable subject. This bill eliminates duplicative testing for high school students and thereby promotes greater access to college courses. **HB 1431 (King, Susan/Lucio)** relates to the development of a career-oriented foreign language program that public schools may offer. The law directs the Texas Education Agency to develop advanced courses which will help students be more functionally bilingual in their chosen field of work, making them competitive in a global economy.

With the steady increase of college tuition across the country **HB 3987 (Farney/Garcia)** allows public schools to establish a school-based savings program that provides students with personal financial literacy instruction to enhance their understanding of finances and saving for higher education. Lawmakers also approved **HB 18 (Aycock/Perry)**, which creates counseling academies at the Center for Teaching and Learning at the University of Texas at Austin to help high school advisors and counselors guide students on higher education and career opportunities, as well as the various pathways to a high school diploma. It also requires school districts to provide information to middle school students on graduation plans and requirements and potential career choices.

**HB 440 (Gonzales, Larry/Watson)** ensures that the state physical education curriculum accommodates students with mental disabilities by requiring the State Board of Education to guarantee that the curriculum meets the needs of students of all physical ability levels, including those with mental disabilities. The bill closes a potential loophole in the Education Code that could have been construed so as to not include students with mental disabilities. All Texas children deserve equal access to participating in physical education, and this bill advances that right for mentally disabled children.

### ***Academic Disciplinary Policies***

Changes in school policies have been adopted to address the holistic needs of the child, and provide support for teachers and administrators. **SB 107 (Whitmire/ Thompson, Senfronia)** relates to the designation of “campus behavior coordinators” to serve at public school campuses, where their primary responsibility is to maintain student discipline. It makes determinations of when a student shall be expelled from school and the necessary procedures school districts must engage in prior to suspension, expulsion, removal to a disciplinary alternative education program, or placement in a juvenile justice alternative education program. This bill helps reduce the use of “zero tolerance policies” by establishing a more flexible sanctioning system.

## *Expanded Learning Opportunities*

**HB 2610 (King, Ken/Taylor)** established standards on the minimum amount of instruction time schools are required to provide. Specifically, this bill requires school districts to provide at least 75,600 minutes of instruction, per school year, 420 minutes daily, including recess and intermissions. This bill also allows flexibility regarding the number of days a student must attend school. For example, school districts may choose to have longer days and require students to attend fewer days. Additionally, the TEA Commissioner may approve the instruction of students for fewer than the number of minutes required if disaster, flood, extreme weather conditions, or another calamity causing the closing of schools. This bill also prohibits districts from scheduling the last day of school prior to May 15th. While this bill allows for some local flexibility, it did not pave a clear path for schools to provide additional instructional time.

Over one million Texas students spend an average of 7 hours per week unsupervised outside of school. These hours could be spent participating in activities that promote engaged learning, safe communities, and a strong workforce. **SB 296 (Taylor, Van)** and **HB 1067 (Koop)**, both of which failed to pass, would have allowed schools to start school earlier than the 4<sup>th</sup> Monday in August. This kind of local flexibility would have provided more opportunities to meet the unique needs of school districts and provide more quality time on task through a longer school year.

## *Graduation Rates*

To meet the needs of today's economy changes, the demand for high school graduates equipped with the necessary critical thinking, technological and vocational skills have increased. For the last three consecutive years, federal statistics have shown an overall increase in graduation rates. Since 2010, states, schools and districts have been utilizing a new, common metric to promote accountability and consistency to assist in reducing the dropout rates and increasing the graduation rates nationwide. According to the U.S. Department of Education's National Center for Education Statistics, the nation's high school graduation rate hit 81% in 2012-13, the highest level since states adopted a new uniform way of calculating graduation rates. In 2013, Texas

boasted an 88% graduation rate, however, 19% of Texas students that entered high school in 2010 failed to graduate in four years.

**SB 149 (Seliger/Huberty)** provides alternative methods for satisfying certain public high school graduation requirements, including the use of individual graduation committees. It makes provisions for students in 11<sup>th</sup> and 12<sup>th</sup> grades who have failed to successfully complete the end-of-course assessment instrument performance requirements for no more than two courses. Under such circumstances, school districts are to establish an individual graduation committee (including the student, student's parents or guardian, principal, lead teacher, and the end-of-course assessment instruments) to determine whether the student may qualify for graduation.

### *Campus Safety*

Since 1995, Texans have permitted license holders to carry holstered concealed handguns. Despite several heated debates, the 84<sup>th</sup> Texas Legislature passed **SB 11 (Birdwell/Fletcher)** which allows license holders to carry a concealed handgun on university campuses. This bill also restricts institutions of higher education from prohibiting license holders from carrying handguns on the campus institution, but grants university presidents the ability to establish necessary rules, regulations and provisions regarding the safety of the campus. Implementation of the legislation on community college campuses will be delayed.

# Health

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## *Access to Care*

Individuals under the age of 19 who are eligible for Medicaid and CHIP may have their benefits terminated when they are committed to a juvenile justice facility in Texas. This can cause a gap in coverage and the inability to access mental health care when these individuals are released.

**HB 839 (Naishtat/Rodriguez)** automatically suspends and reinstates Medicaid or CHIP benefits to children in juvenile facilities within 48 hours of release. This bill will assist in avoiding a gap in coverage after their release from the facility.

Recent advancements in telecommunications and video interfacing allow doctors and patients to communicate remotely without compromising accurate diagnosis, quality doctor-to-patient discussion, or monitoring of complex medical conditions. This type of communication saves time and money and improves health care access. School-based telemedicine, which utilizes technology to connect children, pediatricians, school nurses, and parents, allows a physician and school nurse to promptly diagnose children and ensure they receive appropriate follow-up treatment without requiring a parent to miss work. This saves taxpayer money because of the reduced costs of emergency room visits and the improved health outcomes for children. **HB 1878 (Laubenberg/Taylor, Van)** allows Medicaid reimbursement to a physician for telemedicine medical services for a child who receives the service in a primary or secondary school-based setting. A parent or legal guardian must give consent before the service is provided.

## *Immunization*

Vaccinations are utilized for protecting children from various illnesses, especially preventable diseases. While some preventable diseases have become rare due to vaccination, we have cases and outbreaks still occurring in the United States. In 2014, there were 593 cases of measles in the United States with 10 of those cases being reported in Texas.

Currently, the parent, managing conservator, or guardian of a child can consent to have a child's immunization records placed into the state's immunization registry. When the child turns 18, consent must be given again if the person wishes for his or her immunization records to continue to be maintained in the registry, otherwise they are removed. Immunization records are frequently needed after the age of 18 for college admissions, travel, health plans, and other reasons. **HB 2171 (Sheffield et al./ Zaffirini)** allows the information on immunization registry to be maintained with the consent of an individual until the age of 26 rather than 18.

A missed opportunity in the immunization arena was **HB 2474 (Sheffield et al.)**. There has been a rise of immunization exemptions based on conscience over the past several years; however, there is a lack of transparent data on vaccine exemptions in Texas. HB 2474 would have improved the collection and dissemination of immunization exemption information on a local level in order to improve community awareness, help parents make informed decisions, identify pockets of need, and increase coverage in high-risk areas. Specifically, the legislation would have included de-identified immunization information in annual reports by school districts to the Department of State Health Services (DSHS). Districts would include immunization information for the district as a whole as well for each campus. The bill would have required DSHS to make the reports available online and would have also required districts and campuses to provide information in the reports to parents and guardians upon request. HB 2474 passed in the House but died in committee in the Senate.

### ***Postpartum Depression***

Postpartum Depression (PPD) is a serious mental health issue that arises from a combination of hormonal changes, psychological strain, and fatigue following childbirth. It is reported that between 10 to 25 percent of mothers will suffer from postpartum depression. PPD can be potentially life-threatening, but with proper screening and recognition, it is can be treated.

Awareness of symptoms and treatments is a major factor in aiding mothers who may suffer from postpartum depression. **HB 2079 (Thompson, Senfronia/Huffman)** designates the month of

May as Postpartum Depression Awareness Month. By establishing an awareness month, people will be encouraged to identify signs, symptoms, and treatment options for postpartum depression. Under the bill, state health and human services agencies will identify and update the list of recommended materials for perinatal mental health available through the Texas Department of State Health Services and the Health and Human Services Commission and circulate postpartum depression resources on state and local agency websites..

**SB 1698 (Huffman)** and **HB 3115 (Coleman & Zerwas)** did not pass, but both of these bills highlight an important gap in services when it comes to PPD. These bills would have required Medicaid and CHIP Perinatal program to provide 12-months of coverage after a woman gives birth for screening and treatment of postpartum depression. The current 60 day coverage period often does not provide enough time for proper screening and treatment.

### ***Mental Health Resources at Schools***

College students who experience difficulty accessing mental health resources may face significant challenges in succeeding with their education and may even engage in unsafe activities as a result of their mental illness. **HB 197 (Price et al./Nelson)** seeks to improve access to mental health services. The bill requires a public institution of higher education to create a web page on their website that will be dedicated solely to providing information regarding mental health resources, including the address of the nearest mental health authority.

In addition to training educators, it is also important that students are informed about mental health. **SB 518 (Uresti)** did not pass, but this bill would have tasked local school health advisory councils with reviewing and adopting health education curricula for accuracy and content related to mental health. Specifically, they would have considered inclusion of signs and symptoms, mental health stigmas, substance abuse, and stress management. The council would have then made recommendations to the school district to improve understanding of mental health issues.

## *Healthy Food Access*

Community gardens are being created all over America. While these gardens are known for increasing community stewardship and culture among neighbors, they also provide healthy food access for families in underserved neighborhoods who do not have the land and resources to create their own gardens. Many have been receptive to groups setting up community gardens on their property; however, they sometimes withdraw their support because of the potential for lawsuits arising from community gardening activities. **HB 262 (Miles et al./Creighton)** encourages owners of land to share their property for community gardens by reducing their liability when they allow others to enter their land for the purpose of community gardening.

Nearly 4 million Texans live in food deserts, defined by the United States Department of Agriculture as a location more than a mile from a grocery store or supermarket in urban areas and more than 10 miles in rural areas. Fifty percent of census tracts in Texas are marked by low access to healthy food. In fact, Texas has the largest “grocery gap” of any state. On the national level, there is one supermarket for every 8,620 people; in Texas, each supermarket serves 11,000 people. Many communities lacking healthy food options are in low income areas, and residents lack reliable transportation to travel to obtain fresh healthy foods. **HB 1485 (Rodriguez, Eddie et al.)** did not pass, but it would have established a grocery access investment fund program. The department, in cooperation with public and private sector partners, would have established the Texas grocery access investment fund program to provide financing to construct, rehabilitate, or expand grocery stores in underserved low income areas in the state.

Before-school and after-school programs play an important role in promoting healthy eating and physical activity. **HB 1172 (Alvarado)** did not pass, but this bill would have created a recognition program for before-school and after-school programs that are doing a good job in fulfilling that role. Upon meeting certain requirements, a program would receive a certificate and also be published online as a recognized healthy eating and active living program.

## *Supplemental Nutrition Assistance Program*

The Supplemental Nutrition Assistance Program (SNAP), often referred to as food stamps, is designed to reduce the impact of hunger on many low income individuals and families. SNAP can help families stretch their dollar, help individuals get back on their feet, and provide support for the elderly and disabled. In Texas, nearly 70% of individuals receiving SNAP benefits are children or adults living with children. Unfortunately, some Texans find themselves ineligible for SNAP because of a state law that places a lifetime ban on SNAP benefits for persons convicted of a felony drug charge. For many individuals that fall into this category, this conviction happened when they were a teenager, yet because of one mistake, they cannot qualify for benefits to help keep food on the table for their family. Each state has the ability to remove or modify this lifetime ban, and forty-one states have done so. HB 1267 (Thompson, Senfronia & Naishtat) modified the life-time ban for convicted felons to receive SNAP benefits. While it did not pass as HB 1267, the language was added as an amendment to an omnibus bill, **SB 200 (Nelson et al./Price et al.)** which did pass and was signed by the governor. Under the new law, the SNAP lifetime ban has been lifted for those who have a felony drug conviction, but if a person violates the terms of their parole or community supervision, a two year ban from SNAP, beginning on the violation date, will be applied. In addition, if a person with a felony drug conviction is found guilty of a subsequent felony of any type, the person will no longer be eligible to receive SNAP benefits.

# Child Welfare

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## *DFPS Sunset Review*

During the interim, the Texas Sunset Advisory Commission completed an assessment of the Texas Department of Family and Protective Services. **SB 206 (Schwertner et al./ Burkett)** integrates the Commission's recommendations for the department, including reducing paperwork and administrative requirements to allow caseworkers more time to spend with children and families in need; giving workers more flexibility; and decreasing the number of reports and notification requirements throughout cases. SB 206 adjusts policies to better provide for the safety and wellbeing of children in department care. Of particular note, a child placed in foster care may continue to attend his or her public school, even if the placement is outside the school's attendance area. Under the Commission's recommendations, DFPS will continue operations until 2027, at which point it will again be subject to the Sunset Review process.

## *Abuse & Neglect*

The Child Safety Check Alert List (CSCAL) is a protocol used by the Department of Family & Protective Services (DFPS) for children who are "unlocatable" and at risk of harm if they are not found. These are children whose families are receiving department services or are under investigation for abuse or neglect. **HB 2053 (Farney et al./ Schwertner)** amends current law to strengthen the effectiveness of the CSCAL protocol by requiring training for all law enforcement officers, streamlining the process for DFPS employees to initiate the protocol, and mandating an annual progress report to be jointly submitted by DFPS and the Texas Department of Public Safety. This report will include the number of law enforcement officers that were trained on the CSCAL protocol and the number of children that were placed on the list and subsequently found.

Currently, when a child is killed as a result of abuse or neglect, DFPS must release certain non-identifying information according to state and federal laws; however, there has been concern that

not enough information and cases have been reported. **SB 949 (Uresti/Naishtat)** extends the information collected by requiring DFPS to release as much information as the federal Child Abuse Prevention and Treatment Act (CAPTA) statute allows. The additional disclosure includes whether a family was offered services by Child Protective Services (CPS), whether they accepted or took advantage of those services, and if any criminal investigations resulted from the child fatality.

A parent is required by law to notify a child's other parent when a spouse or live-in partner is a registered sex offender or is charged with a sexual offense. **SB 818 (Rodriguez/Thompson)** extends this protection to require a parent to notify the child's other parent if the spouse or live-in partner is the subject of a final protective order. These requirements provide parents the opportunity to ensure appropriate safeguards for their children in what may be high-risk situations.

### ***Foster Care***

In 2014, the Texas foster care system was responsible for 30,406 children under the age of 18. Twenty-five percent of children in the Texas foster care system are in "kinship care," meaning they are placed with relatives (usually grandparents) whom the state has designated as approved caregivers. These arrangements give a child more stability and greatly increase the likelihood of reuniting a child with his or her natural parents. **HB 2655 (Frank & Guillen/Estes)** requires DFPS to study the effectiveness of kinship care and make recommendations for improvements, including more effective distribution of resources. This information will help the department achieve efficient and safe placements for foster children in the future.

Unfortunately, reports of abuse or neglect in state care often surface after a child has left or aged out of the foster care system. A child may withhold a report of abuse out of fear of retaliation, a belief that nothing will be done, or mistrust of the department staff that placed the child with the abuser. **SB 830 (Kolkhorst/Dutton)** creates an ombudsman position within the Health & Human Services Commission, who will work with the DFPS as a neutral party and will be

responsible for investigating reports of abuse and neglect within the child welfare system. This ombudsman will design and implement a system to receive and respond to complaints from children in state care while maintaining confidentiality. The Ombudsperson will collaborate with DFPS to promote awareness of this service among youth in the foster care system.

Communication between schools and the foster care system is essential for our most vulnerable children to obtain academic achievement. **HB 1804 (Naishtat/West)** makes it clear that each school campus is responsible for reaching out to a foster child's decision-maker and case worker regarding events that may significantly impact the child's education. This clarification ensures guardians and foster parents will be included in decisions affecting the child's education.

Children in foster care face significant social, mental and emotional health hurdles that must be addressed. In effort to meet the needs of children in foster care, TEA has a position dedicated to working with school districts regarding the needs of foster youth and school districts are required to designate a foster care liaison. These positions have helped foster youth achieve success in K-12 education. **HB 3748 (Farney/West)** defines the Texas Education Agency (TEA) position in statute and creates a similar position at the Texas Higher Education Coordinating Board (THECB). Additionally, HB 3748 replicates the liaison model by requiring each institution of higher education to designate an employee to act as a liaison for students who are former foster youth, so that they may better address challenges in higher education that are unique to their situation.

This session, the legislature ensured that children who enter the conservatorship of the DFPS receive a comprehensive screening for trauma. **SB 125 (West/Naishtat)** amends the Family Code to require a child to receive a developmentally appropriate comprehensive assessment not later than the 45th day after the date the child enters the conservatorship of DFPS. The assessment must include a screening for trauma and interviews with individuals who have knowledge of the child's needs. This bill will provide a necessary layer of screening that was previously absent in order to ensure thousands of Texas children receive appropriate treatment and placement within the foster care system.

Recognizing the importance of sibling relationships, the legislature also passed **HB 1781 (Bonnen et al./Taylor)** which amends the Family Code to authorize the sibling of a child to file a suit requesting access to a sibling who has been separated as a result of an action by DFPS. The bill also requires a court to expedite such a suit. This bill ensures children adopted out of the foster care system can enjoy visitation with their biological siblings

### ***Parent Education***

Parents are the greatest influence on a child's life, and healthy parent-child relationships are fundamental to children's brain development and their physical, emotional, social, behavioral, and intellectual capabilities. Research has demonstrated that parent education has a positive impact on families, including lowering rates of behavioral disorders in children, parental stress and anxiety, and child maltreatment.

Many parenting classes in the state of Texas are evidence-based and have not been shown to improve parenting skills, decrease rates of social, emotional, and behavioral problems in children, or lower rates of child maltreatment. Publically funded programs that are not evidence-based divert resources from programs that have been proven to work. **HB 2630 (Thompson, Senfronia/Uresti)** prioritizes evidence-based parent education by requiring that 75% of the state's parent education funds go to evidence-based programs and 25% to promising practices. It also requires that CPS and court-mandated parenting classes be evidence-based or a promising practice when available.

The 84<sup>th</sup> Texas Legislature also increased the state's investment in evidence-based programs for home visiting programs. Programs such as the Texas Home Visiting Program and the Nurse-Family Partnership Program received additional funding and are vital to at-risk children and families.

A statewide taskforce on parenting is needed to assess of the effectiveness and accessibility of current parent education programs across the state of Texas, in order to identify gaps in services

and increase the number of parents accessing the programs. **HB 2550 (Thompson, Senfronia)** did not pass, however it would have established a statewide taskforce on parenting that would be required to assess the parenting landscape in Texas and develop a comprehensive best practices guideline for parent education.

### ***Homelessness***

More than 3.5 million people experience homelessness each year in the United States, and 25% of the homeless population is children under the age of 18 years old. Homelessness impacts students greatly, and is often coupled with food insecurity, lower educational achievement and higher poverty rates. As this population grows, students and families alike often find it difficult to access resources. In response to those needs, **HB 1559 (Parker & Minjarez/Taylor, Larry)** requires public schools to create website information concerning local programs and services available to assist homeless students. Schools will determine the information that is posted on a school's website, but the information is required to be compiled in a format that is easily understandable by students and parents, as appropriate based on the grade levels the school offers.

In a preliminary step to address youth homelessness in Texas, the legislature passed **HB 679 (Turner, Sylvester et al./Zaffirini)**, which amends the Government Code to require the Texas Department of Housing and Community Affairs (TDHCA) to conduct a study on homeless youth. The study will include data on the number of homeless youths in Texas, an examination of the needs of homeless youths, the degree to which current programs meet those needs, identification of available sources of funding to provide services to homeless youths and a plan establishing steps and a timeline to reduce youth homelessness in Texas. TDHCA must submit a report from this study with recommendations for changes in the law not later than December 1, 2016.

# Juvenile Justice

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## *Records and Confidentiality*

Juvenile records merit special confidentiality protections in order to allow individuals to pursue lives as law-abiding adults without the haunting of their juvenile history. The availability of certain records often interferes with an individual's success in securing housing, education, or employment in adulthood. This session, the legislature continued to recognize the great value in helping Texans put their pasts behind them as they pursue meaningful contributions to society.

The legislature eliminated an unnecessary step to ensure certain juvenile records are sealed by placing the responsibility in the hands of the court, as opposed to the juveniles. **HB 263 (Miles & Guillen/Huffman)** streamlines a previously little-known provision that gave juveniles the option to seal their records through the juvenile court if the conduct was not a "crime of moral turpitude," and at least two years have passed since the case ended. HB 263 eliminates the application process and requires the court to seal the records if these requirements are met, allowing more juveniles to benefit from the existing law.

While Texas has allowed fingerprinting of juveniles since 1995, the Juvenile Justice Information System was previously authorized to release this information to certain public agencies regardless of the outcome of the juvenile's case. **SB 409 (Rodriguez/White, James)** incorporates the changes advised by the Texas Fingerprinting Advisory Committee, which was created by the 83rd Legislature in 2013, and ensures that juvenile fingerprint information may now be released only to the Texas Juvenile Justice Department, the Department of Family and Protective Services, and criminal justice agencies. Fingerprint information related to dropped charges, false charges, or deferred adjudication may not be released.

## *Misdemeanors by Children*

The legislature this session tackled the important step of promoting proper school attendance by transferring the law against truancy from the criminal code to the education code. This change will allow educators to exert more control over the disciplinary process, and it will prevent students from carrying the harsh language of a criminal misdemeanor on their record. While maintaining proper school attendance is still required of juveniles, the legislature has helped reduce the severely negative associations that come from possessing a criminal offense on one's record. The legislature also focused on promoting positive, rather than punitive, measures to combat drug and alcohol abuse by minors. These changes will aid juveniles in practicing healthy behaviors and lifestyles.

School-related misdemeanors should not impede juveniles by couching their records in criminal terms, and the legislature took historic steps to remove such damaging labels by decriminalizing truancy. **HB 2398 (White, James & Reynolds/Whitmire)** removes the law against truancy from the Texas Penal Code and transfers it to the Education Code. Additionally, courts must automatically expunge individuals' truancy records. HB 2398 helps channel the issue of truancy to the appropriate forum of education, rather than the criminal system.

Prior to this legislative session, a defendant charged with a school offense could not participate in teen court if he or she had completed a teen court program within two years before the current offense. **SB 108 (Whitmire/Thompson, Senfronia)** reduces the number of years required between participation in teen court by a defendant charged with a school offense from two to one. SB 108 also raises the age of a "child" for school offenses from younger than seventeen to younger than eighteen. SB 108 serves to follow up on two bills passed from the 83rd Legislature which contained inconsistencies. SB 108 expands eligibility for secondary school programs and teen court programs for juvenile defendants while allowing greater flexibility for juvenile defendants in navigating the justice system.

Tackling alcohol and drug abuse by juveniles requires more than simply putting minors on probation for such offenses. **HB 642 (Canales/Hinojosa)** expands alcohol awareness programs for alcohol-related offenses to include drug education programs for drug-related offenses. Just as a minor who commits an alcohol-related offense is often permitted or required to complete an alcohol awareness program instead of serving probation, HB 642 expands this law to allow similar programs for minors who commit drug-related offenses.

### ***Punishment Conditions***

The legislature took steps this session to protect juveniles who are wards of the state as incarcerated individuals. A gross oversight in the Texas Penal Code was corrected so as to physically protect detained juveniles from improper sexual activity. The legislature also afforded the significant opportunity of obtaining a high school diploma to incarcerated juveniles. While there remains much room for improvement in the area of aiding incarcerated juveniles, the legislature this session took important steps in the right direction by passing these bills.

The Texas Penal Code specifically protects the civil rights of persons in state correctional facilities against improper sexual activity by officials, employees or volunteers of such facilities. The law, however, did not explicitly apply to juvenile correctional facilities prior to this legislative session. **SB 183 (Huffman/White, James)** corrects this oversight and raises the magnitude of the offense to a second degree felony if committed against a person in a juvenile facility. This law closes an important loophole in ensuring the state continues to protect its children, even when they are incarcerated.

Providing educational services to incarcerated juveniles can make a significant difference to their job prospects when they are released from prison. Windham School District, headquartered in Huntsville, Texas, provides educational services to offenders in correctional facilities across the state. **SB 1024 (Seliger et al./White, James et al.)** provides that students may receive a high school diploma upon completing Windham School District courses that meet the curriculum requirements of the State Board of Education for the foundation high school program. This bill

offers a significant opportunity to incarcerated juveniles to improve their future employment prospects with a high school diploma.

# Human Trafficking

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Texas was an early adopter of human trafficking legislation; in 2003, it became one of the first states to define human trafficking. Over a decade later, the state's legislative framework has become increasingly comprehensive. Dozens of bills were filed in the most recent legislative session to address this crime. The following section represents highlights from key priorities on human trafficking and the commercial sexual exploitation of children. One of the most comprehensive anti-trafficking bills passed this session was **HB 10 (Thompson, Senfronia/Huffman et al.)**. This legislation was founded on recommendations from the Texas Human Trafficking Prevention Task Force and creates greater clarity in statutory language, improves the identification and reporting of human trafficking, bolsters prosecution of this offense, and moves toward a more coordinated statewide response. Many issues were wrapped into this omnibus bill, and key components are addressed in conjunction with other related pieces of legislation.

## *Awareness*

Recently, January was designated as National Slavery and Human Trafficking Prevention Month via a presidential proclamation. **HB 2290 (Parker et al./Huffman)** amends the Government Code to designate January as Human Trafficking Prevention Month in Texas with the aims of enhancing public awareness of the crime in Texas, how to avoid becoming a victim, and how to alert the authorities about any suspected incidences of human trafficking.

During the 83<sup>rd</sup> Legislative Session, bills were passed to create trainings for key frontline personnel such as educators, child welfare workers, and health professionals. This session, HB 10 went a step further to ensure that Texas judges receive training on human trafficking. Even judges may be unaware of the complexities involved with human trafficking cases or special considerations of hearing cases involving this unique population of victims. The Texas Supreme Court and the Texas Court of Criminal Appeals currently provide instruction related to family

violence, sexual assault, and child abuse, and HB 10 adds human trafficking to the list of required trainings for the judiciary.

Another component of improving awareness is to gather data on the problem; however, data collection around human trafficking has been scattered and difficult to collect. The legislature addressed the lack of uniformity involving the collection and reporting of information related to human trafficking and other crimes through **HB 2455 (Burkett et al./Rodriguez)**. This bill establishes a task force to promote an accurate and uniform method of gathering this data. The task force will solicit reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations to develop policy recommendations. Developing consistent systems of collecting and reporting this information will lead to the efficiency and accuracy needed to address the issues of family violence, sexual assault, stalking and human trafficking. The task force must submit a report with findings and policy recommendations no later than September 1, 2016 to the governor and other state officials.

### ***Demand***

In both lawful and criminal enterprises, supply and demand drive the market. The demand for illegal commercial sex fuels the supply of victims and creates profit for pimps and traffickers. Demand reduction efforts are gaining momentum across the country, and the Texas Legislature has also made efforts to address this component of the trafficking problem.

HB 10 improves the ability to prosecute those who seek to purchase sex from minors. In order to address demand and arrest buyers of commercial sex, law enforcement relies on reverse stings utilizing undercover officers. It is currently a second degree felony to solicit a minor for commercial sex, but because these officers are not minors, the buyers cannot be charged under that provision. HB 10 enables charging individuals under this provision if the person from whom they were soliciting represented themselves to be a minor or they believed them to be a minor. This change is in alignment with existing laws related to online solicitation of a minor.

Moreover, if convicted, HB 10 requires individuals who purchase sex from minors to register as sex offenders and extends the statute of limitations for compelling prostitution of a minor to be in alignment with the human trafficking statute (10 years from the 18<sup>th</sup> birthday of the victim).

There are typically three distinct parties involved in the crime of prostitution: the pimp, the prostitute, and the purchaser. Texas law recognizes the unique role of pimps and other facilitators of commercial sex through its promotion of prostitution (Texas Penal Code § 43.03-43.04) and compelling prostitution (Texas Penal Code § 43.05) statutes. Although the prostituted individual and the purchaser are different parties to the commercial sexual transaction, the current statutory framework provides no distinction between the two. In Texas, both a buyer and a prostituted individual are guilty of the same prostitution offense (Texas Penal Code §43.02). Many individuals engaged in prostitution are under the control of a pimp or trafficker or entered the life as a victim of trafficking. Conflating the roles of buyers and prostituted individuals gives an unclear picture of the various parties involved in this criminal enterprise and creates an opportunity to unintentionally treat buyers and potential victims as equally liable. **SB 825 (Huffman/Thompson, Senfronia)** creates a distinction between buyers and sellers of commercial sex by splitting the current prostitution statute into two separate offenses depending upon whether the party is to pay a fee (buyer) or receive a fee (seller) in exchange for sexual conduct.

The Human Trafficking Prevention Task Force has been a powerful force for gathering key information from across the state, promoting education and training, and developing strong policy solutions to strengthen Texas' anti-trafficking efforts. **HB 188 (Thompson, Senfronia et al./Menendez)** extends the task force for another two years and expands its duties. This legislation adds demand as an issue to be studied by the task force. The task force will be responsible for assisting in statistical data collection efforts around buyers of prostituted children and developing recommendations for addressing the demand for forced labor and sexual conduct involving victims of human trafficking.

## *Identification and Protection of Child Trafficking Victims*

Our school systems have historically been an important venue for identifying children in need of protective services. HB 10 clarifies the need for schools to report human trafficking as a form of child abuse. The Texas Education Agency is already required to have a policy governing the reports of child abuse or neglect. Human trafficking is codified as a form of child abuse and HB 10 clarifies that a policy must be in place regarding this issue in school districts and open-enrollment charter schools.

Children who are U.S. citizens and legal permanent residents are the largest group at risk of commercial sexual exploitation in our country. Traffickers, including pimps, prey upon the vulnerabilities of youth and lure them into sex trafficking. Texas is continually moving toward a more comprehensive statewide response to this population. This session, the legislature created a Child Sex Trafficking Prevention Unit in the Governor's Criminal Justice Division to be a statewide resource for assisting agencies and facilitating collaborative efforts for prevention, victim placement, rehabilitation, data collection, and prosecution. The structure and operational outline for the unit are found in the text of HB 10 as well as a floor amendment by Senator Huffman to **HB 1446 (Dale et al./Rodriguez)**. Collaboration is an integral component of an effective strategy to pursuing traffickers and assisting victims, and HB 10 designates individuals within certain agencies to coordinate anti-trafficking responses. The interdisciplinary approach of designating an authorized individual in key agencies as well as the creation of a statewide unit will improve both internal and external responses to human trafficking and promote a more coordinated statewide effort.

**HB 418 (Wu et al./Huffman)** seeks to improve the ability to protect juveniles who may be victims of trafficking. These children often pose a major flight risk and are detained for their own protection. This bill allows law enforcement and CPS to immediately take suspected victims into protective custody rather than arresting them. Moreover, it authorizes contracting with a child-placing agency to verify a secure agency home to provide a safe and therapeutic environment for victims of human trafficking.

Runaway, homeless, and missing children are particularly vulnerable to commercial sexual exploitation. After a missing child returns to care, DFPS is required to interview the child to determine where and why the child went missing. **HB 1217 (Thompson/Uresti)**, requires DFPS to also assess whether the child may have been a victim of human trafficking during the time they were missing. It was recently reported by the National Center for Missing & Exploited Children that 1 in 6 endangered runaways reported to them were likely victims of sex trafficking and that 67% of those children were in foster care or group home settings. With this concern in mind HB 1217 also requires DFPS to collect information on children in state custody who is missing from their substitute care provider and on each child who is a trafficking victim while in the child welfare system.

Understanding the vulnerabilities of this population, law enforcement from across the state have expressed the need to include missing children under the age of 14 in the ‘high risk’ category for sex trafficking. **HB 1793 (Frullo & Dale/ Hinojosa)** requires law enforcement consider age as a factor in their reporting of missing children. This bill will also transfer oversight of the missing or exploited children prevention grant program from Texas Department of Public Safety to the Office of the Governor.

Child sex trafficking victims experience a unique type of exploitation and are left severely injured physically, emotionally, and mentally. The wide array of issues being concurrently faced by these children poses a special challenge to service providers, and access to appropriate residential services continues to pose a challenge to victims. Before a residential operation can be opened in a county of 300,000 residents or less, licensing requirements dictate that it must disclose its location through a public notice and in a public hearing. In order to protect the safety and wellbeing of trafficking victims and safe house employees, **HB 2070 (Thompson, Senfronia & Guillen/Rodriguez)** waives the notice and hearing requirement for shelters seeking to provide comprehensive residential services to child victims of human trafficking.

## *Justice for Victims*

This session, the legislature bolstered the protection afforded to victims of sexual offenses after offenders are released from prison. **SB 630 (Rodriguez/Dale)** amends the Code of Criminal Procedure to allow victims of the offense of Continuous Trafficking of Persons to apply for a protective order against the offender. Previously, victims of sexual assault and abuse, stalking, and human trafficking did not enjoy full protection from offenders under Texas law because courts typically did not issue protective orders, but rather placed conditions only on defendants' bonds. This bill affords an important layer of security to victims by offering the possibility of a protective order against an offender that extends for at least one year after the offender's release.

Protective orders from their traffickers are not the only thing survivors need for recovery. Many times victims of sex trafficking are arrested and convicted of prostitution, sometimes on multiple occasions, during the course of their victimization. Due to these convictions, stability remains out of reach. The attainability of adequate housing, employment in a desirable field, professional licenses, higher education are all limited to these survivors because of prior convictions. **HB 2286 (Parker et al./Burton)** allows for petitions for pardons or to expunge the criminal history for certain trafficking victims convicted of prostitution.

The Crime Victims' Compensation Act prevents victims from receiving compensation if they were participants in certain criminal conduct. The nature of human trafficking offenses is such that victims are often compelled to engage in illegal acts during their victimization. **HB 10** creates an exception for victims of human trafficking and allow them to be eligible for compensation.

## *Business Community*

The business community can play an important role in the fight against human trafficking. Corporations and other private entities should take steps to not only ensure that their supplies chains are free of labor trafficking and other exploitative practices but that their employees are

not engaging in any activity that contributes to the demand for commercial sex that inherently drives sex trafficking.

**HB 968 (Hernandez/Garcia)** will prevent business owners who knowingly profit from human trafficking from hiding behind the corporate veil of incorporation. “Piercing the corporate veil” refers to the limited circumstances under which the liability shield of a registered legal entity may be “pierced,” and the individuals behind that entity held personally accountable for the entity’s obligations. Businesses incorporate to protect shareholders from personal liability, and a surprising number of massage parlors and other establishments which may serve as fronts for human trafficking choose to incorporate. This legislation will assist trafficking victims in collecting damages from these business entities by going after the personal assets of complicit owners.

Furthermore, corporate entities that may unintentionally serve as venues and profit from the activities of sex traffickers can take steps to promote awareness and trainings to reduce the incidence of this criminal activity on their premises. **HB 2511 (Thompson, Senfronia & Guillen)** addresses both human and sex trafficking as it seeks to establish a Human Trafficking Business Partnership (HTBP). This legislation aims to promote voluntary efforts among the business community by creating the HTBP program through the Secretary of State. Participating businesses may receive a certificate of recognition for participating in the partnership and engaging in practices and policies to combat human trafficking.

# Conclusion

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Each legislative session is an opportunity to improve the quality of life of Texas' children. During the 84<sup>th</sup> Session, the legislature certainly used this opportunity to pass significant improvements to our state's laws on childhood health and welfare, hunger, education, juvenile justice, and human trafficking. But as this Report shows, there were missed opportunities as well.

Although the passage of some positive measures for Texas' children were made, more can be done to ensure children are healthy, educated and career or college ready. 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 education, 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 healthcare, to hold accountability for our children's educational needs, and to address issues concerning their safety and overall wellbeing. 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 policymakers 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.