



## **Children's Health Coverage Coalition and OTA Meeting Agenda**

Friday, June 28<sup>th</sup>, 2019

11:00 A.M. – 2:00 P.M.

### **Present:**

Will Francis, NASW  
Anne Dunkelberg, CPPP  
Natalie Saucedo, United Way Texas  
Clayton Travis, TPS  
Lauren Zbyszinski, TEA, HHSC, OFPS, TWC  
Danielle Nwsca, CDF  
Lucia Montes, CDF  
Laura Guerra-Cardus, CDF  
Christina Hoppe, CHAT  
Amanda Hudgens, TAHF  
Alissa Sughrue, NAMI-TX

### **On Conference Line:**

Betsy Coats, Maximus  
Nancy Walker, Harris Health System

Meeting Chair: Helen Kent Davis, TMA

Meeting Scribe: Amanda Pouncy, CPPP

**I. Introductions (Helen Kent Davis, 5 minutes)** Meeting began 11:02 AM

**II. Legislative Update (Anne Dunkelberg, Clayton Travis, Adriana Kohler, Diane Rhodes, Helen-Kent Davis, 20 minutes)**

### **Children's Continuous Coverage (HB342)**

#### **Laura Guerra-Cardus**

Legislation started with goal of 12 month continuous eligibility for children in Medicaid, mirroring the eligibility benefit in the Children's Health Insurance Program. Lawmakers held a hearing, but in order to eliminate the fiscal note, the committee chairman suggested changing the bill to provide two consecutive periods of 6 month continuous coverage. The amended bill passed committee, but died in calendars. Subsequently, House members successfully amended the bill to a Senate bill, but the bill died.

On the positive side, the coalition had a very strong presence at the capitol. Next steps are to explore finding a regulatory solution to provide continuous coverage for children on Medicaid. A meeting with Chairman Frank has been requested to explore further.



**Christina Hoppe**

Correct me if I am wrong but I think that you were able to get this with no fiscal note.

**Helen Kent Davis**

Correct. This was a positive note. The original had about a 5 million dollar fiscal note which we know wouldn't have passed.

**Anne Dunkelberg**

We are hoping that the next step would be to meet with the commissioner once we figure out who our allies are. We've had such a hard time getting data out of the agency on this. We are going to have to start at the top of the agency on this to make sure that there is an administrative fix for this, and again we couldn't get anyone here from HHSC to talk about it today.

**Laura Guerra-Cardus**

Just to point out, the month to month coverage conflicts with at least two state statutes. Remember to remind people to get involved with this so that at least we are aligning with the state statute.

**Legislative Victories**

**Clayton Travis**

On the ECI front, we had a decent victory. While the agency asked for \$76 million, the final budget was \$32 million, short of our goals.

Funding victories include:

Maternal health - \$7 million (General Revenue) towards helping hospitals implement inpatient safety bundle to improve maternal health and to fund care coordination for high risk postpartum women;

Women's Healthcare: \$62 million infusion

Behavioral Interventions for children on the Autism Spectrum added as a Medicaid rider with the goal of rolling out an ABA benefit.

Added to Senate bill 748

HB25 passed and HB1576 passed to improve Medicaid medical transportation; HB1576 transfers management of medical transportation to the Medicaid MCOs and allows use of ride sharing programs to provide rides to Medicaid and CHIP clients



### **Missed Opportunities**

Requiring auto enrollment of 18 and 19 year old women into the Healthy Texas Women's Program when they age out of Medicaid or CHIP program in order to improve continuity of care with women's preventive health care. The bill died because of its fiscal note.

No new funds to increase funding for Medicaid and CHIP physician/provider payments.

Extension of Medicaid postpartum coverage to 12 months or to reduce Texas' alarming rate of uninsured did not pass.

#### **Nancy Walker**

Met with some officials on how to implement HB1576 and HB25. I believe HB1576 requires not necessarily a pilot but a gradual implementation. There are questions at HHSC about whether they are really going to be able to roll out HB25. HB25 requires that the pilot uses the medical transportation organizations and the brokers. HB1575 eliminates the MTOs and brokers. If HHSC put out an RFT for that pilot there is a question about whether or anybody would even apply.

#### **Amanda Hudgens**

That is not what TAHP has heard. I think that we are definitely working on that but it is a matter of how we are going to do it not if we will do.

#### **Nancy Walker**

I suggest that you all get together with them and try to discuss this issue.

#### **Clayton Travis**

I do think we would benefit from having a call to discuss this.

Other issues we supported: SB10 until the end of session and got wrapped into SB11. It was passed. Will help kids with mental health concerns

#### **Will Francis**

Support of creating an independent health plan monitor. We pushed it but it never got a hearing.

#### **Clayton Travis**

HB11 would have fixed that we are one of only two states that does not support contraceptive access on CHIP. It got held up and eventually died.

Allowing minors to consent to their own contraceptive coverage did not pass.

HB475 passed which allows kids to receive information about contraception.

The bill in the session that is probably going to save the most lives.



SB 747 passed. Newborn screening is the largest lab so we are really happy about the expansions to that. Requires health plans to pay for the newborn screening kits (cost of \$55). Those are only for private pay kids because HHSC provides the funding for public. X-ALD

### **Maternal Health**

#### **Helen Kent Davis**

Encouraging that the House adopted HB744, which would have extended Medicaid coverage for a full 12 months for postpartum women. Did not get a hearing in the Senate.

SB 750 directs HHSC to evaluate postpartum coverage provided by the Healthy Texas Women program and then to enhance HTW benefits based on the evaluation. But HTW has very limited coverage. The bill does not specify the process for deciding what benefits will be added to HTW.

SB748 (Sen. Kolkhorst) – SB1111 ended up tacked onto this. Telemonitoring for pregnant women would help those in rural areas or those without transportation to connect with a provider remotely.

SB750 – one of the biggest issues for implementation is that only \$15 million was budgeted for enhanced benefits.

### **Medicaid Managed Care**

#### **Anne Dunkelberg**

The bills that did pass do bring really positive reforms. We didn't have any vetoes. We're going to be creating a new independent review option for Tx Medicaid recipients for when you have a rejection of care. Another is a movement to all of the health programs having to catalog what documentation is necessary for prior authorizations so there is more of a guide for how providers can do that. Annual review required and an extension required.

One of my concerns is, if you only count things that rise to a formal complaint you are missing what people actually need help with not just what made them mad enough to file a formal complaint. They are going to be providing more information on things like "we resolved the issue on the first call." Planning to put out a general audience view, short 4 page to explain all of this.

There is a request for information for responses on the STAR Health. Comments are due by the 5<sup>th</sup> of July. One of the things that we need to discuss is why our medically fragile kids are on STAR Health and not STAR Kids. I will be taking a position that whoever is managing these plans needs to know they are working with medically fragile kids and they need to know how to handle that.



### **III. Interim Study Discussion (Open discussion, 10 minutes)**

#### **Helen Kent Davis**

There hasn't been a call yet for these, but as a coalition we need to be thinking about this particularly related to CHIP coverage for children falling in the state. Typically the state will send out a request in July.

#### **Clayton Travis**

I've heard inklings that because education was the focus this session that healthcare will be the focus next session.

#### **Helen Kent Davis**

The national debate around healthcare may push us that direction.

There seems to be a lot of confusion about whether we did or did not expand ACA from people in the community.

#### **Anne Dunkelberg**

I think it is important to think about what is going to be the most useful for us to spend time on for an interim study.

#### **Clayton Travis**

I think we can just take a broad issue like child uninsured rate and have them study that.

#### **Anne Dunkelberg**

Can we specifically call out Medicaid, CHIP and the chilling effect?

#### **Will Francis**

We can highlight lack of insurance and access to coverage through looking at where people do or don't get care rather than who is insured.

#### **Laura Guerra-Cardus**

I would vote for two. One specifically on children and one more like what Will is framing. I don't want to mix those and think we should really keep them separate.

#### **Natalie Saucedo**

Could there be something like a comparison of how much is being spent on not covering kids vs covering them. As in, how much we are spending on people who are and are not insured. They are receiving care but it is the communities who bare that cost and the state kind of forgets that. Maybe information by county. This is what your FQHCs are having to front because of your lack of investment.



**Anne Dunkelberg**

I think that is great but we do need to remember we are turning this in to Republican leadership who we need to make sure we are comfortable with and have framed it appropriately.

**Helen Kent Davis**

Be thinking about ideas and send them to Amanda. We will try to organize a call in the meantime.

**Alissa Sughrue**

Make sure that there is one or more around not just who is getting covered but who is losing coverage. You have mom's losing after a certain date. Kids due to paperwork issues. They didn't pass the bill for foster kids getting automatic renewal so foster kids are getting dropped off.

**IV. Legislative Debrief Planning Discussion (Open discussion, 20 minutes)**

SKIPPED

**V. Public Charge and New Poverty Rule Update (Anne Dunkelberg, 5 minutes)**

Although Texas has historically had fewer public housing options, these new HUD proposals stand to hurt mixed status families. Under the proposed new rule for HUD, mixed status families would be required to kick out undocumented family members or move out of public housing.

We will continue to talk about this in the future but comments are being accepted through July 5<sup>th</sup>.

**VI. Clinical Oversight Update from HHSC (Juliet Charron, 20 minutes)**

[Refer to Slide 1]

Team is involved in a number of managed care initiatives which we will talk about today related to clinical oversight.

[Refer to Slide 2]

Currently there is no regular deliverable

Plan to engage with stakeholders to help with this process

[Refer to Slide 3]

Member-level deliverable means we will get every single authorization being processed for members with all of the data. Historically this has had to be done through ad-hoc requests so this will streamline this process.

**Clayton Travis**

Can you filter this information by provider then? This would be useful information to have.



Juliet will get back to us with information on whether you can filter this information by provider.

**Christina Hoppe**

Are there specific services that are receiving more denials? Is there a way to see that data? Juliet will also get back to us on this.

[Refer to Slide 4]

Summary of what the utilization review team is working on for 2019-2020

Note: As part of the exceptional item noted earlier, the LBB granted us a number of new positions. We are continuing to grow the team of nurses.

[Refer to Slide 5]

HHSC is working on building out implementation plans on all of the bills that were passed during session

The idea with the External Medical Review would be a step between the appeal and the fair hearing. Working on putting some timelines around implementation. It currently exists in the CHIP space and commercial space through TDI. Will be looking to other state models to see how they are doing things. Legislation requires us to setup a process that is based on eligibility.

[Refer to Slide 6]

Feedback heard from many stakeholders is that there is a lot of confusion about the different terms used in the handbooks.

**OTA (Facilitated by Anne Dunkelberg)**

**VII. Office of the Ombudsman Update (Paige Marsala, 30 minutes)**

We are currently working on coordinating complaint categories so that we can better identify trends across organizations. Also looking at ways to enhance the fair hearings and appeals process. Making languages and notices more consumer friendly. Making sure that the information is getting out to the right folks at the right time so that they understand the process and how it works. Updating and doing a better job so that our vendors know how to route Medicaid related complaints.

**Anne Dunkelberg**

It sounded like you were going to be the home for the wrong door.

**Paige Marsala**

We are creating infographics and factsheets so that everyone knows that when they get a complaint it gets routed to our office. That is already happening.



**Helen Kent Davis**

Does that include providers? They often seem to not know what to do in those situations or what a lot of the details of the hearing even mean.

**Paige Marsala**

It will be available on the website and then we are willing to send out materials to anyone who needs that information to file a complaint.

[Refer to Slide 2]

Over 20,000 contacts in 3<sup>rd</sup> quarter. 30% complaints, 70% inquiries which is typical

[Refer to Slide 4]

Follow up means there is already an opened claim

[Refer to Slide 5]

In this case billing refers to clients being billed when they should not be billed.

Recently we were having clients calling because EMS was charging them for services because an ambulance was called but the client was not transported to the hospital. It turns out that EMS services without transport to the hospital is not coded as an emergency and therefore not covered by Medicaid. If EMS has the client sign a form saying that they are responsible for any services not covered by Medicaid then they are responsible for the fees.

[Refer to Slide 6-8]

In April to May we saw an increase in complaints because clients were not able to access prescriptions due to an erroneous private insurance showing in their file.

[Refer to Slide 9]

Other means that there just wasn't a complaint category that we could really assign the issue to.

[Refer to Slide 10]

LTSS = long term services and supports

Error → slide should not say access to long-term care. We changed the complaint code so some of them were in the old category and some of them were in the new one.

[Refer to Slide 11]

Significant increase in April to May were complaints related to denial of services and various types of complaints related to providers.

[Refer to Slide 12-13]





Increase in substantiated complaints mostly due to pharmacy billing the wrong health plan

**Helen Kent Davis**

SB1206 or 1207 was related to this and addressed how the formulary did not have a drug and therefore the state was not covering the drug when the other insurance was not able to cover it entirely.

[Refer to Slide 15]

Caseworkers are failing to document actions in IMPACT resulting in issues on the back end for ombudsman to follow

[Refer to Slide 16]

Still want to go forward with creating a yearly report which requires a proposal to be drafted to see if the commissioner wants to see a yearly report. The report would remain internal and not available on websites or other consumer resources.

MCSN Meeting – Medicaid/Chip services has made it clear to health plans that they do need to address support issues with accessing acute care outside of the adjacent county for dual clients.

Bills for implementation – HB1, Article 2 regarding Medicare services reporting. We provide a quarterly report. Looking for implementation for HB25 MTP Pilot. HB 72 – Medicaid for former foster youth allows parents of severely disabled foster youth to decide whether they want to move to STAR Kids. HB1576 uber and lyft transportation option for Medicaid. SB1207 requires a quarterly report and HHS required to assist with navigating and resolving issue with STAR Kids.

Quarterly published report – has been approved and should get published on the HHS website sometime in July.

**VIII. Update on CHCC Data Request Regarding PICs and Renewals (Anne Dunkelberg, 10 minutes)**

It does not really make sense to have this conversation with so few people and without Melissa here. We requested a speaker from HHSC to be here today but they were not able to get anyone here today. We have requested another speaker for the August OTA. We will revisit this at a later date.

**IX. 1:10 pm - State of Enrollment Update (Anne Dunkelberg, 50 minutes)**

**a. Registration is Now Open**

**b. Overview of Agenda**

The 2019 State of Enrollment Conference will take place on Thursday, September 19<sup>th</sup> and 20<sup>th</sup>, in San Antonio at the Drury Inn & Suites San Antonio North Stone Oak.



We are fundraising to cover the cost of the conference and have raised about half of what is required to make this conference free of cost to participants. More on this later.

Please share information about the conference with interested parties. This is a good opportunity to get extra training for enrollment assisters who work in health and community centers.

**X.** [Meeting adjourned at 1:44 pm]



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# **HHSC Update**

# **Clinical Oversight**

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**Juliet Charron, Director of Results Management**  
**Medicaid and CHIP Services, HHSC**  
**Children's Health Care Coalition June 28, 2019**

# Strengthening Clinical Oversight Initiative

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Strengthen the oversight of utilization management practices to include prior authorization policies and processes used by MCOs.

- Develop a new, standardized prior authorization data collection tool and process that will use member-level data.
  - PA deliverable
- Identify trends and anomalies for Medicaid services using prior authorization data and focus on trends within specific Medicaid programs.



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# Prior Authorization Deliverable Data

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- Medical
  - Number of PA requests
  - Record PA timelines
  - Following PA procedures
  - PA processed non-clinical vs. clinical staff
  - Distribution of PA, appeals, and fair hearing decisions
- Looking to add dental and pharmacy in the future
- Member-level deliverable will include additional fields



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# Utilization Review

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## Acute Care Review

- FY 2019
  - Expanding the scope of reviews to include additional service types such as:
    - DME
    - Behavioral health
    - Occupational and physical therapy

## Long Term Services and Supports Review

- FY 2019
  - Pilot review for STAR Kids MDCP
  - STAR+PLUS HCBS sample and 2018 corrective action plan follow-up, beginning in March 2019
- FY 2020
  - Increase in sample sizes for both STAR +PLUS, HCBS, and STAR Kids



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# Post-Session

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- **SB 1207**

- Several prior authorization requirements for MCOs
  - E.g. MCO annual review of MCO's prior authorizations and a periodic review performed by HHSC to ensure compliance.
- External Medical Review Process

- **HB 4533**

- Adverse coverage determination notice requirements



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# Service Coordination Oversight

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- Analyze other state Medicaid programs to assess best practices for care coordination within Texas' managed care programs
- Identify key areas for service and care coordination within managed care which interface with FFS programs and opportunities for improved coordination
- Clarify terminology and definitions of service coordination and service management activities across product lines
- Identify possible improvements to ensure service coordination and service management is consistent within HHSC contract requirements
- Enhance oversight
  - Service Coordination module for onsite MCO Operational Reviews



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# **Thank You**

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**Additional Questions?**

**[Juliet.Charron@hhsc.state.tx.us](mailto:Juliet.Charron@hhsc.state.tx.us)**

# HHS Office of the Ombudsman Update

Presented to  
CHC Coalition  
June 28, 2019



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# Total Ombudsman Contacts for 3<sup>rd</sup> Quarter FY 2019

- ◆ Complaints – 6,216
- ◆ Inquiries – 14,517

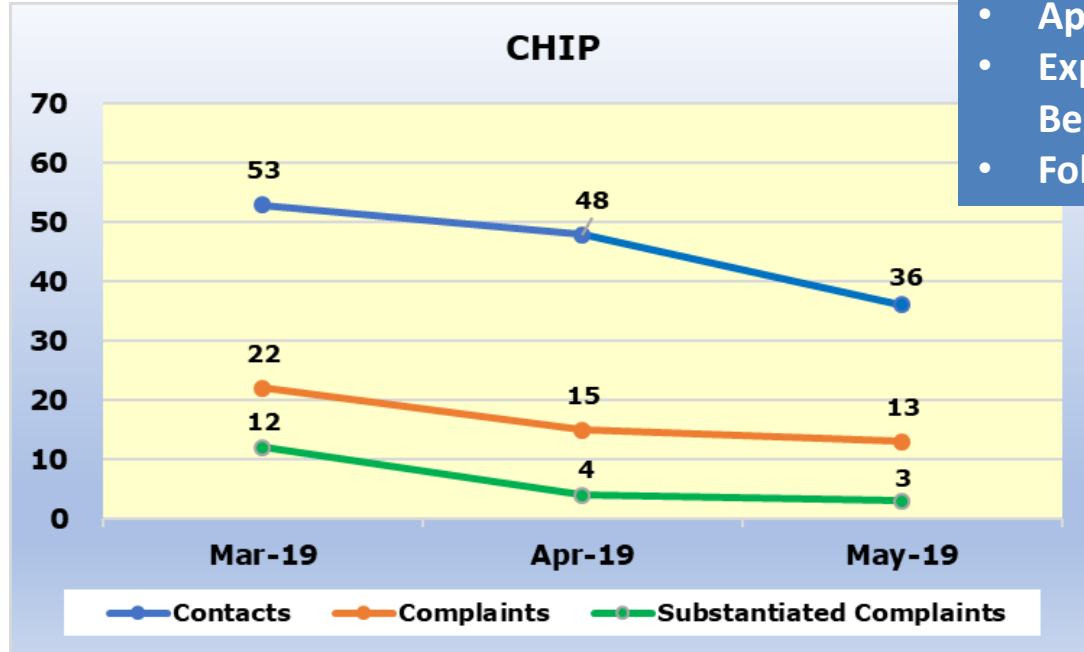
# Contact Volumes and Top Three Reasons for Contact by Program Type 3<sup>rd</sup> Quarter FY 2019



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# Contact Volumes by Program Type

## 3<sup>rd</sup> Quarter FY 2019



### Top 3 Contacts – CHIP

- Application/Case Denied
- Explanation of Benefits/Policy
- Follow Up



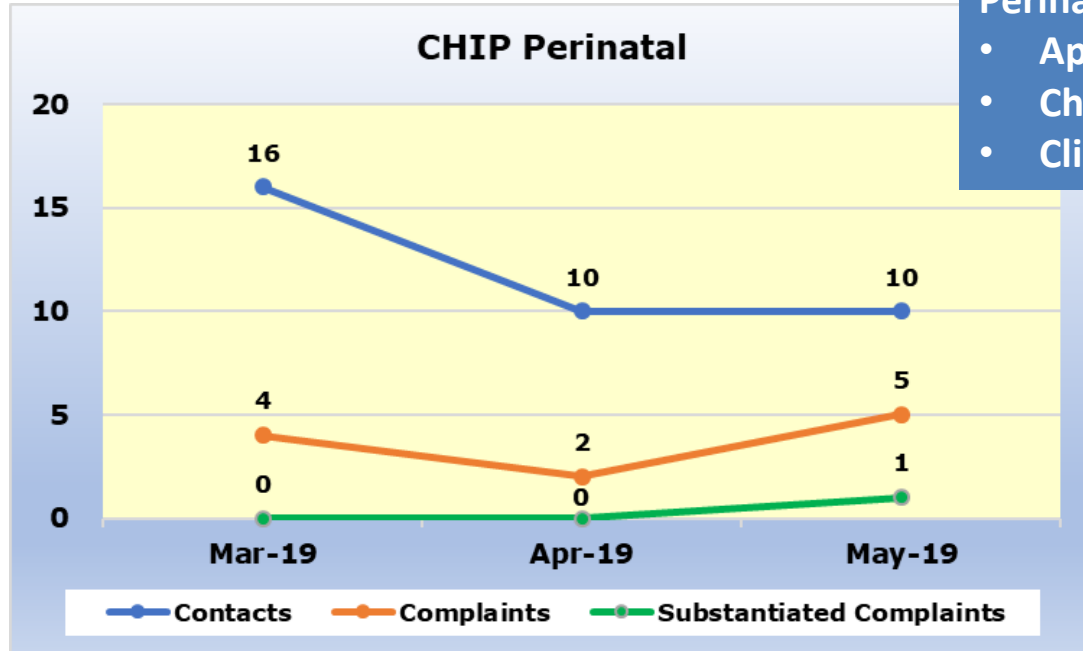
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# Contact Volumes by Program Type

## 3<sup>rd</sup> Quarter FY 2019

### Top 3 Contacts – CHIP Perinatal

- Application/Case Denied
- Check Status
- Client Billing



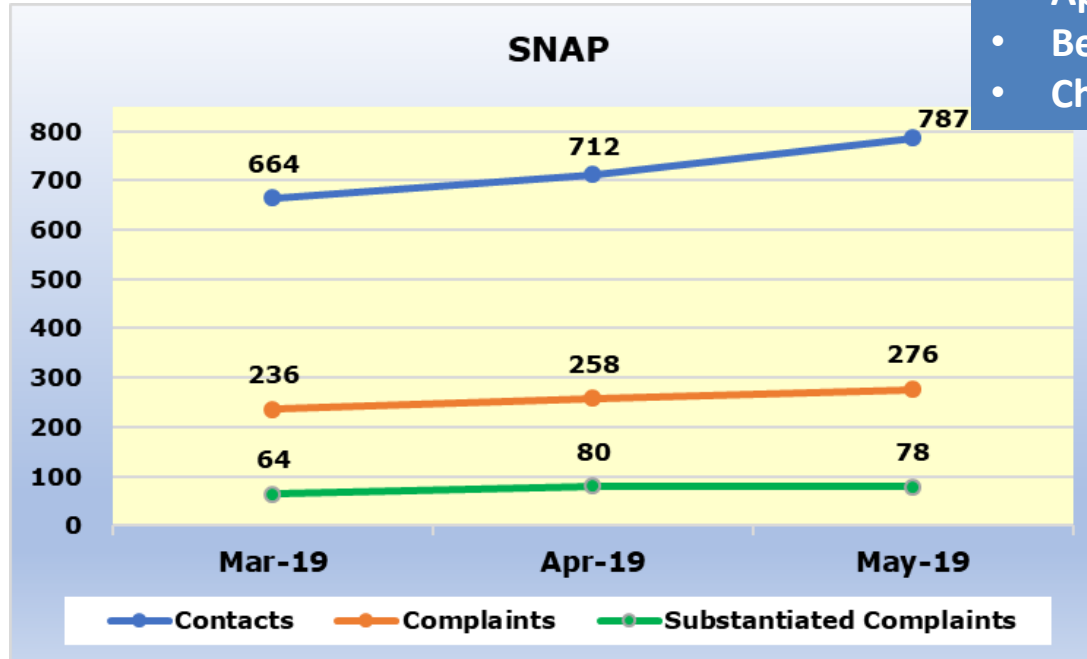
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# Contact Volumes by Program Type

## 3<sup>rd</sup> Quarter FY 2019

### Top 3 Contacts – SNAP

- Application/Case Denied
- Benefit Amount
- Check Status



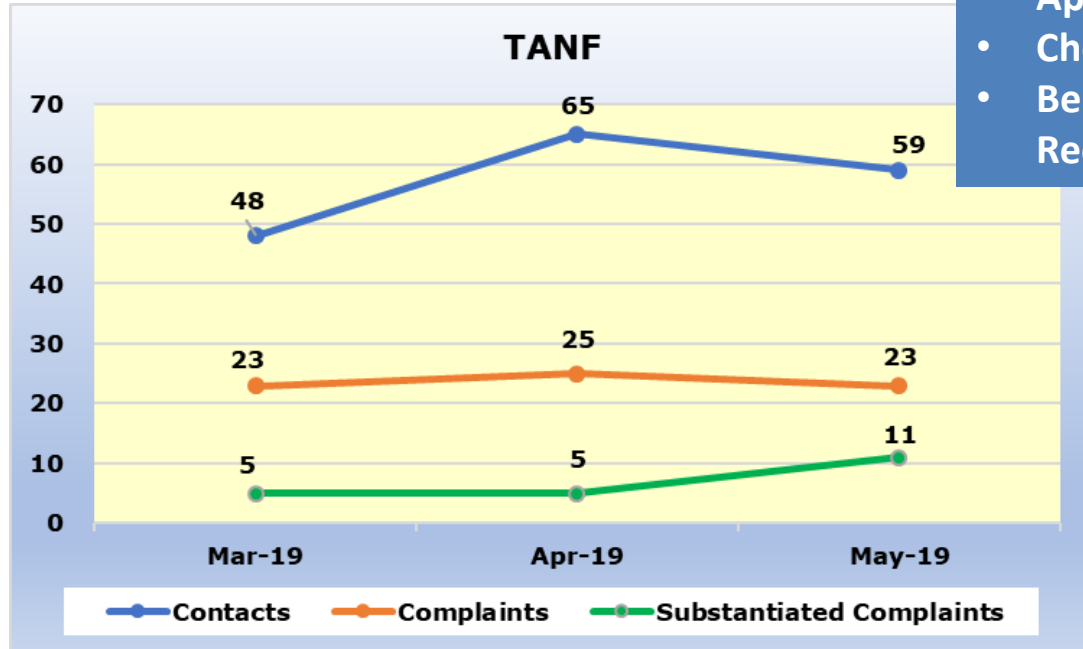
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# Contact Volumes by Program Type

## 3<sup>rd</sup> Quarter FY 2019

### Top 3 Contacts – TANF

- Application/Case Denied
- Check Status
- Benefits Not Issued/Not Received



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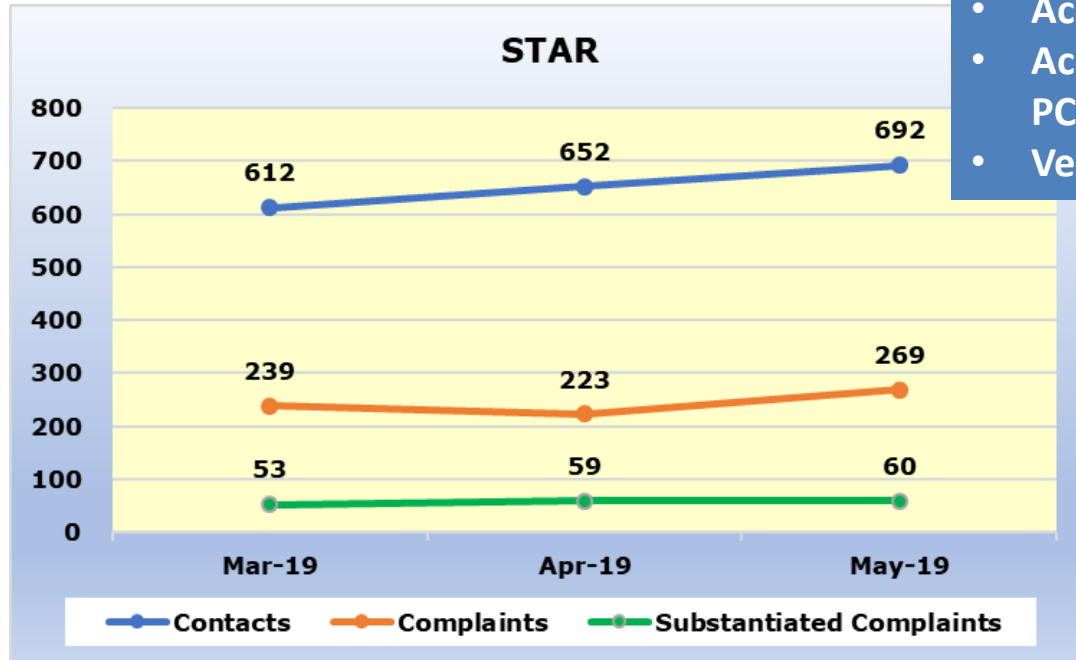


# Contact Volumes by Program Type

## 3<sup>rd</sup> Quarter FY 2019

### Top 3 Contacts – STAR

- Access to Prescriptions
- Access to PCP/Change PCP
- Verify Health Coverage

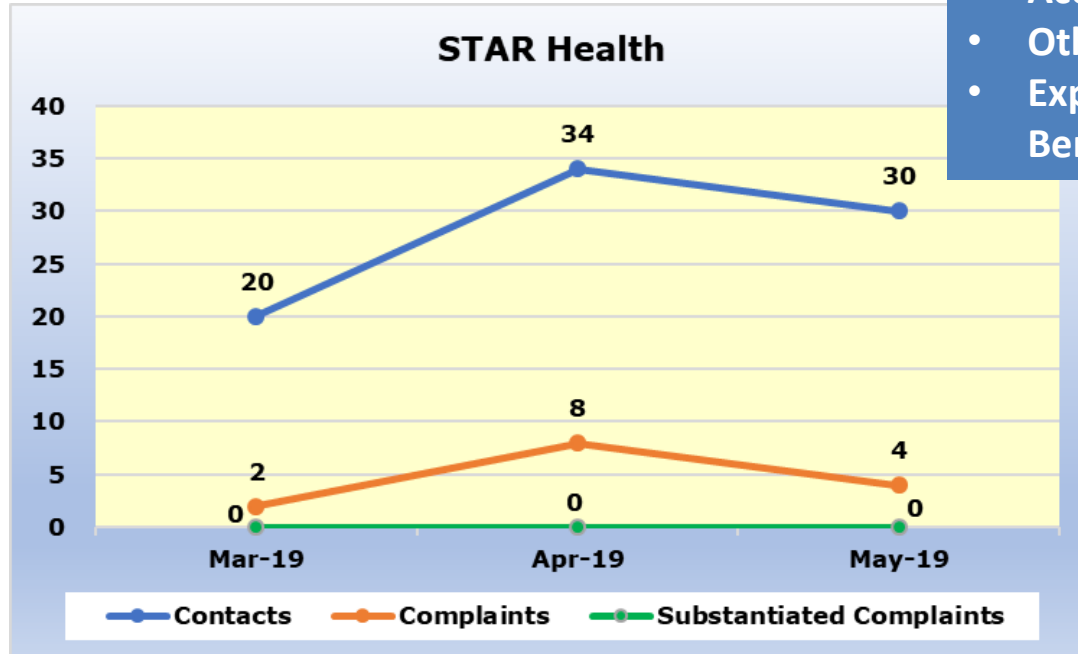


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# Contact Volumes by Program Type

## 3<sup>rd</sup> Quarter FY 2019

- Top 3 Contacts – STAR Health
- Access to PCP/Change PCP
  - Other/NA
  - Explanation of Benefits/Policy

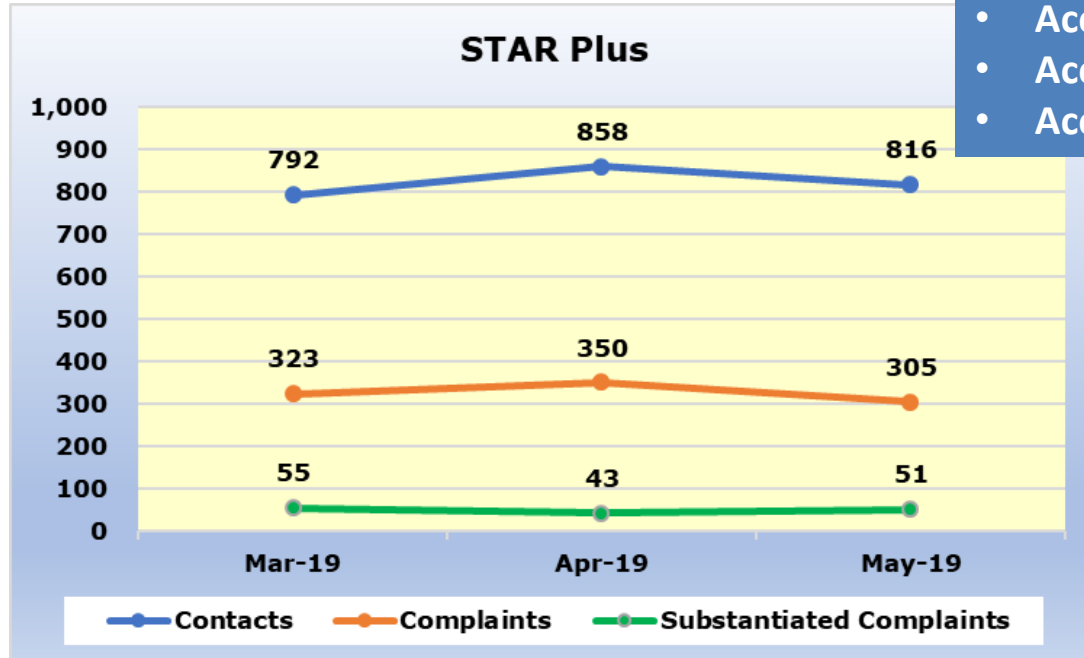


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# Contact Volumes by Program Type

## 3<sup>rd</sup> Quarter FY 2019

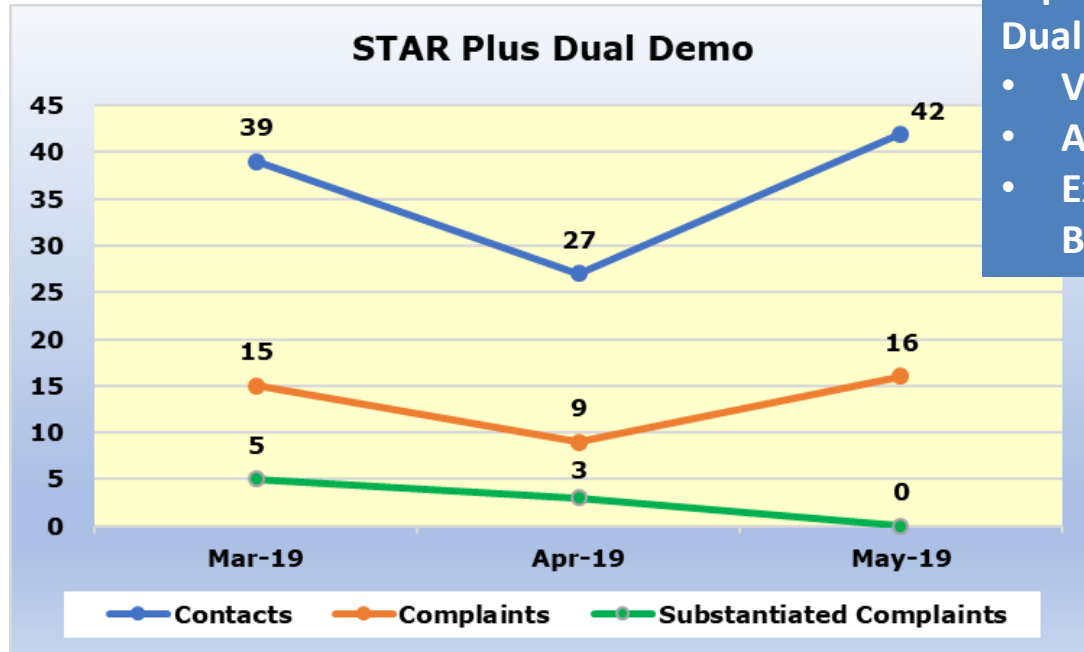
- Top 3 Contacts – STAR Plus**
- Access to Prescriptions
  - Access to LTSS
  - Access to Long Term Care



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# Contact Volumes by Program Type

## 3<sup>rd</sup> Quarter FY 2019



### Top 3 Contacts – STAR Plus Dual Demo

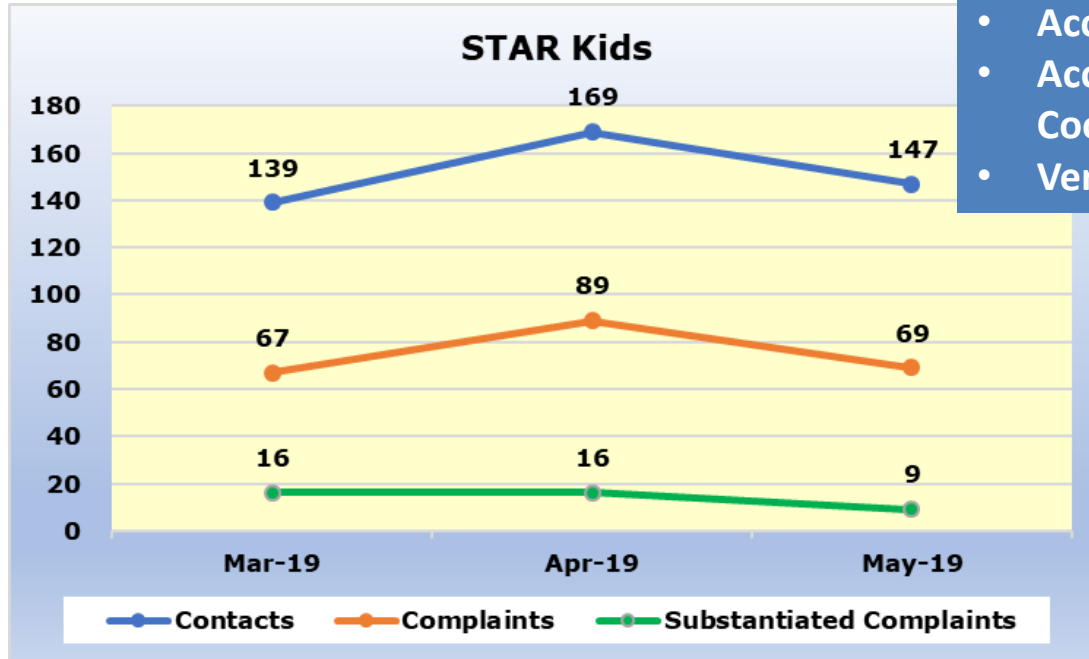
- Verify Health Coverage
- Access to LTSS
- Explanation of Benefits/Policy



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# Contact Volumes by Program Type

## 3<sup>rd</sup> Quarter FY 2019



### Top 3 Contacts – STAR Kids

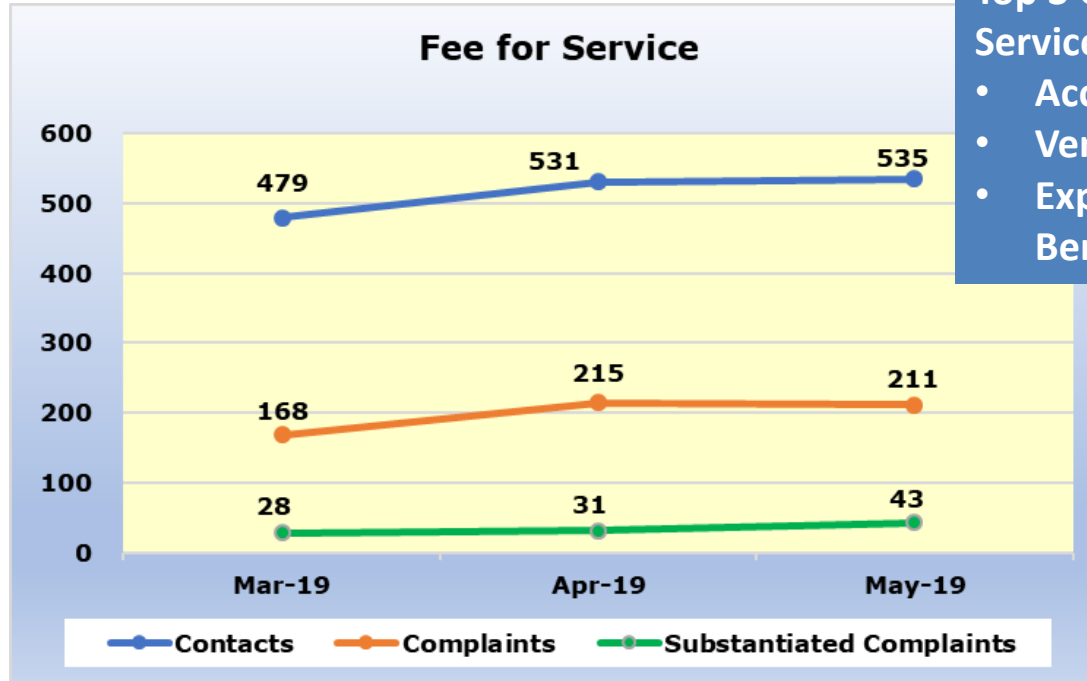
- Access to Prescriptions
- Access to Care Coordination
- Verify Health Coverage



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# Contact Volumes by Program Type

## 3<sup>rd</sup> Quarter FY 2019



### Top 3 Contacts – Fee for Service

- Access to Prescriptions
- Verify Health Coverage
- Explanation of Benefits/Policy



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# FOSTER CARE OMBUDSMAN



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## Foster Care Ombudsman Program 3<sup>rd</sup> Quarter FY 2019

### Contact Volume 3<sup>rd</sup> Quarter FY 2019

Foster Care Youth	96 (37%)
Total Contacts	259

### Top Three Reasons for Contact 3<sup>rd</sup> Quarter FY 2019

Rights of Children and Youth in Foster Care
Primary Caseworker Responsibilities
Not all facts documented in IMPACT

#### Information Shared

- Preparation for Adult Living (PAL)
- Court Appointed Special Advocates (CASA)
- Department of Family Protective Services (DFPS)





## Ombudsman Managed Care Assistance Team

### UPDATE

- Problem Trends
- MCSN meeting
- Bills
- Quarterly Published Report

# Contact us

## Phone (Toll-free)

Main Line: 877-787-8999

Managed Care Help: 866-566-8989

Foster Care Help: 844-286-0769

Relay Texas: 7-1-1

## Online

[hhs.texas.gov/ombudsman](https://hhs.texas.gov/ombudsman)

## Fax (Toll-free)

888-780-8099

## Mail

HHS Ombudsman

P. O. Box 13247

Austin, Texas 78711-3247



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HHSC Open Records Coordinator  
MC-1070  
4900 N. Lamar Blvd.  
Austin, Texas 78751-2316  
Fax: 512-424-6586  
Email: [OpenRecordsRequest@hhsc.state.tx.us](mailto:OpenRecordsRequest@hhsc.state.tx.us)



**Children's Health Coverage Coalition (former Texas CHIP Coalition)**  
**Request for Information on Caseload Impact of Elimination of 6-Month Continuous Eligibility in**  
**second Six months of year, and Imposition of Periodic Income Checks (PICs) for Children under age 19**  
**in Texas Medicaid**

The Children's Health Coverage (CHC) Coalition submits this Open Records request under the Texas Public Information Act. CHCC submitted this request to the HHSC Access and Eligibility Services division initially in December of 2017. In August of 2018, we were informed by agency staff that the 12/2017 request had not been filled and would need to be re-submitted as an Open Records request. We hereby make that request of HHSC.

The CHCC has been in active conversation for several years with HHSC regarding agency data and analysis of the impact of HHSC policy which eliminated the second 6-month segment of continuous Medicaid eligibility for Texas children, and re-instituted month-to-month eligibility with periodic third-party income checks during that period. Our inquiries began with the announcement of the policy in the summer of 2014, before the initiation of the change in children's Medicaid eligibility processes launched by HHSC in October 2014.

Here is the CHC Coalition's updated Open Records request from HHSC. As an appendix to this request, we provide a PDF re-cap summary of all the past major data requests and responses related to the 2014 policy changes, which have brought us to the current request.

**We want to work with HHSC to develop a data analysis that will provide a nuanced and complete picture of the separate and combined impacts of the current policies for children's Medicaid eligibility, PICs, and renewal.**

**Time frame requested:** A recent time period, preferably going back no further than 2016, that is long enough to allow the disaggregation of PIC-related eligibility denials by type (e.g., procedural denials versus those established to be over income). The period of analysis need not be a full 18 months, but it needs to be long enough to allow adequate sample size to determine the causes of disenrollment for children subject to the children's Medicaid MAGI procedures.

**Over this time period, we request the following data:**

- The total numbers renewed for Medicaid and CHIP (as in the CRaymond reply, but updated for the more recent time period), by program, and with breakout of procedural denials, versus failure to meet eligibility criteria.
- Quantitative detail on reasons for denial, disaggregated to show the relative frequency of different denial reasons, e.g. age, income, failure to respond timely or provide information

- Total numbers denied at the time of a 5,6,7, or 8-month PIC; with breakout of procedural denials and failure to meet eligibility criteria.
- An analysis of the # and % of Medicaid-enrolled children over the time period showing the # and % experiencing a gap of 1 month or more in coverage with subsequent re-enrollment. This should be done in a manner that identifies (does not leave out) those children whose re-enrollment may have triggered 3-month-prior retroactive Medicaid.
- Monthly # PICs, including the denominator of total Medicaid-enrolled children that month to clarify what % of enrolled kids have a PIC each month;
- #/% of the group examined who “passed” PIC and were not contacted; and #/% of those who were contacted (attempted),
  - as well as #/% of the contacted group who were denied versus continued eligible,
  - and of those denied at PIC, the #/% who were denied for procedural reason versus being over income.
- *Universe is MAGI children and newborns (no adults)*
- *All responses should be sure to provide both numerator and denominator, to allow for % frequencies to be calculated*
- *HHSC may wish to consider a separate parallel analysis for children on SSI or in special income group for LTSS, with input from other consumer advocates representing those children.*

Please understand, as always, that we are eager to work with your expert staff to modify the data request above for clarity, feasibility, and practicality. We request that HHSC staff consult with the Coalition members to clarify or modify any of the elements of this request as needed, rather than not fulfilling certain elements.

This completes the open records data request. We have appended as a separate PDF a listing of previous data requests and responses from HHSC related to this area of children’s eligibility policy and practice, to inform the staff’s analysis.

We look forward to answering any questions HHSC staff may have to help complete this data request. Please copy Anne Dunkelberg ([dunkelberg@cphp.org](mailto:dunkelberg@cphp.org)) and Mary Allen ([mallen@tachc.org](mailto:mallen@tachc.org)) in your communications.

With sincere thanks,

**Anne Dunkelberg**

Associate Director

**Center for Public Policy Priorities**

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**Copy:**

Cecile Erwin Young, Interim Executive Commissioner

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Victoria Ford, Chief Policy Officer and interim Chief Operating Officer

Chief Program & Services Officer, Enrique Marquez

Deputy Executive Commissioner, Access and Eligibility Services, Wayne Salter

#### Super-simple Take-away:

1. New HHSC data show that the GREAT majority of kids who lose Medicaid every month due to income checks are losing it over paperwork/red tape issues, and NOT because they are over-income for Medicaid.
  - a. That's over 4,100 children a month who are losing coverage due to red tape issues. This represents 92% of the kids whose parents are asked for more income proofs (this happens multiple points in the second 6 months of every year).
  - b. Fewer than 400 kids per month are denied due to being over income-- so we are cutting 10 times as many children from the rolls due to red tape as we are due to increased income.
2. Notably, about 40% of the children who are kicked off Medicaid as a result of Periodic Income Checks return to either Medicaid or CHIP coverage within 6 months. This strongly suggests that many of these kids were eligible for coverage all along.
3. This new data shows that a total of 47,014 children in 2017 and a total of 52,875 children in 2018 were kicked off Medicaid simply for excessive bureaucratic hurdles.

#### Background

- In 2014, HHSC started doing Periodic Income Checks at months five, six, seven, and eight for children in Medicaid in order to determine whether a child's household income changed and potentially made them ineligible for Medicaid.
- HHSC checks various databases and then contacts a family if the Periodic Income Check shows there is a change or a discrepancy in income indicating they may no longer be eligible. Then families have 10 days from the time the letter is generated (not the time it is received) to provide extra paperwork, like paystubs, to verify their income and show they are still eligible for Medicaid.
- **Topline Findings from the New HHSC data** New data shows: more than 9 out of 10 children kicked off Medicaid each month as a result of Periodic Income Checks are kicked off simply for paperwork issues (procedural denials), rather than their income being too high).
  - This means an average of 4,162 children are kicked off Medicaid each month as a result of Periodic Income Checks simply for paperwork issues.
  - This impacts so many children over the course of a year. A total of 47,014 children in 2017 and a total of 52,875 children in 2018 were kicked off Medicaid as a result of excessive red tape.

- Only an average of 372 kids per month were kicked off Medicaid because their income changed and made them no longer eligible for Medicaid.
- **Notably, about 40% of the children who are kicked off Medicaid as a result of Periodic Income Checks return to either Medicaid or CHIP coverage within 6 months. This strongly suggests that many of these kids were eligible for coverage all along.**
- These Periodic Income Checks at months 5, 6, 7, and 8 create a bunch of administrative tasks for HHSC, for families, and for doctors, results in large proportions of red-tape denials, and identifies only a tiny handful of kids who are no longer eligible for Medicaid.
- At the end of the day, the juice is not worth the squeeze.

#### **More Background (if needed)**

- In 2014, HHSC started doing “Periodic Income Checks” at months five, six, seven, and eight for children enrolled in Medicaid, eliminating the six-month continuous eligibility policy in effect from 2002-2014. These checks are *in addition to* the regular annual eligibility certification when a child enrolls in Medicaid and renews coverage after a year.
- Periodic Income Checks are a process HHSC uses to determine whether there has been a change in a child’s household income that could potentially make them ineligible for Medicaid or CHIP. HHSC checks databases (like Equifax reports and Texas Workforce Commission quarterly reports) to look for any changes in a child’s household income. Families who are self-employed or work contract jobs are much less likely to have accurate information in these databases.
- HHSC contacts a family if the Periodic Income Check results show there is a change or a discrepancy in income that suggests ineligibility. Then families have 10 days from the time a request is generated to provide extra paperwork, like paystubs, to verify their income and show they are still eligible for Medicaid.
- Families may not receive the letter requesting additional information until days before their deadline. They may have insufficient time. Due to numerous monthly requests, they may confuse one request for another and fail to
- Based on HHSC data, the agency conducts an average of 656,334 Periodic Income Checks per month for kids in Medicaid. This means about 1 in 5 children (21%) in Medicaid has a Periodic Income Check each month. The vast majority of kids (99%) “pass” the Periodic Income Check and don’t get contacted by the agency.
- Nevertheless, HHSC contacts an average of 6,471 children each month as a result of Periodic Income Checks and requires families to submit extra paperwork verifying their income.

- Of the 6,471 households contacted each month (on average) as a result of Periodic Income Checks, about 30% submit paperwork verifying income and stay enrolled in Medicaid (1,932 kids per month on average).
  - An average of 4,539 children each month are kicked off Medicaid as a result of Periodic Income Checks. A very small number (about 372 kids) are kicked off Medicaid each month because their household income changes, making them no longer eligible for Medicaid.
  - More than 9 out of 10 of the children kicked off of Medicaid each month as a result of Periodic Income Checks are kicked off simply for not turning in paperwork (procedural reasons alone). That's an average of 4,162 children kicked off of Medicaid each month simply for not turning in paperwork as a result of Periodic Income Checks.
  - **\*\*This means more than 9 out of 10 children kicked off of Medicaid as a result of Periodic Income Checks are denied simply for not turning paperwork (as opposed to being their income**
- Looking over the course of the year (page 6 of HHSC data, column 4): **a total of 47,014 children** in calendar year 2017 and **a total of 52,875 children in 2018** were kicked off Medicaid due to procedural reasons alone.

**Commented [1]:** ill add a draft table later today

**Commented [2]:** agreed! a table would be nice. i think it's ok to NOT send this section to the docs and have it mainly for us.

PIC=Periodic Income Check

Average number of PICs completed per month	Average Monthly percentage of children in Medicaid who have a PIC	Average number of PICs that result in a contact (per month)
656,334	21%	6,471

Of those contacted as a result of PIC (6,471), average number of children who remain eligible (each month)	Of those contacted as a result of PIC, average number of children denied (each month)	Of those kicked off Medicaid, average number of children denied due to excess income (each month)	Of those kicked off Medicaid, average number of children kicked off because of procedural reasons (each month)
1,932	4,539	372	<b>4,162</b>
30%	70%	8%	<b>92%</b>

**9 out of 10 children kicked off Medicaid each month as a result of Periodic Income Checks are losing it simply over paperwork and red tape.**

## **Continuous Eligibility: what it is, and how Texas Medicaid has used it for Kids**

Texas Medicaid history with Continuous Eligibility for children.

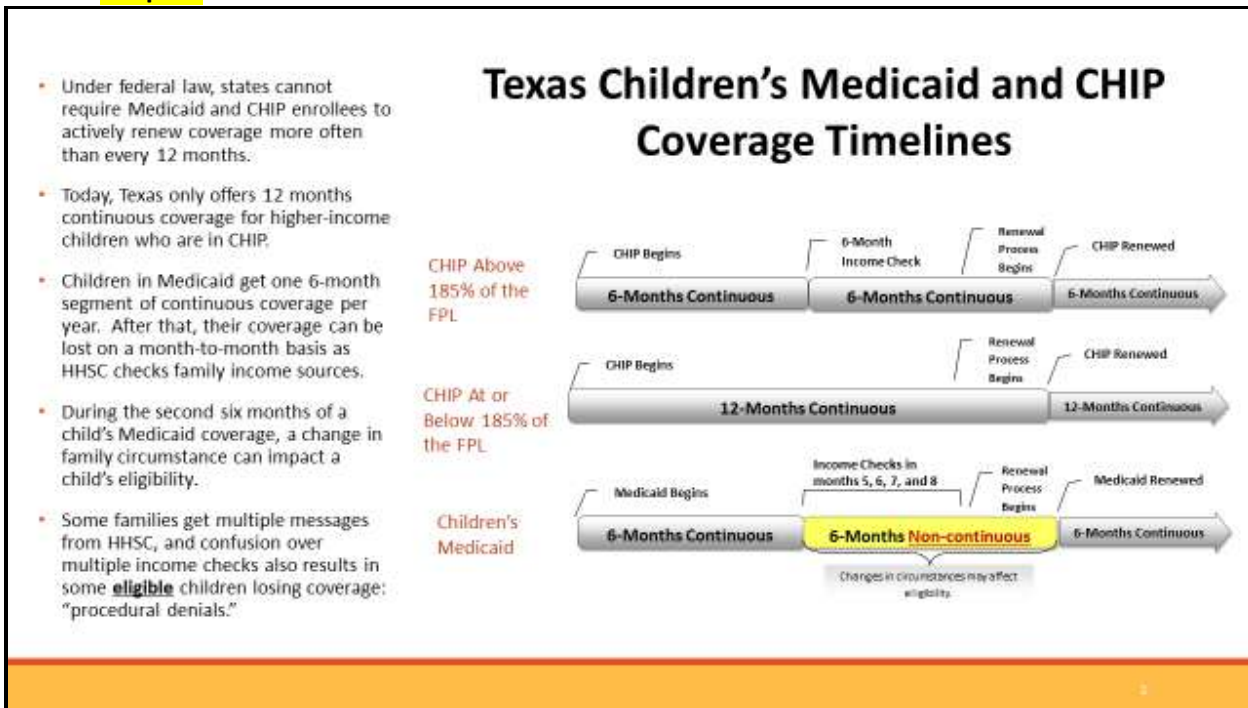
When the Legislature created CHIP in 1999, all CHIP children had 12-month Continuous Eligibility (*and mail-in application and renewal*)

- **At that same time, children on Medicaid were eligible only month to month, and all application and renewal (twice a year) was done in person at a DHS office (which could take more than a day when lines were long).**
  - Parents of kids on Medicaid were obligated to report any income increase that would put a child over the income limit within 10 days, on penalty of criminal fraud charges.
  - Small temporary income increases (like a month with 5 Fridays) knocked kids off Medicaid routinely
  - Average child only got 4 months of coverage at a stretch; only 20% of kids got 12 months of Medicaid.
- **CHIP's family-friendly policy was so successful that the 2001 Legislature adopted 6-month Continuous Eligibility (and mail-in application and renewal) for Medicaid children as well.**
- **In the 2003 budget crunch, the Legislature cut CHIP Continuous Eligibility from 12 months to 6 months (along with several other policy changes to CHIP).**
- **In 2007, the Legislature restored 12-month Continuous Eligibility for CHIP, but left children's Medicaid with consecutive segments of 6-month Continuous Eligibility.**
- **In 2014, HHSC, without a Legislative directive, made changes to the policy, process, and rules, which:**
  - Eliminated the second 6-month segment of Continuous Eligibility each year for children on Medicaid,
  - Returned children's Medicaid coverage back to the pre-2002 month-to-month coverage policy for the second half of each year, and
  - Introduced a new system of "Periodic Income Checks" (PICs) that check a child's family income at months 5, 6, 7, and 8 (and a full renewal packet comes in month 10).
- **Today, CHIP children have 12 months of Continuous Eligibility, and Medicaid-enrolled children have 6 months CE followed by 6 months on month-to-month coverage.**
- If we move to 12-month Continuous Eligibility, each child will still have a renewal (including an income check) that is sent to the family in month 10, and if a child is over the Medicaid income they will be identified then and (in most cases) moved to CHIP.
- Texas state law continues to call for 6-month Continuous Eligibility for Medicaid kids, though we have not provided that since 2014 (Section 32.0261, Human Resources Code).
  - The Texas Administrative Code now includes contradictory sections: one calling for 6-month Continuous Eligibility for children, and another establishing the month-to-month coverage with the PICs.
  - The Human Resources Code also directs HHSC to ensure that "that documentation and verification procedures used in determining and certifying the eligibility" be no more stringent than those used for CHIP.
  - Human Resources Code CH 32 §32.026(d)
    - (d) In adopting rules under this section, the executive commissioner shall ensure, to the extent allowed by federal law, that documentation and verification procedures used in determining and certifying the eligibility and need for medical assistance of a child under 19 years of age, including the documentation and verification procedures used to evaluate the assets and resources of the child, the child's parents, or the child's other caretaker for that purpose, if applicable, **are the same as the documentation and verification procedures used to determine and certify a child's eligibility for coverage under Chapter 62, Health and Safety Code**, except that the documentation and verification procedures adopted in accordance with this subsection **may not be more stringent than the documentation and verification procedures existing on January 1, 2001, for determination and certification of a child's eligibility for coverage under Chapter 62, Health and Safety Code.**

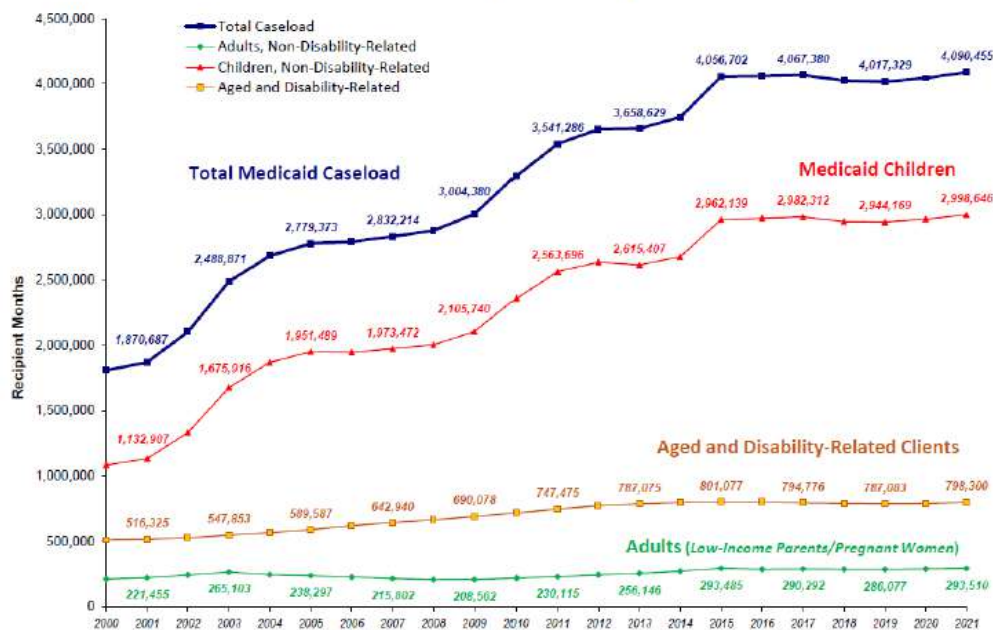


Below are graphics:

- 1) Comparing the current children's Medicaid, CHIP under 185% FPL, and CHIP above 185% FPL processes.
- 2) HHSC's graphic showing that **children's Medicaid caseloads halted growth in 2014 after this policy was adopted.**



## Medicaid Caseloads by Group – FYs 2000-2021



Data for FY 2018 is estimated; FY 2019-21 is projected based on June 2018 forecasts.  
Non-Disability-Related Adults include TANF-level parents and Pregnant Women; Children are all non-disability-related children under age 19.  
Disability-Related clients include clients both over and under age 21.



**TEXAS**  
Health and Human  
Services

3) The HHSC graphic shows historical child Medicaid enrollment through 2019, but for 2020-2021 shows projected caseload as assumed in the House and Senate budgets. HHSC Children's Medicaid enrollment data as reported to CMS actually shows child caseload decline in 2018.

4) The Uninsured Rate for Texas kids increased from w2016 to 2017, after years of steady improvement.

- 835,000 Texas children were uninsured in 2017 per the Census, and
- about 462,000 of them are below 200% of the federal poverty income (the upper limit for CHIP).
  - Reducing that number to eliminate any undocumented children, the estimate is that at minimum, 350,000 uninsured Texas kids could be getting Medicaid or CHIP- but are not enrolled.

Critiques from stakeholders on problems with the PIC system include:

- **Late notices: families often get their notices shortly before, or even after the deadline: families are left with nowhere near 10 days to respond.** (It's not even clear that letters are mailed promptly, much less on the day the system generates the letter)
- **Families are burdened with "proving" they are no longer employed at previous jobs that show up in outdated databases.** (HHSC only reaches out when it appears a child's family is "over income", and showing multiple jobs would make the agency check for over income)
- **Families are frequently confused between data they have already provided, versus a new query from the agency.**

HHSC just a few weeks ago provided a partial response to a data request from Representative (Dr.) Sheffield looking to into the results of these PICs for children.

- **Dr. Sheffield requested the data because the Children's Health Coverage Coalition's Open Records request came back with a price estimate of over \$5,000.**
  - The reason for the proposed charge is that the agency had not previously analyzed data on the system since it was put in place in 2014. Specifically, HHSC had not determined to what extent children were being terminated from coverage because of their parent's failure to reply to an HHSC inquiry within 10 days of when the computer or worker generated a mailed notice, as opposed to being actually determined to be over Medicaid income limits. (The agency may not charge for data it has already analyzed.)

Key findings in data provided to Representative Sheffield

Number of Children Contacted for more information as a result of PIC (Average monthly)	Of those contacted as a result of PIC, number of children who remain eligible (Average monthly)	Of those contacted as a result of PIC, number of children denied (Average monthly)	Of those cut off Medicaid, number of children denied due to excess income (Average monthly)	Of those cut off Medicaid, number of children kicked off because of procedural reasons (Average monthly)
6,471	1,932	4,539	372	4,162
	30%	70%	8%	92%

Source: HHSC Data on Periodic Income Checks and Children's Medicaid, pg. 2, dated February 23, 2019

One of the Texas Medicaid health plans analyzed their child Medicaid enrollment data, and reported that fewer than half of their enrollees got a full 12 months of coverage. The health plans also report that the current system and gaps in coverage undermine progress on quality measures for value-based care that improve outcomes and reduce costs over time. Many of these measures can ONLY be achieved with 12-month coverage.

Notes from Anne Dunkelberg ([dunkelberg@cphp.org](mailto:dunkelberg@cphp.org)) for Chairman James Frank, 4/11/2019

## Electronic Data Used by HHSC During Periodic Income Checks for Children's Medicaid

- The following electronic data sources are queried by HHSC to provide data for automated income checks on children in Medicaid during months 5, 6, 7, and 8 of their certification period:
  - Quarterly wage data from the Texas Workforce Commission (TWC)
  - New Hire Report data from the Office of the Attorney General (OAG)
  - Earned income data from "The Work Number" database (provided by Equifax Workforce Solutions, formerly known as TALX)
  - Unearned Retirement, Survivors, and Disability Insurance (RSDI) income data from the Social Security Administration (SSA)
  - Unemployment data from TWC
- Data from these sources is also used to verify income at application and during renewal. However, during application and renewal, review of this data is done by an HHSC eligibility worker, not a fully automated computer process.
- During a periodic income check, HHSC may only contact a household if they have an indication based on the data that their income has changed to the point that they are no longer eligible for Medicaid. HHSC may not contact a household just because their income changed, it must have increased enough that they appear to be no longer eligible.
- Households that are contacted as a result of a periodic income check have only 10 days **from the date the system generates the notice (not the date the letter is mailed or received)** to return verification of their income. If the household does not provide the requested verification by the 10th day, HHSC will automatically deny the individual on the 11th day.
- The periodic income check process is fully automated. At no point during this process does an eligibility worker review the case before denying the child.
- HHSC reaches out to an average of 6,471 families each month asking for extra paperwork to verify a family's income.<sup>1</sup>
  - Of those contacted each month, 1,932 were able to confirm that their family was in fact not over income like the electronic databases suggested. This shows that the databases and **income check process is wrong at least 30% of the time** (1,932 out of the 6,471). Only 372 children are actually confirmed to be over income.
  - The remaining 4,162 children are denied because the required verification was not received within the very short timeframe. This means thousands of Texas children per month fall through the cracks because of red tape.
- The data used is known to be inaccurate or incomplete. The biggest concerns with the data are listed below. Full details are provided in the table on the back.

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<sup>1</sup> Source: Texas Health and Human Services Commission. Data on Periodic Income Checks and Children's Medicaid. Data provided to the Children's Health Coverage Coalition, February 23, 2019.

- Texas Workforce Commission (TWC) Quarterly Wages Report is problematic because the data is likely several months old and doesn't provide sufficient detail to determine an accurate monthly income (more details in table).
- Office of the Attorney General (OAG) New Hire is even more problematic because it only indicates whether a person has been hired for a new job, but does not say how long they stayed at that job and does not include income data.
- Equifax data is good data (current, provides sufficient detail to determine a monthly income, etc.) but is only available for the clients who are employed with a company that contracts with Equifax (mostly large employers like Wal-Mart).

Data Source	Description	Considerations
The Work Number System (from Equifax formerly known as TALX)	<ul style="list-style-type: none"> <li>• Equifax (aka TALX) is a private provider of payroll services.</li> <li>• Wage data for each individual pay period is included.</li> </ul>	<ul style="list-style-type: none"> <li>• Data is current and should provide sufficient detail to determine an earned income from that job.</li> <li>• Data is only available for employees of businesses that have a contract with Equifax (McDonalds, Wal-Mart, etc.) so likely a small percentage of clients.</li> </ul>
Texas Workforce Commission (TWC) - <a href="#">Quarterly Wage Report</a>	<ul style="list-style-type: none"> <li>• Employers in Texas must submit gross wages paid to each employee during that quarter to TWC.</li> </ul>	<ul style="list-style-type: none"> <li>• Data lacks the details required to determine a monthly income and is at least one month old if not older.</li> <li>• Employers are only required to report all gross wages paid to an employee in a given quarter, meaning it is just one number and doesn't say when or how those wages were paid.</li> <li>• Employers are required to report the information to TWC by the last day of the month following the end of the quarter. For example, April 30<sup>th</sup> for Q1, Jan-Mar. There is likely some level of delay before that information is available to HHSC. It is unclear how soon after the reporting deadline the prior quarter's wage data is available to HHSC.</li> <li>• As an example, if an employer paid someone two checks for \$1500 each during Jan but nothing in Feb or March they would report \$3000 for Q1 for that employee by April 30<sup>th</sup>. If that same employer paid a different employee \$1000/month for Jan, Feb and Mar they would <i>also</i> report \$3000 for Q1 for that employee by April 30<sup>th</sup>.</li> </ul>
Office of Attorney General (OAG) Employee <a href="#">New Hire Data</a>	<ul style="list-style-type: none"> <li>• Employers in Texas have 20 days after hiring a new employee to report that hire to TWC.</li> </ul>	<ul style="list-style-type: none"> <li>• Indicates whether a person has been hired for a new job, but does not include wage data.</li> <li>• Prior reports of people getting hired but then not finishing training or quitting soon after. Only the hiring is reported, even if they never received a pay check.</li> </ul>

Data Source	Description	Considerations
Texas Workforce Commission (TWC) – Unemployment Benefits	<ul style="list-style-type: none"> <li>TWC pays unemployment benefits to eligible people.</li> </ul>	<ul style="list-style-type: none"> <li>This is the best source of this data since this is the agency that pays out this benefit.</li> </ul>
Social Security Administration (SSA)	<ul style="list-style-type: none"> <li>Data on the amount of Retirement, Survivors, and Disability Insurance (RSDI) income paid by the SSA</li> </ul>	<ul style="list-style-type: none"> <li>This is the best source of this data since this is the agency that pays out this benefit.</li> </ul>

*Compiled and updated by Children's Health Coverage Coalition, April 2019.*



# Wrap-Up

## from the 86<sup>TH</sup> Texas Regular Legislative Session

The 86th Texas Legislative Session largely lacked the controversies that derailed previous sessions. Significant public school finance investment will ultimately be the legacy of the session, though there were other historic reforms this year as well.

Lawmakers addressed surprise medical billing after a nine-year struggle, catalyzed higher education reforms, increased budget transparency, and used the Economic Stabilization Fund to shore up the budget.

It was not all good news, however. The big school finance bill also moved us backward on school tax equity. Tougher limits on cities and counties could prevent them from raising the revenue they need to fund libraries, parks, police officers and firefighters. Also notably, lawmakers ignored the upcoming 2020 Census and did nothing meaningful to address the tragic uninsured rate in Texas.

### What Didn't Happen?

Lawmakers thought better of introducing school voucher bills, which stymied previous school finance reforms. Attempts to repeal in-state tuition for Texas students brought to the United States as children never got hearings. There were also fewer divisive social issue bills like the “bathroom bill” of 2017, with some important exceptions. Immigration, a hot-button issue in 2017, hardly came up. The heart of this session came down to tax policy and the breakdown between education investments and tax cuts.

### What's the Good News?

It's hard to overstate the impact that an additional \$6.2 billion infusion will have on educational outcomes for school children across Texas. CPPP, for many sessions, has been emphasizing that money matters in education and that Texas needs to increase its fair share of school funding. The new school finance law demonstrates that truth and is the result of millions of Texas voters demanding change. For 2020-2021, when including teacher and other staff salaries, \$6.2 billion of the “new money” in the school finance law adds to school resources in some way.

Meanwhile \$5.2 billion is earmarked for reducing local school property taxes.

In higher education, a new law means people are no longer at risk of having their professional licenses revoked if they can't pay their student loans. Also, adults in school who perform well on high school equivalency exams will not have to deal with numerous hours of preparation, additional costs, and stress from an additional exam evaluating the same skills. The change will provide more incentives to take equivalency exams and will reduce barriers to entry for college.

Thanks to a powerful combination of data analysis, coalition strength and legislative champions, the Texas Legislature took bold action to limit surprise medical bills. Hundreds of thousands of Texans have been harmed by these bills, which they received after unknowingly getting care from providers outside their insurance network. CPPP has been a leading research and advocacy voice on surprise medical bills for the last nine years, and we are proud that the new law protects consumers by ending surprise medical billing for state-regulated health insurance plans. Both Republicans and Democrats agreed the practice had to stop and worked together to make it happen.

*Big win against*  
**SURPRISE  
MEDICAL BILLS**



CPPP also worked tirelessly with partners to secure a dramatic win for workers this session. A few cities in Texas have passed basic worker protections, such as rest breaks, earned paid sick time, fair hiring, and family policies. A small, but powerful business lobby sought to undermine local democracy by having the state prohibit these local policies statewide, but the legislation failed to reach the House floor in the last week of session due to overwhelming opposition, rallies, and testimony.

Lastly, we helped to block several ill-conceived proposals like raising the sales tax, which would have burdened lower income Texans the most. Likewise, the Senate wisely rejected a proposal to eliminate more than \$28 billion a year in local school revenue without clearly identified ways to replace it.

## What's the Bad News?

The biggest disappointment of the session was the Legislature's complete inaction to address uninsured Texans, even though Texas has the highest uninsured rate and most uninsured people in the country. The Senate shamefully killed House bills that would have extended health care coverage for new mothers and kept eligible kids from being cut off their coverage. We deeply appreciate lawmakers who stepped up for health care this session by making important improvements to Medicaid Managed Care and deeply regret that none of the significant coverage reforms passed, even those that were cost-neutral.

The 2020 Census was also completely ignored in terms of legislative actions. Members of both chambers filed bills creating a Complete Count Commission and included budget riders, but ultimately no bills or funding were passed, leaving cities and counties to hold the bag on Census outreach efforts. Other states may capitalize at the expense of Texas in terms of representation and federal funding by this lack of foresight by our state leaders.

A major disappointment was a new law that will complicate local budget processes and tie the hands of county and city lawmakers in providing essential services that Texans need. The state has a long history of being extremely fiscally conservative and consistently ranking near the bottom in taxes collected and spending per resident, and it is only local support of public services that keeps Texas from being ranked lower. The new law makes it more difficult to pay for parks, libraries, police, fire, emergency services and other local responsibilities by capping property tax increases at 3.5 percent without an election.

## Where Do We Go From Here?

Lawmakers kicked the can down the road on making real decisions about revenue. The new \$11 billion school finance law will not have sufficient funding by next legislative session. State leaders refused an array of good options that could have led to more revenue and improved equity. Even worse than punting was asking voters to decide this fall whether to amend the Texas Constitution to prohibit a state income tax permanently, which is unnecessary and short-sighted. Meanwhile, yacht owners got a tax cut, which will cost the state money. If we are serious about funding for schools and health care, then 2021 needs to focus on revenue options. CPPP will be ready for that discussion with common-sense solutions.

## By the Numbers

This session our seasoned policy experts and rising stars engaged in research, analysis and advocacy to equip lawmakers with the facts they needed on policies that affect every single Texan. From school finance to surprise medical billing and more, our staff was pounding the marble inside the Capitol and partnering with other advocates, experts, influencers and Texans across the state to pass good bills and block bad ones.

OUR  
POLICY  
EXPERTS  
TESTIFIED **99**  
TIMES ON  
87 BILLS

OUR ANALYSIS AND  
EXPERTS APPEARED IN  
**850+**  
MEDIA STORIES

TO KEEP LAWMAKERS,  
ADVOCATES AND OTHER  
STAKEHOLDERS INFORMED OF  
LEGISLATIVE DEVELOPMENTS,  
CPPP RELEASED:

**19** STATEMENTS  
**38** BLOG POSTS

**17** ACTION  
ALERTS  
TO ENGAGE TEXANS  
DURING THE SESSION

OUR OUTREACH LED TO  
**1,390** CALLS  
MADE  
+ **801** EMAILS SENT TO  
LAWMAKERS ON IMPORTANT BILLS





# Health Care, Food & Other Basic Needs

For the health and well-being of Texas families, all Texans need access to affordable, high-quality health care through insurance or direct medical service providers.

This was a landmark session for health care costs and transparency with the passage of historic bipartisan legislation that significantly limits surprise medical billing and the adoption of other important protections for *Texans who have health insurance*. Unfortunately, state leaders failed to address the fact that Texas has the nation's worst uninsured rate for kids, the nation's worst uninsured rate for women of childbearing age — with often devastating consequences for moms and babies — and the nation's worst uninsured rate for adults.



## Good Bills Passed

- Strong consumer protections passed that will put an end to surprise medical bills for patients with health insurance overseen by Texas state agencies. Another bill will prevent surprise medical bills from harming credit histories, regardless of what type of health insurance people have. Texas now has among the strongest consumer protections for surprise medical bills in the nation.
- Good bills passed to improve patient protections and health care cost transparency, including one that improves transparency of prescription drug price hikes and two bills that crack down on some of the unscrupulous marketing and billing practices of freestanding ER facilities.
- A number of strong reforms to Medicaid Managed Care became law, but the legislature stopped short of adopting some of the most important protections for patients and accountability measures for insurers.
- Skimpy short-term health plans will now have to clearly spell out coverage limitations to consumers before people purchase a plan, including alerting consumers if pre-existing conditions are not covered and if plans cannot be renewed.
- The state budget includes an additional \$62 million (All Funds) investment for women's health services over the previous biennium.



## Bad Bills Blocked

- A short-sighted proposal died that would have led to higher rates of hunger among Texans by giving up Texas' control over the Supplemental Nutrition Assistance Program (SNAP) policy to federal officials.
- A recycled proposal to drug test struggling Texans who are receiving Temporary Assistance for Needy Families (TANF) benefits failed again this session.
- A bill was blocked that would have eroded access to consumer protections in the Affordable Care Act including coverage of essential benefits like mental health and maternity.





### Missed Opportunities & New Challenges

- Lawmakers shut down bills to extend the length of Medicaid maternity coverage to a year after birth, despite alignment with recommendations from the Maternal Mortality and Morbidity Task Force and passage by the House.
- Proposals to accept roughly \$8 billion a year in federal Medicaid funds to cover working-poor adults were also shut down. Only a bill by Chairman Garnet Coleman received a hearing.
- Children's health coverage bill was delayed in the House and then denied in the Senate, so thousands of eligible kids will continue to be denied coverage each month.
- Texas is one of only six states that do not extend Medicaid to adult legal immigrants on the same terms as U.S. citizens, but a good bill to close this loophole didn't even get a hearing. This long-overdue change would also have helped to provide better maternity benefits for Texas women.
- Texas missed an opportunity to bring down health insurance premiums by 15 percent for people who buy coverage on their own (outside of a job) by setting up a "reinsurance" system using primarily federal funds as seven other states have done.
- Texas law cannot directly stop surprise medical billing for the types of health insurance regulated at the federal level; however, the legislature considered a bill to let larger employers with federally-regulated plans opt into our strong state consumer protections. That bill did not pass. Congress is currently considering a few different proposals to end surprise billing at the federal level. We are hopeful that Congress will be successful.





# Quality Education & Good Jobs

Texans prosper when they have the chance to learn, earn and save.

Lawmakers passed significant school finance legislation that invests in Texas public schools, our students and our teachers. On the higher education front, the Legislature provided a break for Texans struggling to pay back student loans and changed high school equivalency test rules to remove a significant barrier to postsecondary education for adult learners. Efforts to prohibit communities from passing local policies that improve working conditions for hard-working Texans thankfully failed this session.



## Good Bills Passed

- Lawmakers approved major school finance reforms that CPPP supports on the whole. The new law accounts for inflation, so state and local spending per student, even after adjusting for the Consumer Price Index, should increase in the next two years. In terms of per-student funding, however, the reforms do not go far enough to overcome the obstacles for the majority of low-income and English Language Learner students.
- Bills limiting pre-K class sizes and clarifying eligibility will help improve early education outcomes for the tiniest Texans.
- Legislation passed that would allow the Texas Higher Education Coordinating Board (THECB)-approved high school equivalency (HSE) exam scores to count for college readiness standards, ensuring that adult learners in Texas who perform well on HSE exams will not be subject to duplicative and additional hours of preparation and costs.
- Teachers, counselors, nurses and other professionals will get a break from the repeal of a bad law that threatened them with professional license revocation if they couldn't pay back their student loans.



## Bad Bills Blocked

- A slate of extreme preemption bills failed that would have prohibited towns, cities and counties from passing basic worker protections like paid sick days, fair scheduling, fair chance hiring, and construction site safety rules.
- Efforts to repeal the Texas Dream Act failed again this session, preserving a vital pathway to opportunity that is critical to our state's continued economic prosperity.



## Missed Opportunities & New Challenges

- The biggest disappointment in the final school finance law stems from the inequitable tax compression, meaning some districts will be able to tax at lower rates than other districts to access the same amount of funds. This violates the fundamental principles of school finance equity that have led to notable advances in public education in Texas in the last 25 years.



# Investing In Texas

Texas is fortunate to have a thriving economy, so we can afford to make the investments needed to ensure that hard-working Texans can share in the state's prosperity.

While school finance reform was an overall victory, devoting over \$5 billion of the big new school finance law to “buying down” school property taxes in 2020-2021 was the wrong priority, and the state commitment gets even bigger after 2021. From closing loopholes to updating formulas, lawmakers missed many chances to provide sustainable funding for our schools and other critical services in the future. During the interim and next legislative session, CPPP will continue to work with lawmakers to find secure and equitable revenue sources to support the public good.



## Good Bills Passed

- Invested part of the Economic Stabilization Fund to address critical needs in education, Hurricane Harvey recovery, and other areas.
- Extended Chapter 312 property tax abatements, including public notice and transparency provisions to make it easier for Texans to find out how public funds are being used.



## Bad Bills Blocked

- A regressive plan to pay for property tax cuts with a 16 percent increase in the sales tax was killed after analysis from CPPP and the Legislative Budget Board showed the scheme would shift greater tax responsibility to low and moderate-income Texas families.
- An extreme proposal to eliminate more than \$28 billion a year in local school property taxes without a clear alternative source of funding also failed.
- A zombie proposal that comes back every session to impose new, arbitrary spending limits died again this session.
- Proposals to repeal or phase out the business franchise tax failed this session, protecting an important source of revenue for our schools.
- A xenophobic, last-minute budget maneuver to add \$100 million more in public funds toward militarization efforts along the U.S./Mexico border



was scratched in the final days of the legislative session.

- A wasteful insurance tax giveaway lacking basic safeguards to ensure that Texas benefits from investments in rural areas lost steam.
- Lawmakers held off on renewing a colossal corporate tax giveaway program through Chapter 313 school property tax abatements. CPPP recommends an independent analysis of these abatements during the interim.
- A misguided tax break for desalination operations in the Permian Basin failed to gain traction.
- Proposals also failed to subsidize privately owned charter management organizations (CMOs) by making property used for charters exempt from property taxes. Long-term the Legislature needs to evaluate how it will fund both the charter and the school district finance systems with limited resources.



## Missed Opportunities & New Challenges

- A new law will limit local democracy by forcing many cities, counties, and emergency services districts to hold an election if they want to raise property taxes by more than 3.5 percent above the previous year's revenue. Cutting local governments' ability to meet the needs of residents in fast-growing communities is illogical.
- Lawmakers passed a constitutional amendment asking Texas voters to forever forfeit their constitutional right to a state income tax with a new constitutional ban. Texans should reject this unnecessary amendment that ties the hands of future generations.
- Instead of identifying sustainable revenue sources for Texas schools and other services, lawmakers capped taxes on yachts and passed tax breaks for aerospace government contractors.





# A Strong, Well-Informed Democracy

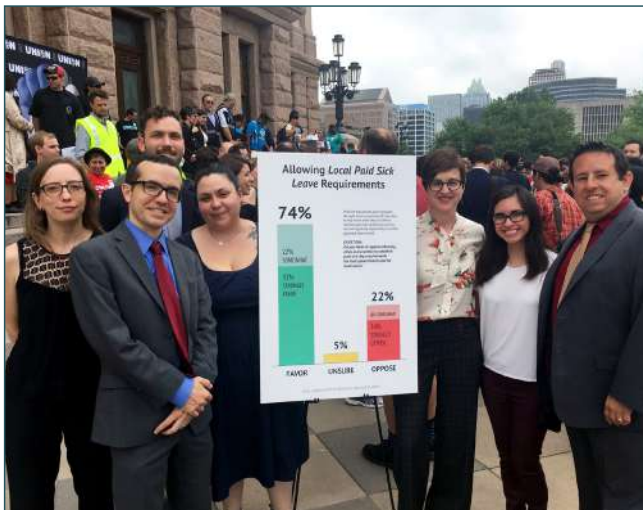
Well-functioning democracies depend on accurate data, informed voters, and strong representation at all levels of government.

CPPP stood with local elected officials, advocates, working families, and health care experts to ensure local governments can pass policies that reflect the needs and values of their communities. On the downside, the Legislature undermined Texans' political representation at the congressional level by failing to invest in a statewide Complete Count Commission or Census outreach. The Governor can still issue a proclamation for a Complete Count Commission, but without funding it would largely be symbolic. A strong, well-informed democracy requires transparency, and CPPP, as a member of the Sunshine Coalition, supported successful legislation that will make both state and local government more transparent and accessible to Texans.



## Good Bills Passed

- A new law increases transparency by expanding the disclosure requirements of government contracts under the Public Information Act.



## Bad Bills Blocked

- A slate of extreme preemption bills was defeated that would have prohibited towns, cities and counties from passing basic worker protections like paid sick days, fair scheduling, fair chance hiring, and construction site safety rules.
- Broad preemption proposals failed that would have severely limited the ability of local governments to pass local ordinances that contribute to a strong local economy, such as payday lending ordinances and local smoking regulations.



## Missed Opportunities & New Challenges

- Unfortunately, lawmakers didn't prioritize legislation or include funding in the state budget to support a complete count of all Texans in the 2020 Census, leaving the job up to local communities, businesses, and philanthropic foundations.

The background of the entire page is a photograph of the Texas State Capitol dome, showing its ornate architecture, including the dome's ribs, windows, and the statue of Liberty on top.

# **TEXAS CHILDREN AND THE 2019 LEGISLATIVE SESSION**

**What the Texas Legislature  
accomplished for children  
and where it fell short**

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# Introduction

The 2019 Texas legislative session ended with big wins for children on pre-k funding, student mental health, and other issues; disappointments regarding foster care as well as health coverage for moms and kids; and many reasons that we're proud of what our team accomplished for Texas children.

**After years of working with our partners to lay the groundwork for progress on pre-k, child care, and student mental health — and continued efforts by our staff during the session — we saw significant victories in these areas this session.** In an historic move, the Legislature provided funding for full-day pre-k for currently eligible children as part of a significant new infusion of funding into public education. Along with other important child care safety legislation, lawmakers passed the bills that our team championed to improve nutrition and active play opportunities in child care and collect the data necessary to understand how better child-caregiver ratios in child care can improve kids' safety and school readiness. The Legislature also passed several of the proposals we crafted with our partners to ensure that more schools are effectively supporting student mental health, recognizing childhood trauma, establishing positive school climates, and preventing youth suicide. We appreciate state leaders' great work on these issues this session.

**Our team also helped lead the way in developing and successfully pushing through proposals in areas that otherwise received less attention from state leaders,** including a bill to ensure that more mothers have transportation to prenatal care and postpartum appointments; legislation to

ensure that more teen parents in foster care receive basic parenting education to keep their children healthy and safe and their young family together; and a \$31 million increase (of the \$72.6 million increase requested by state health officials) for Early Childhood Intervention (ECI) for babies and toddlers with disabilities.

These and other victories were only possible with the help of our partners and supporters as well as the legislators, staffers, and other officials who worked hard to make them happen.

In addition to these successes, we give state legislators credit for taking targeted steps forward in other areas — such as Medicaid managed care reform, funding for substance use treatment for mothers and pregnant women, and funding for Department of State Health Services (DSHS) maternal health initiatives — even though there were hopes that the Legislature would go further on these issues.

**However, we are disappointed that state leaders largely put the needs of foster care children on the back burner this session and passed no legislation to address the fact that Texas has the nation's worst uninsured rates for children, women of childbearing age, and the overall population.** Nonetheless, for the first time in years, there were some signs of bipartisan interest in health coverage, potentially serving as the building blocks for future progress. Our team and our partners successfully worked to pass an amendment through the House to reduce the number of eligible children who are removed



from Medicaid insurance due to red tape. Unfortunately, the Senate did not take it up. The House also passed a bill to provide health coverage to new mothers for 12 months after childbirth, a recommendation from the state's Maternal Mortality and Morbidity Task Force that is critical for healthy babies, healthy pregnancies, and healthy mothers. We were disappointed that the Senate declined to hold a hearing on it.

**On these and other issues, there is a great deal of unfinished business.** Texas should stop removing eligible children from Medicaid and stop cutting off Medicaid health insurance for new mothers two months after childbirth. In fact, Texas should go further and accept federal Medicaid expansion funding to cover all uninsured adults in low-wage jobs. The state should establish limits on pre-k class size and student-teacher ratios. Texas needs to do more to ensure that all working parents — not just those with the highest incomes — have access to high-quality child care that is safe and helps

children develop the social, emotional, and learning tools they will need in school. And Texas must recommit to ensuring kids in foster care are safe, healing, and thriving and prepare for implementation of the new federal foster care law and the court rulings on the Texas foster care system.

In the following pages, we provide more information about what the Legislature did this session on these and other issues. For each of our five policy areas, we also include a list of significant bills that passed and those that did not. We have categorized those bills as either supporting children, raising concerns, or impacting children (i.e. bills that have an uncertain impact on children).

We are hopeful that this report allows Texans to better understand what the Legislature accomplished for children, where it fell short, and how we can continue to work together to support the lives of Texas children today for a stronger Texas tomorrow.



Texans Care for Children Policy Team, front to back:  
Adriana Kohler, David Feigen, Kate Murphy, Josette Saxton, and Stephanie Rubin

# Review of Children's Mental Health Policy Progress During the 2019 Texas Legislative Session

After the Governor named school safety and children's mental health a priority issue following the tragic 2018 shooting at Santa Fe High School, the Legislature took significant action during the 2019 session to ensure schools, doctors, and mental health providers are better equipped to prevent and address social, emotional, and mental health challenges among Texas children. Working closely with Texans Care for Children, lawmakers passed multiple measures to ensure schools have better guidance on implementing student mental health strategies. The Legislature also passed portions of a high-profile bill to expand children's access to psychiatric services in our communities and legislation that our staff proposed to address the rising youth suicide rate in Texas. Unfortunately, the final state budget excluded student mental health funding for the Texas Education Agency (TEA) and suicide prevention funding that was included in the House version of the budget bill.

After years of Texans Care for Children and other advocates laying the groundwork to improve the availability of **school-based supports for student mental health**, the Legislature passed HB 18 and HB 19, two bills that ensure schools are better equipped to address a range of social, emotional, and behavior challenges that interfere with students' health and education on a daily basis. HB 18 establishes training, policy, and planning requirements for school districts related to student mental health, the use of trauma-informed practices, and helping

students develop social and emotional skills and learn about mental health. Thanks to HB 19, non-physician mental health professionals will be available as a dedicated resource to help schools meet these new requirements. Employed by local mental health authorities but working at each of the 20 education service centers (ESCs) in the state, they will provide school personnel with training and consultation services on using effective practices related to student mental health, trauma-informed practice, and substance use.

Additionally, the omnibus school safety bill passed by the Legislature, SB 11, requires districts to establish safe and supportive school programs that use multilevel systems of supports to address school climate, social and emotional development, and behavioral and mental health among students — a recommendation in our 2017 report on student mental health. SB 11 also requires school districts to adopt policies to implement trauma-informed practices and staff training, aligning with recommendations from our 2019 policy brief on trauma-informed schools. SB 11 also includes provisions from HB 4414, legislation that Texans Care for Children helped develop and champion. Those provisions require TEA to develop inventories of resources that districts can use to develop safe and supportive school programs and a statewide plan to ensure schools are safe and supportive and address student mental health.



The Legislature failed to provide dedicated funding to TEA or school districts to support student mental health. However, SB 11 directs TEA to provide school districts a per-student allotment (estimated to be approximately \$10 per student) to support school safety activities, which can be used for some mental health strategies as well as “hardening” strategies such as the hiring of school police officers. The Legislature appropriated \$100 million in a supplemental budget bill dedicated strictly to fund school “hardening” strategies.

Texans Care for Children and our partners also worked to craft and successfully pass two measures to address **suicide prevention strategies in schools and beyond** through SB 11 and other legislation. Provisions of SB 1390 included in SB 11 will promote schools’ use of comprehensive suicide prevention strategies, including responding to suicide attempts or deaths in ways that help prevent further suicidal behaviors. Additionally, HB 1390 requires state agencies to focus attention and planning on reducing suicide rates among all Texans. While the Texas House passed a budget amendment to fund suicide prevention efforts, budget writers unfortunately stripped

the amendment out of the final version of the budget.

A high profile bill on **psychiatric treatment and research**, SB 10, was blocked late in session by a House member, but legislators then attached the children-specific parts of the bill to SB 11. These provisions establish a consortium charged with leveraging health science and medical schools to provide pediatricians, primary care providers, and community mental health providers with psychiatric consultation services, training opportunities, and telehealth programs to increase children’s access to mental health treatment. Meanwhile, HB 10, which would have established the Texas Mental and Behavioral Health Research Institute, did not pass.

State leaders deserve credit for the progress they made on children’s mental health this session. While there is much more work for the state to do, it is also time for local communities to ensure that school districts maximize new funding provided by school finance reforms to implement effective student mental health strategies on their campuses.

# Outcomes for Key Children's Mental Health Legislation

**PASSED**

## Support Children's Mental Health in the Community

### **HB 3980 by Rep. Hunter**

Similar bill: SB 1176 by Sen. Menéndez

This bill requires a report on suicide rates across the lifespan, state agencies' activities related to suicide, and policy recommendations to reduce suicide rates among all Texans.

### **SB 10 by Sen. Nelson**

Passed as an amendment to SB 11

This bill establishes the Texas Child Mental Health Care Consortium to increase children's access to mental health care. The bill leverages health science and medical schools within the state to provide psychiatric consultation services and training opportunities to pediatricians and primary care providers; expand the use of telehealth and telemedicine programs to provide children with mental health care services; and expand the child psychiatry workforce in the state.

### **SB 1177 by Sen. Menéndez**

This bill provides Medicaid managed care organizations (MCOs) with the flexibility to cover home- or community-based services "in lieu of" more restrictive mental health services when they are medically appropriate, evidence-based, and with patient consent.

## Support Children's Mental Health in School

### **HB 18 by Rep. Price**

This omnibus student mental health bill includes multiple strategies aimed at increasing the capacity of school districts and school personnel to support the mental health and development of students, including training, policy, and planning requirements related to student mental health, the use of trauma-informed practices, social and emotional skill development, and comprehensive suicide prevention.



## Support Children's Mental Health in School (continued)

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### HB 19 by Rep. Price

This bill directs local mental health authorities (LMHAs) to provide a mental health professional at each regional education service center (ESC) to serve as a resource to school districts and school personnel, offering training and consultation services on using effective practices to address student mental health within the school environment.

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### HB 4414 by Rep. Allison

Passed as an amendment to SB 11  
Similar bill: SB 1563 by Sen. Lucio

This bill requires the Texas Education Agency (TEA) and regional ESCs to develop statewide and regional inventories of resources schools can consider using to support student mental health and create safe and supporting learning environments. The bill also requires TEA to develop a statewide plan for student mental health, including legislative recommendations, to ensure all students have access to mental health resources.

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### SB 11 by Sen. Taylor

This omnibus school safety bill includes several provisions that address safe and supportive school climates, including the use of trauma-informed practices, multi-tiered systems of student support, and suicide prevention. The bill also provides school districts with an annual "school safety" funding allotment to support a range of approved safety and security activities, which schools can use to support student mental health and suicide prevention strategies.

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### SB 1390 by Sen. Menéndez

Passed as an amendment to SB 11 and HB 18

This bill promotes comprehensive suicide prevention strategies in school, including requiring school districts to have plans in place on how they will respond to suicide attempts or deaths within a school community that will help prevent further suicidal behaviors.

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## Impact Children

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### HB 906 by Rep. S. Thompson

This bill establishes a task force to study and evaluate state-funded mental health services and trainings provided at school districts.

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# DID NOT PASS

## Support Children's Mental Health in the Community

<b>HB 10 by Rep. S. Thompson</b>	This bill would have established the Texas Mental and Behavioral Health Research Institute focusing on child and adolescent behavioral health needs and funds research on behavioral health issues.
<b>HB 501 by Rep. S. Thompson</b>	This bill would have required group health benefit plans to provide coverage for serious emotional disturbance in children and ensure children receive the same mental health coverage and parity protections as adults.
<b>HB 2080 by Rep. Coleman</b>	This bill would have created a Medicaid benefit for children with serious emotional disturbance for family partner peer support services provided by certified family partners.

## Support Children's Mental Health in School

<b>HB 1335 by Rep. Price</b> Similar bill: SB 2003 by Sen. Whitmire	This bill would have created a grant program for public school districts seeking to establish school-based behavioral health centers.
<b>HB 2511 by Rep. Allen</b>	This bill would have required campus improvement plans to include strategies to promote nurturing classroom environments, positive relationships between teachers and students, and building resilience in students.
<b>HB 4454 by Rep. Rodriguez</b>	This bill would have required the State Board of Education to adopt developmentally appropriate, evidence-based standards for social and emotional learning and required each public school district to provide these standards in each grade level.
<b>SB 426 by Sen. Lucio</b> Similar bill: HB 727 by Rep. M. González	This bill would have required districts to adopt policies regarding the percentage of work time for school counselors to spend on duties relating to counseling programs.

# Review of Child Protection Policy Progress During the 2019 Texas Legislative Session

State leaders paid little attention to Child Protective Services (CPS) issues during the 2019 legislative session despite the serious ongoing challenges in the state's foster care system. Nonetheless, Texans Care for Children secured an important victory for pregnant and parenting youth in foster care and their children.

Texas leaders made important progress on CPS during the 2017 legislative session, but as they returned to the Capitol in 2019 they still faced a number of areas with significant needs, including: supporting families to allow more children to stay safely with their parents; improving safety in foster care; and ensuring that children in foster care are healing and thriving. Problems in these areas were highlighted in many places, including reporting by the state's foster care ombudsman, the lawsuit against the state's foster care system, and research by Texans Care for Children. Additionally, the federal Family First Prevention Services Act (FFPSA), which will take effect in Texas on October 1, 2021, after the state's decision to delay implementation, created new opportunities and challenges for the state to meet its child protection goals.

Unfortunately, this year the Legislature largely embraced the status quo for foster care and CPS. A handful of important, positive child protection bills passed, but they mostly make narrow improvements rather than implementing still-needed, significant reforms. Similarly, **funding for the Department of**

**Family and Protective Services** (DFPS) in the state budget largely maintains the status quo, providing marginal increases for the state's effective Prevention and Early Intervention programs; limited increases to maintain lower caseloads for investigators and potentially reduce caseloads for foster care caseworkers; and inadequate funding for staff to support older youth in foster care and other current challenges. The budget decisions contrast with the pre-session requests from DFPS, which identified significant funding needs.

The Legislature made some progress towards keeping families together. **Parental substance use** is one of the main reasons children enter foster care in Texas. The Legislature passed a notable increase in funding for substance use prevention and treatment for pregnant women and mothers. Lawmakers also passed a few bills that should improve data related to parental substance use and prenatal exposure as well as improve family reunification in CPS cases.

One of the bright spots was passage of HB 475, a bill Texans Care for Children helped craft and champion. The bill implements one of the recommendations from our 2018 report on supporting **pregnant and parenting youth in foster care** to help keep them and their children safe and healthy. The bill seeks to reduce the likelihood that children of youth in foster care will be removed by CPS by providing parenting information to pregnant and parenting youth in foster care if they are

not receiving that information through the state's Helping through Intervention Program (HIP) program. The HIP program is unavailable in many rural communities and other parts of the state. The Legislature did not pass other bills that were filed to support pregnant and parenting youth in foster care.

It was concerning to see that a number of legislators filed bills that had the potential to make it **more difficult to remove children from dangerous situations** rather than supporting families in crisis. While these bills

did not pass, it will be important to monitor child protection debates to ensure they do not gain further traction.

Very limited progress was made to improve **child safety in foster care**. The funding provided by the Legislature may be insufficient to reduce caseloads, and two bills that would have furthered this goal did not pass. A bill that would have strengthened the oversight provided by the Foster Care Ombudsman also did not pass.





The Legislature fully funded **Community Based Care** (CBC), which seeks to improve support and the quality of homes for youth in foster care. They expanded Phase I (in which a local contractor takes over the responsibility of finding safe, high-quality, nearby homes for children in a region) to the Lubbock area and to the counties surrounding San Antonio, bringing the number of Phase 1 regions to five. The Legislature also provided funding to start Phase II (in which the local contractor also on takes case management for kinship, family reunification, permanency, and other responsibilities) in the three regions that already implemented Phase I. Stakeholders and advocates will be monitoring the continued rollout of CBC in regions across Texas, especially the new rollout of Phase II.

In 2017, the Legislature commissioned a Workgroup to develop recommendations that would better support youth making the difficult **transition from foster care to adulthood**. Unfortunately, lawmakers did not hold a hearing on SB 480, the bill to implement the Workgroup's recommendations. This bill would have ensured more youth understand the medications they are taking, removed barriers that prevent youth from finding stable housing, and more. Although the Legislature passed HB 53 to help improve financial literacy and HB 123 to make it easier for youth to get a Driver's License or state identification, there is still much more work to do to meaningfully support transition-aged youth in foster care.

Prior to the legislative session, the House Human Services Committee and the Children's Commission at the Texas Supreme Court worked intensively on strategies to expand **trauma-informed care** in the Texas child

welfare system. Ten bills were filed this session in efforts to further this goal, but none of them passed.

The Legislature only passed two bills related to the **FFPSA, the new federal law** that will significantly shape states' child protection efforts in the coming months and years. Lawmakers passed SB 355 to require DFPS to develop a strategic plan for implementing prevention programs that comply with the FFPSA, as well as the continued rollout of CBC and methods to maximize state and federal resources in the evolving child welfare landscape. By passing SB 781, they also directed DFPS to weigh the costs and benefits of developing or upgrading foster homes to meet the heightened standards the FFPSA will require to continue to receive federal funding. Unfortunately, the Legislature failed to pass bills or provided funding to ensure that Texas is ready to implement the law when it takes effect in October 2021, meaning the state may lose federal funding for foster homes and face delays in leveraging the new prevention opportunities.

Over the next two years, state leaders will need to recommit to protecting children in Texas, do a better job of supporting at-risk families so that more children can stay safely with their families rather than entering foster care, and improve support for youth in foster care. They will have to do so in the context of preparing for the opportunities and challenges presented by the FFPSA, implementing the final orders that federal courts issue in response to the lawsuit against the state's foster care system, and continuing the rollout of Community Based Care to ensure strong outcomes for children.

# Outcomes for Key Child Protection Legislation

## PASSED

### Support Children

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**HB 53 by Rep. Minjarez**

This bill requires Preparation for Adult Living (PAL) training for youth transitioning out of foster care to cover new topics including civic engagement and financial literacy.

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**HB 72 by Rep. White**

Similar bill: SB 1493 by Sen. Paxton

This bill allows adoptive parents to opt into STAR Health Medicaid for a child with a chronic health condition and establishes a program that protects the continuity of care for each child following adoption.

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**HB 123 by Rep. White**

Similar bill: SB 481 by Sen. Watson

This bill allows youth in foster care, youth experiencing homelessness, and unaccompanied minors to receive a copy of their birth certificate without parental consent and with no fee, and apply for a Driver's License or state ID without paying a fee.

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**HB 475 by Rep. Howard**

Similar bill: SB 1290 by Sen. Watson

This bill ensures pregnant and parenting youth in foster care receive basic parenting education and services that will help preserve their young families. The bill addresses youth in regions of the state that are not served by the Helping through Intervention and Prevention (HIP) program.

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**HB 811 by Rep. White**

Similar bill: SB 424 by Sen. West

This bill requires public schools to consider whether a child is experiencing homelessness or is in foster care when taking disciplinary action.

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**HB 1702 by Rep. Howard**

Similar bill: SB 1357 by Sen. Hancock

This bill helps colleges and universities identify students who were formerly in foster care, requires schools to provide information to those students about available supports, and encourages staff to receive relevant training.

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**HB 1780 by Rep. Miller**

This bill requires courts to consider whether a parent made a good faith effort to complete substance use treatment in determining whether to extend the dismissal date in CPS cases to give more families an opportunity to successfully reunify.

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## Support Children (continued)

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### HB 2737 by Rep. Wu

This bill requires the Children's Commission to develop guidelines for judges that will establish greater uniformity in how Texas handles juvenile justice or CPS cases involving children with mental illness; placement of children and termination of parental rights in CPS cases; and the release of detained children, certification of juveniles to stand trial as adults, and the use of restraints or clothing worn during juvenile proceedings.

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### HB 3390 by Rep. Sanford

This bill requires guardians ad litem, attorneys ad litem, and CPS caseworkers to ask children, in a developmentally appropriate way, about any adult who could be a caregiver for the child. This bill will ensure that judges ask children about the relationships in their lives at every permanency hearing.

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### HB 3809 by Rep. Goldman

This bill extends the statute of limitations for child sexual abuse for individuals and culpable organizations.

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### SB 355 by Sen. West

Similar bill: HB 4263 by Rep. Klick

This bill requires the Department of Family and Protective Services to develop a strategic plan to improve coordination and effectiveness of services for children at risk of entering foster care by leveraging federal funds made available through the Family First Prevention Services Act. This bill also requires strategic planning for Community Based Care as well as methods to maximize state and federal resources in the evolving child welfare landscape.

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## Impact Children

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### SB 195 by Sen. Perry

This bill requires DFPS to publicly report state-level data related to parental substance use and prenatal substance exposure.

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### SB 781 by Sen. Kolkhorst

Similar bill: HB 1698 by Rep. Leman

This bill changes the licensing process for General Residential Operations and Residential Treatment Centers, removes evaluation as a minimum standards enforcement mechanism, requires DFPS to develop protocols to reduce runaways and increase normalcy activities, moves residential child care licensing toward performance-based contracting, and requires DFPS to develop a strategic plan for developing foster care facilities eligible for federal financial participation under the Family First Prevention Services Act.

## Raise Concerns

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### HB 2363 by Rep. Harris

This bill allows foster parents to store loaded guns in a locked storage container. Previously, guns had to be unloaded, locked, and stored separately from ammunition.

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### HB 2764 by Rep. Frank

This bill requires DFPS to review and simplify minimum standards so they are more flexible and caps training for foster parents at 35 hours.

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## DID NOT PASS

## Support Children

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### HB 45 by Rep. Minjarez

This bill would have required DFPS to work with community-based organizations to establish a mentor program to serve youth age 14 and older in foster care.

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### HB 141 by Rep. M. González

Similar bill: SB 255 by Sen. Rodríguez

This bill would have required DFPS to hire caseworkers with at least a bachelor's degree in social work.

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### HB 473 by Rep. Howard

Similar bill: SB 1288 by Sen. Watson

This bill would have improved state data collection and reporting on pregnant and parenting youth in foster care to inform state decisions about expanding services and supports.

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### HB 474 by Rep. Howard

Similar bill: SB 1289 by Sen. Watson

This bill would have ensured DFPS' foster care needs assessment helps the state implement the federal Family First Prevention Services Act (FFPSA) by collecting information on placements that will continue to be reimbursable using federal funding.

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### HB 576 by Rep. White

This bill would have provided monetary assistance to low-income parental child safety placements.

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### HB 988 by Rep. Walle

This bill would have set caseload limits for certain Child Protective Services (CPS) and Adult Protective Services (APS) caseworkers as well as child-care licensing inspectors. This bill would have required the DFPS abuse and neglect hotline to maintain low hold times and low call abandonment rates.

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### HB 1162 by Rep. Jarvis Johnson

This bill would have required courts to provide a guardian ad litem or attorney ad litem for a child for the entire time the child remains in the conservatorship of DFPS.

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## Support Children (continued)

<b>HB 1224 by Rep. White</b>	This bill would have required peace officers or a person that has custody of an arrested child to notify DFPS to determine if the child is in foster care. It also would have required DFPS to develop procedures to review reports of arrested children and provide services to ensure the child's best interests are being represented.
<b>HB 1362 by Rep. Wu</b>	This bill would have required DFPS to conduct a workload study to help the agency determine safe and appropriate caseworker caseload levels, which would help the state comply with the lawsuit against the Texas foster care system.
<b>HB 1536 by Rep. Miller</b> Similar bill: SB 2419 by Sen. Fallon	This bill would have expanded trauma-informed care across the Texas child welfare system.
<b>HB 1846 by Rep. Klick</b> Similar bill: SB 1660 by Sen. Zaffirini	This bill would have required courts to review DFPS' efforts to ensure each child has regular, ongoing opportunities to engage in age-appropriate normalcy activities at each permanency hearing.
<b>HB 1907 by Rep. Howard</b> Similar bill: SB 1291 by Sen. Watson	This bill would have established optional trainings for professionals working with youth in foster care to help them communicate important information about healthy relationships, health care, and available supports for pregnant and parenting youth in foster care.
<b>HB 2614 by Rep. Cole</b>	This bill would have established a pilot program to assist youth in foster care in achieving financial security and independence as they transition to independent living.
<b>HB 3370 by Rep. Deshotel</b> Similar bill: SB 1347 by Sen. Watson	This bill would have required the foster care ombudsman to notify youth about the outcome of the investigation into a complaint filed by that youth and required the ombudsman to report to DFPS monthly on their investigations.
<b>HB 3950 by Rep. Frank</b>	This bill would have created a joint legislative committee to evaluate and develop a strategic plan for continued rollout of Community Based Care and implementation of the Family First Prevention Services Act.
<b>HB 3393 by Rep. Jarvis Johnson</b>	This bill would have established a workgroup at DFPS to develop a plan to ensure that youth formerly in foster care who complete the Preparation for Adult Living program are able to receive college credit for completing the program.
<b>HB 3786 by Rep. Coleman</b>	This bill would have encouraged counties to consider developing family drug courts.

## Support Children (continued)

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### HB 4138 by Rep. Klick

This bill would have prevented unnecessary disruptions in health care coverage for young adults who were formerly in foster care by streamlining the process to determine Medicaid eligibility through automatic enrollment and recertification of eligible individuals.

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### HB 4183 by Rep. Parker

This bill would have required state agencies to develop a strategic plan to prevent and address adverse childhood experiences.

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### SB 98 by Sen. Menéndez

This bill would have increased the number of kinship caregivers eligible to receive financial assistance by removing the licensing requirement.

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### SB 333 by Sen. West

This bill would have required attorneys ad litem to be appointed to children in long-term foster care.

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### SB 480 by Sen. Watson

Similar bill: HB 3379 by Rep. Klick

This bill would have improved services and supports for older youth in foster care and youth transitioning out of care, drawing on recommendations from the DFPS SB 1758 Workgroup.

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### SB 951 by Sen. Watson

Similar bill: HB 2926 by Rep. Hinojosa

This bill would have established a Family First Prevention Services Act task force to assess the readiness of this state to implement the new federal law by 2021.

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### SB 1333 by Sen. West

This bill would have expanded trauma-informed care across the Texas child welfare system based on recommendations made in the Statewide Collaborative on Trauma-Informed Care's Blueprint.

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### SB 1535 by Sen. Menéndez

This bill would have required better communication between DFPS, Child Care Licensing, and the Foster Care Ombudsman (FCO). This bill also would have required Single Source Continuum Contractors (SSCCs) under Community Based Care to give the FCO access to internal records outside of the DFPS IMPACT system and strengthened communication between the FCO and SSCCs.

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## Raise Concerns

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### HB 1109 by Rep. Swanson

This bill would have allowed Child Placing Agencies to waive training requirements for foster parents.

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### HB 1910 by Rep. Dean

This bill would have prevented courts from considering a parent's acknowledgement or failure to acknowledge a child's gender identity or expression when making decisions regarding conservatorship or termination of parents' rights.

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### HB 2134 by Rep. Klick

This bill would have required all children involved in child abuse and neglect investigations to receive a specialty physician consultation, regardless of whether it is directed by the parent, attorney, department, or a medical professional. This bill also would have prevented DFPS and courts from using the best evidence to determine whether a child has experienced maltreatment.

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### HB 2756 by Rep. Leach

Similar bill: SB 2365 by Sen. Hughes

This bill would have made it more difficult to protect children and reunify families involved with CPS. It likely would have changed the process for emergency removals and required a finding of parental fitness at the outset of a CPS case, which would have to be disproven before families could be reunified.

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### HB 3331 by Rep. Frank

Similar bill: SB 2091 by Sen. Hughes

This bill would have changed reasonable efforts findings by adding a balancing test that focused on the trauma of removal while ignoring the trauma associated with prolonged abuse or neglect. It would have changed the evidentiary standard for non-emergency removals, excluded certain acts or omissions from the definition of neglect, and more.

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### HB 4189 by Rep. Middleton

This bill would have hampered the ability of professional reporters to report suspected abuse or neglect to DFPS. This bill would have required actual knowledge of abuse or neglect rather than a suspicion of abuse or neglect.

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# Review of Early Childhood Policy Progress During the 2019 Texas Legislative Session

State leaders made significant progress on early childhood policy during the legislative session, most notably passing a school finance bill that includes landmark funding for full-day pre-k for currently eligible children. After making the case for full-day pre-k funding for many years, Texans Care for Children worked with partners to put the issue front and center during the school finance hearings leading up to the legislative session and to keep it there during the session. The Legislature also passed a number of bills to address safety in child care, a departure from past sessions when child care received little attention from legislators. Texans Care for Children helped lead the efforts to successfully pass a bill to improve nutrition and active play standards in child care and another bill to collect caregiver-child ratio and group size data to better understand how these factors affect children's safety and school readiness. Additionally, Texans Care for Children helped secure a significant increase in funding for Early Childhood Intervention (ECI) for babies and toddlers with disabilities and developmental delays after years of state underfunding of this critical program.

By providing funding for **full-day pre-k** for currently eligible four-year-olds in HB 3, rather than just continuing the state policy of providing funding for half-day pre-k, the Legislature arguably took the biggest step in years for an issue on the Texans Care for Children agenda. State leaders made school finance a priority throughout last year and the session, culminating in a bill that provides

an additional \$6 billion for education and \$5 billion to reduce school property taxes. The bill does not include new mechanisms to collect additional revenue to pay for the ongoing expenditures.

The full-day pre-k funding in HB 3 is provided through a new Early Education Allotment, which will distribute to districts an estimated \$780 million per year for full-day pre-k or other early reading and mathematics strategies. The funding will be distributed as a 0.1 "weight" in the state's funding formulas for each student in kindergarten through third grade who is classified as economically disadvantaged and/or an English Language Learner. While the state currently requires districts to provide half-day pre-k funding to eligible students, leaving districts the option of using local funding to extend programs to full-day, under HB 3, districts will be required to offer full-day programs to eligible four-year-old students. Before seeking a waiver or building new classroom space to meet the requirement, districts must explore partnerships with quality child care or Head Start providers. HB 3 includes other early childhood provisions, such as a requirement for pre-k to meet state quality guidelines and a provision directing the Texas Education Agency (TEA) to collect data on pre-k class sizes and student-teacher ratios.

Legislators also passed a number of bills — SB 568, SB 569, SB 706, and SB 708 — to address **child care** safety this session, prompted in part by the Unwatched investigative series that



the Austin American-Statesman published in late 2018. The bills ensure that parents, state regulators, and policymakers have more information, including data on safety violations, regarding child care providers. Among other provisions, the bills also beef up monitoring of the most informal child care providers by increasing oversight over “listed family homes” and ensuring the state investigates illegal child care operations. Beyond safety issues, the Legislature passed another good bill, HB 680, to improve data collection and transparency in the subsidized child care program managed by the Texas Workforce Commission.

Legislators passed two child care bills that Texans Care for Children worked to develop and shepherd through the process after building momentum on the issues for multiple sessions. SB 952 recognizes the important role that child care providers play in helping parents ensure their children develop healthy

habits and a healthy weight. The bill improves minimum child care standards for nutrition and active play, areas already regulated through state licensing standards. This bill ensures that minimum standards reflect the recommendations of child health and development experts, such as the American Academy of Pediatrics, the American Public Health Association, the American Heart Association, and the National Resource Center for Health and Safety in Child Care and Early Education. SB 708, noted above, addresses longstanding concerns about the state’s standards for child-caregiver ratios, which allow child care providers to assign up to 11 two-year-olds to a single teacher, for example. For many years, Texans Care for Children and others have expressed concerns that the state’s current standards undermine children’s safety, development, and learning. To allow parents and policymakers to make more informed decisions about child care, SB



708 directs the Health and Human Services Commission (HHSC) to collect data on caregiver-child ratios and group size standards, as well as serious violations and injuries.

This session the Legislature also boosted **ECI funding** by \$31 million after Texans Care for Children and others highlighted the urgent need for additional state resources. The boost fell short of the \$72.6 million requested by HHSC, but it was the biggest increase in years. Outside of the state budget, legislators also filed bills to try to help compensate for the state's recent underfunding of ECI, but those bills did not pass.

The Legislature also declined to pass the proposed bills and funding to help ensure Texas achieves an accurate **2020 Census** count. Young children are historically undercounted in the census. By promoting census participation, states and communities

can maximize the amount of federal funding they receive for critical early childhood and education programs over the subsequent decade, including child care, ECI, and federal education funding.

This session represented a significant step forward for early childhood, highlighted by passage of full-day pre-k funding, but there is still much more work to do. State leaders should strengthen the quality of pre-k by working towards establishing limits on class size and student-teacher ratios. After years of inattention to child care policy, state leaders should build on this session's child care safety efforts and work to ensure that all working Texas parents — including those in lower wage jobs — have access to affordable child care that keeps children safe and helps them develop the social, emotional, and learning tools they will need in school and life.





# Outcomes for Key Early Childhood Legislation

## PASSED

### Support Children

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#### **HB 3 by Rep. Huberty**

Similar bill: SB 4 by Sen. Taylor

This bill, the major school finance legislation of the session, provides ongoing investments in early childhood education, including funding for full-day prekindergarten. It also establishes new kindergarten through third grade reading standards, directs districts to develop an early childhood literacy and mathematics proficiency plan, provides funding for districts to provide additional days of instruction to reduce summer slide in the early years, and narrows the number of approved kindergarten readiness assessments to ensure data can be easily compared across the state. Pre-k eligibility requirements will remain unchanged.

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#### **HB 55 by Rep. M. González**

Passed as an amendment to HB 3

This bill directs TEA to collect important information about the state's pre-k program, including the number of students, certified teachers, and teacher's aides in each class offered by each district and whether programs were full-day or half-day.

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#### **HB 65 by Rep. E. Johnson**

Similar bill: SB 304 by Sen. Miles

This bill directs TEA to collect information from school districts about out-of-school suspensions, including the basis for suspensions, the number of days students were suspended, and the number of suspensions that were inconsistent with the student code of conduct.

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#### **HB 680 by Rep. Deshotel**

Similar bill: SB 1002 by Sen. Watson

This bill requires the Texas Workforce Commission (TWC) to assess and report the average cost of child care and the total number of providers and children participating in the state's quality rating system, Texas Rising Star. The bill also requires TWC to allow Local Workforce Development Boards to contract with high-quality child care providers in high-need areas and provides additional professional development to child care teachers and providers.

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#### **SB 568 by Sen. Huffman**

Similar bill: HB 4261 by Rep. G. Bonnen

This bill ensures more information is available to parents on the safety records of child care centers and strengthens the child care license renewal process, among other reforms.

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## Support Children (continued)

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**SB 569 by Sen. Huffman**

Similar bill: HB 4259 by Rep. G. Bonnen

This bill increases oversight for a group of small in-home child care operations the state classifies as “listed family homes.”

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**SB 706 by Sen. Watson**

Similar bill: HB 1431 by Rep. Guerra

This bill reinstates an investigation unit within the Health and Human Services Commission (HHSC) to seek out illegally operating child care facilities.

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**SB 708 by Sen. Zaffirini**

Similar bill: HB 1682 by Rep. Raney

This bill directs HHSC to collect data on caregiver-child ratios and group size standards, as well as serious violations and injuries.

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**SB 952 by Sen. Watson**

Similar bill: HB 1808 by Rep. Lucio III

This bill updates and clarifies minimum child care standards for nutrition and active play, areas already regulated through state licensing standards.

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**SB 1679 by Sen. West**

Similar bill: HB 2020 by Rep. J. Turner

This bill provides automatic pre-k eligibility for four-year-old pre-k students who already attended three-year-old pre-k to eliminate the process of families re-establishing their eligibility in consecutive years.

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## DID NOT PASS

### Support Children

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**HB 12 by Rep. S. Davis**

Similar bill: SB 2225 by Sen. Zaffirini

This bill would have helped babies and toddlers with disabilities and Early Childhood Intervention (ECI) providers by creating a telehealth pilot program, requiring some health plans to cover specified ECI services that are Medicaid-reimbursable, and creating a provider ombudsman in the HHSC.

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**HB 255 by Rep. Blanco**

This bill would have created a Complete Count Commission to develop, recommend, and assist in the administration of an outreach strategy to encourage full participation in the 2020 federal Census in Texas.

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**HB 1635 by Rep. Miller**

Similar bill: SB 1956 by Sen. Zaffirini

This bill would have required most private insurance companies to cover certain ECI services.

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**HB 1966 by Rep. Wu**

Similar bill: SB 873 by Sen. Johnson

This bill would have clarified that child care facilities may provide notice on the percentage of children attending the facility who are immunized.

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## Support Children (continued)

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**HB 3659 by Rep. C. Turner**

This bill would have required licensed child care homes, registered child care homes, and listed family homes to obtain and maintain liability insurance.

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**HB 3738 by Rep. Goldman**

This bill would have required HHSC to create and maintain a single, user-friendly statewide website to help families assess the quality and safety of child care centers and homes.

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**HB 3739 by Rep. Goldman**

This bill would have established a pilot program to expand participation in the Texas Rising Star program.

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**HB 4450 by Rep. M. González**

Similar bill: SB 1817 by Sen. Zaffirini

This bill would have ensured child care facilities promote inclusive practices that integrate children with disabilities and special needs.

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**HB 4753 by Rep. Lopez**

This bill would have required the TWC to study the trends in and projections for the cost of child care in the state.

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**SB 705 by Sen. Watson**

Similar bill: HB 2866 by Rep. Deshotel

This bill would have improved a public DFPS database that allows parents to view child care violations over the past two years by requiring more details about the incidents to be posted and by extending the time frame to five years. It also would have required parental notification if there is an instance of sexual abuse at the child care center where their children are enrolled.

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**SB 2361 by Sen. West**

Similar bill: HB 1763 by Rep. Blanco

This bill would have allowed the otherwise ineligible children of educators employed by a Texas school district to qualify for free public pre-k.

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## Raise Concerns

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**HB 1133 by Rep. Stickland**

This bill would have allowed class sizes in K – 4 to exceed 22 students as long as the average across that grade was no more than 22 students.

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## VETOED

## Support Children

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**HB 448 by Rep. C. Turner**

This bill would have required a person driving a vehicle with a child under the age of two to secure the child in a rear-facing car seat.

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# Review of Maternal and Child Health Policy Progress During the 2019 Texas Legislative Session

State leaders made no progress on the state's worst-in-the-nation uninsured rates for children, women of childbearing age, and other adults this session, but there were some bright spots as well as signs of new momentum. The House, but not the Senate, passed maternal and child health coverage bills that languished in previous sessions. The Legislature passed targeted measures on maternal health and on Medicaid managed care reform that fell short of expectations but still made important improvements. Along with our team's work on these bills, Texans Care for Children's staff also championed successful legislation to ensure more Texas mothers have transportation to prenatal and postpartum care appointments.

The **Children's Health Coverage** bill, HB 342, became a higher profile bill this session after receiving little attention in 2017. State data released this year revealed that eligible Texas children are often removed from Medicaid health insurance due to the repeated documentation that Texas requires many families to provide to verify their income from month to month. HB 342 sought to address this problem by reducing red tape and keeping eligible kids enrolled in health coverage. Legislators on both sides of the aisle worked closely with Texans Care for Children and other partners to pass a compromise version of the bill out of the House Committee, but it was not scheduled for a full House vote. The full House did pass the compromise version as an amendment to SB 1105, but Senators did not bring that bill back up for a vote in the

Senate. While legislation did not pass on the issue, the progress that was made may pave the way for a future policy change to ensure that more eligible children maintain the health coverage they need to do well in school and thrive.

State leaders raised expectations for progress on maternal health in 2019 by directing the state's Maternal Mortality and Morbidity Task Force in 2017 to study **maternal health** and make recommendations for action. Supporting maternal health is critically important for preventing maternal deaths as well as addressing the much more common — and often devastating — health challenges that can arise for babies, pregnant women, and new mothers. The House took a big step forward by passing HB 744, which would have implemented the Task Force recommendation to extend mothers' postpartum Medicaid coverage to 12 months after childbirth, replacing the current state policy that leaves many Texas mothers uninsured just two months after delivery. Unfortunately, the Senate did not take up the legislation. The Legislature also failed to move on bills to accept Medicaid expansion funding to cover uninsured low-wage workers.

While the Legislature fell short of meeting expectations on maternal health, it did pass some important, limited measures. Texans Care for Children played a leading role in crafting and guiding HB 25, a bill that passed to establish a pilot program to ensure more Texas mothers can use the state's Medicaid

transportation program to attend prenatal and postpartum care appointments. Prior to HB 25, mothers who needed to take their newborn babies or other young children with them were unable to use the program. The most significant maternal health bill that passed was HB 1111, which passed as an amendment to SB 748. It establishes a pregnancy medical home pilot program to coordinate maternity care; establishes a pilot program to improve care coordination services for women at higher risk for poor pregnancy, birth, or postpartum outcomes; and directs HHSC to develop a program to deliver prenatal and postpartum care through telehealth services, among other provisions. Additionally, SB 750 and its accompanying \$15 million in the state budget have the potential to support additional postpartum health services for a portion of the women enrolled in the state's Healthy Texas Women program. The budget also includes an additional \$7 million requested by the Department of State Health Services for maternal health initiatives and a notable increase in funding for substance use prevention and treatment for pregnant women and mothers.

Expectations were also high this session for reform of the state's **Medicaid managed care** program, in which the state contracts with private health insurance companies to serve as a middle man between medical providers and Medicaid enrollees, such as children in foster care and Texans with disabilities. The Dallas Morning-News' investigation into the system helped highlight many areas that were ripe for reform. The Legislature did not pass the bill that included the most sweeping reforms and patient protections, HB 2453. However, elements of that bill and others passed as amendments to SB 1095, SB 1207, and HB 4533. The most significant reforms that passed this session will create an external

medical review to resolve a Medicaid client's appeal after a health insurer denies or reduces doctor-ordered treatments; streamline and add a bit of oversight to prior authorizations (the rules insurers have for what services are and are not covered); and improve medication access for kids with disabilities.

Following the legislative session, it will be important for state leaders to work to reduce the uninsured rate for children, mothers, and all low-wage workers, building on the legislation that passed the House but stalled in the Senate.





# Outcomes for Key Maternal and Child Health Legislation

**PASSED**

## Support Children by Supporting Maternal Health

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### HB 25 by Rep. M. González

Similar bill: SB 937 by Sen. Zaffirini

This bill creates a pilot program that removes obstacles in the current medical transportation program and ensures more Texas mothers can attend prenatal and postpartum care appointments.

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### HB 253 by Rep. Farrar

This bill requires the HHSC to develop and implement a five-year strategic plan to improve access to screening, referral, treatment, and support services for postpartum depression.

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### HB 405 by Rep. Minjarez

This bill designates June as Neonatal Abstinence Syndrome Awareness Month, with the goal to raise awareness of prenatal substance exposure and the impact on babies and to increase awareness of substance use treatment and recovery supports available in Texas.

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### HB 475 by Rep. Howard

Similar bill: SB 1290 by Sen. Watson

This bill ensures pregnant and parenting youth in foster care receive basic parenting education and services that will help preserve their young families. The bill addresses youth in regions of the state that are not served by the Helping through Intervention and Prevention (HIP) program.

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### HB 541 by Rep. M. González

This bill clarifies that Texas mothers may use a breast pump in public.

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### HB 650 by Rep. White

This bill takes steps to improve health outcomes for women involved in the justice system through correctional officer training related to care for pregnant women, pregnancy and parenting classes, nutrition support for pregnant women, and a prohibition on shackling women while pregnant.

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### HB 1111 by Rep. S. Davis

Passed as an amendment to SB 748

This bill establishes a pregnancy medical home pilot program to coordinate maternity care; establishes a pilot program to improve care coordination services for women at higher risk for poor pregnancy, birth, or postpartum outcomes; and directs HHSC to develop a program to deliver prenatal and postpartum care through telehealth services, among other provisions.

## Support Children by Supporting Maternal Health (continued)

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### **SB 436 by Sen. Nelson**

Similar bill: HB 1292 by Rep. Price

This bill seeks to improve screening to better identify and care for women with opioid use disorder; improve referrals to treatment and continuity of care; increase medication-assisted treatment options; and optimize health care provided to pregnant women with opioid use disorder and to newborns.

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### **SB 559 by Sen. Miles**

Passed as an amendment to SB 750  
Similar bill: HB 1255 by Rep. Hinojosa

This bill improves maternal health data in Texas by requiring a hospital or birthing center to send patient records to DSHS within 30 days of the state's request regarding a pregnancy-related death.

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### **SB 750 by Sen. Kolkhorst**

This bill directs HHSC to evaluate and develop a limited postpartum care package for new mothers enrolled in Healthy Texas Women (HTW) program and to develop strategies to ensure continuity of care for new mothers who transition from Medicaid for Pregnant Women into HTW, among other provisions.

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### **SB 1564 by Sen. West**

This bill improves access to medication-assisted treatment for Texans with substance use disorder by authorizing Medicaid reimbursement for the prescribing of buprenorphine by an advanced practice registered nurse.

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### **SB 2132 by Sen. Powell**

This bill improves awareness of the HTW program by adding information to the notice sent to new mothers enrolled in HTW after having a baby.

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## Support Children by Reforming Medicaid Managed Care

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### **HB 72 by Rep. White**

Similar bill: SB 1493 by Sen. Paxton

This bill allows adoptive parents to opt into STAR Health Medicaid for a child with a chronic health condition and establishes a program that protects the continuity of care for each child following adoption.

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### **HB 1576 by Rep. Phelan**

This bill significantly transforms the medical transportation program by requiring Medicaid health plans, rather than current transportation providers or regional brokers, to manage and coordinate the transportation benefit. Health plans may arrange ridesharing for a client or use existing medical transportation providers that offer handicap accessible vehicles.

## Support Children by Reforming Medicaid Managed Care (continued)

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### SB 1096 by Sen. Perry

This bill improves medication access for kids with disabilities by prohibiting prior authorizations for drugs prescribed to a child enrolled in the STAR Kids Medicaid managed care program; and streamlines some prior authorization processes when a child is hospitalized.

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### SB 1105 by Sen. Kolkhorst

Passed as an amendment to HB 4533

This bill directs HHSC to implement a no-wrong-door system for Medicaid managed care grievances; establish a procedure for expedited resolution of a Medicaid-related grievance; and publish quality and health outcome data for each Medicaid health plan in an easy-to-read format.

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### SB 1207 by Sen. Perry

This bill improves the coordination of benefits for children who have both private health insurance and Medicaid coverage in STAR Kids; creates an external medical review process to resolve a Medicaid client's appeal after HHSC or a Medicaid health plan denies or reduces health care services; streamlines several prior authorizations processes for health providers and health plans; and requires health plan notices to clients about denial of services to include a clear, easy-to-understand explanation of the reason for the denial. It includes select provisions of HB 2453 and HB 4178.

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## Support Children's Health Directly

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### HB 3345 by Rep. Price

This bill requires certain private health plans regulated by the state to cover and reimburse health providers for health services delivered through telehealth on the same basis and to the same extent that the plan covers the service in an in-person setting.

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### SB 21 by Sen. Huffman

Similar bill: HB 749 by Rep. Zerwas

This bill raises the age of tobacco sales from age 18 to 21.

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### SB 670 by Sen. Buckingham

This bill eliminates some restrictions on the use of telemedicine in Medicaid so that safety-net health centers can offer telehealth benefits to kids and families.

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### SB 747 by Sen. Kolkhorst

This bill prohibits health plans that cover newborn care from limiting or excluding coverage of newborn screening tests and requires DSHS to publish on its website the cost of and instructions for submitting reimbursements for a newborn screening test kit.

## Support Children's Health Directly (continued)

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### SB 748 by Sen. Kolkhorst

This bill creates a newborn screening preservation account to establish a consistent and long-term funding stream to repair, upgrade, and expand screenings conducted by the DSHS public health lab.

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### SB 952 by Sen. Watson

Similar bill: HB 1808 by Rep. Lucio III

This bill updates and clarifies minimum child care standards for nutrition and active play, areas already regulated through state licensing standards.

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### SB 1834 by Sen. Alvarado

Similar bill: HB 3541 by Rep. Rose

This bill creates a pilot program that incentivizes Texas-grown fresh fruits and vegetables under the supplemental nutrition assistance program (SNAP).

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## Impact Children By Impacting Maternal Health

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### SB 195 by Sen. Perry

This bill requires DFPS to collect and publicly report state-level data related to parental substance use and prenatal substance exposure.

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## DID NOT PASS

## Support Children by Supporting Maternal Health

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### HB 60 by Rep. Ortega

This bill would have required institutions of higher education to e-mail students each fall with information about the Healthy Texas Women and Family Planning Program.

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### HB 565 by Rep. Coleman

Similar bill: HB 590 by Rep. Israel  
Similar bill: HB 826 by Rep. Bernal  
Similar bill: SB 327 by Sen. Alvarado

This bill would have used federal Medicaid expansion funding to cover uninsured low-wage adults.

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### HB 744 by Rep. Rose

Similar bill: HB 1110 by Rep. S. Davis  
Similar bill: HB 241 by Rep. Farrar  
Similar bill: HB 411 by Rep. Thierry  
Similar bill: HB 610 by Rep. Walle  
Similar bill: SB 147 by Sen. Rodríguez

This bill would have extended the length of time eligible women are covered by Medicaid from 60 days after childbirth to 12 months.

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### HB 800 by Rep. Howard

This bill would have included contraception as a covered benefit under the Children's Health Insurance Program (CHIP) when teens have parental consent.

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## Support Children by Supporting Maternal Health (continued)

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### HB 840 by Rep. Bucy

Similar bill: SB 524 by Sen. Johnson

This bill and the accompanying constitutional amendment would have provided Texas voters an opportunity to vote on using federal Medicaid expansion funding to cover uninsured low-wage adults.

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### HB 937 by Rep. S. Davis

Similar bill: SB 795 by Sen. Alvarado

This bill would have allowed women with Medicaid or private health insurance to receive up to a twelve-month supply of prescription contraception at one time.

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### HB 1589 by Rep. Ortega

This bill would have improved awareness about the HTW program by notifying pregnant women enrolled in Medicaid that they will be auto-enrolled into the HTW program.

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### HB 2091 by Rep. Ortega

This bill would have promoted the use of community health workers, also known as promotoras, by allowing Medicaid health plans to report associated expenses as a quality improvement cost rather than an administrative expense.

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### HB 2618 by Rep. Walle

This bill would have created a pilot program to place mental health peer specialists in safety-net health centers to serve women at risk of or who have developed postpartum depression.

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### SB 429 by Sen. Lucio

This bill would have directed the state to develop a comprehensive plan for increasing and improving the workforce to serve persons with mental health and substance use conditions.

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### SB 2150 by Sen. Kolkhorst

This bill would have aligned state law with federal law to allow Texas to apply for grant funding under the Preventing Maternal Deaths Act, which makes grants available to state maternal mortality review committees. This bill also would have allowed family members, health care facilities, and health care professionals to report pregnancy-related deaths to the state health agency.

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## Support Children by Reforming Medicaid Managed Care

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### HB 2453 by Rep. S. Davis

Similar bill: SB 1139 by Sen. Watson

This bill would have strengthened Medicaid managed care by improving key areas, such as contract oversight, network adequacy enforcement, prior authorizations, appeals and fair hearings, utilization review, care coordination, transparency, and accountability. (Select provisions are included in SB 1207, which passed.)

## Support Children by Reforming Medicaid Managed Care (continued)

### HB 3721 by Rep. Deshotel

This bill would have required HHSC to contract with an independent review organization to review and resolve a Medicaid client's appeal made after a Medicaid health plan denies or reduces health services because of medical necessity.

### HB 4178 by Rep. Frank

Similar bill: SB 2239 by Sen. Kolkhorst

This bill would have improved the appeal and fair hearing process after a Medicaid client appeals a denial of services; streamlined enrollment and coordination of benefits; and simplified the prior authorization process for Medicaid managed care.

### SB 1140 by Sen. Watson

Similar bill: HB 3478 by Rep. S. Davis

This bill would have directed HHSC to contract with at least three independent review organizations to resolve a Medicaid client's appeal after HHSC or a Medicaid health plan denies or reduces health care services. The independent review organization would have provided objective, unbiased review of medical necessity determinations done by clinical staff with training and experience in the health service at issue.

## Support Children's Health Directly

### HB 342 by Rep. Cortez

Similar bill: SB 637 by Sen. Zaffirini

This bill would have provided continuous Medicaid coverage to eligible children, reducing the current mid-year requests for additional income verification documentation.

### HB 1063 by Rep. Price

This bill would have repealed the expiration of the Medicaid telemonitoring reimbursement program so that the program can continue. The bill also would have required Medicaid to cover home telemonitoring services to certain pediatric patients who are diagnosed with end-stage solid organ disease, had received an organ transplant, or require mechanical ventilation.

## VETOED

## Support Children's Health Directly

### HB 455 by Rep. Allen

Similar bill: SB 364 by Sen. Watson

This bill would have required school districts to adopt a formal recess policy, including the number of minutes for recess and whether or not recess may be withheld as a form of punishment.

# Review of Children's Youth Justice Policy Progress During the 2019 Texas Legislative Session

The Legislature took some steps forward this session on school discipline practices, passing targeted legislation regarding suspensions and the role of school police officers on campuses. Lawmakers also took at least one step backwards on school discipline as part of its focus on school safety. Additionally, the Legislature passed a handful of bills to make improvements to juvenile justice but showed little interest in high priority proposals to close unsafe secure facilities run by the Texas Juvenile Justice Department (TJJD) or raise the age of juvenile court jurisdiction.

Building on its efforts in 2017, this session the Legislature continued to work to address **school discipline measures such as suspensions**. Lawmakers passed HB 65 to collect more data on suspensions, HB 692 to prohibit out-of-school suspensions of students experiencing homelessness, and HB 811 to require districts to consider if a child is in foster care or experiencing homelessness when it makes school discipline decisions. The progress on this front is also reflected in legislation passed this session to support student mental health, trauma-informed schools, and positive school climates, which represent a more effective approach to improving student behavior. However, legislators also passed a bill that raises some concerns. SB 2432 requires students to be placed in a disciplinary alternative education program (DAEP) for harassment of a school employee, which includes making obscene comments with the intent to annoy or embarrass the school employee. At the end of

session, legislators removed a good provision of the bill requiring districts to employ an evidence-based threat assessment before removing students from school.

Lawmakers also passed HB 878, SB 712, and SB 1707 to address **school police officers** and other personnel who are involved in school safety or discipline matters. Taking action on a concern that Texans Care for Children and other advocates have raised in recent years, the Legislature passed HB 878 as an amendment to SB 11. The legislation requires all school districts to ensure that school police officers are trained to work with youth, building on current state law that requires the training only in large districts.

During recent years, one of the top priorities for juvenile justice advocates has been **raising the age** of juvenile court jurisdiction, but momentum stalled again this session. In 2017, the bill to make the juvenile justice system the default for 17-year-olds passed the House but did not receive a Senate hearing. This year, however, the bill, HB 344, was not scheduled for a vote of the full House after it passed the House Committee. Because of legislative inaction, Texas will continue to automatically send 17-year-olds to the adult justice system for even minor misdemeanors.

Over the last two years, advocates and others raised a number of concerns about how unsafe and ineffective state-run **juvenile lockups** are, prompting discussions about potentially



closing one or even all of the costly facilities and moving youth to local facilities and programs. However, the Legislature did not take up these proposals this session.

Following the legislative session, state leaders and advocates must continue working to raise the age of juvenile court jurisdiction and

plot a course forward for continued reform of the juvenile justice system. On the school discipline front, it will be important to continue to monitor and limit practices that are often ineffective and even counterproductive, such as suspensions, and continue to implement more effective practices in our schools.



# Outcomes for Key Youth Justice Legislation

## PASSED

### Support Children

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**HB 65 by Rep. E. Johnson**

This bill requires school districts to report information on students facing suspensions and expulsions, including the race, sex, and age of students as well as the basis for these suspensions.

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**HB 692 by Rep. White**

Similar bill: SB 1001 by Sen. Watson

This bill prohibits school districts from placing a student who was homeless in out-of-school suspension.

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**HB 811 by Rep. White**

Similar bill: SB 424 by Sen. West

This bill requires school districts to consider if a student is in foster care or homeless as part of decisions related to school discipline.

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**HB 878 by Rep. Allen**

Passed as an amendment to SB 11

This bill requires any school district with school resource or police officers in their schools, regardless of the size of the district, to adopt a policy requiring those officers to be trained in working with youth.

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**HB 1760 by Rep. White**

Similar bill: SB 1025 by Sen. Perry

This bill improves the handling of certain juvenile records so that treatment and service providers can have appropriate access but confidential information is protected from further disclosure.

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**HB 2184 by Rep. Allen**

Similar bill: SB 1155 by Sen. Huffman

This bill requires alternative education programs and school districts to work together to plan for and support the reentry of justice-involved youth back into their public school classrooms.

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**HB 2229 by Rep. Jarvis Johnson**

This bill requires the TJJD to collect data on youth in the agency's custody who have been in foster care in order to inform efforts to prevent foster youth from entering the juvenile justice system.

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**HB 2737 by Rep. Wu**

This bill requires the Children's Commission to develop guidelines for judges that will establish greater uniformity in how Texas handles juvenile justice or CPS cases involving children with mental illness; placement of children and termination of parental rights in CPS cases; and the release of detained children, certification of juveniles to stand trial as adults, and the use of restraints or clothing worn during juvenile proceedings.

## Support Children (continued)

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### **SB 712 by Sen. Lucio**

Similar bill: HB 3630 by Rep. Meyer

This bill protects students by prohibiting school district employees, volunteers or independent contractors from using interventions that involve electric shock or releasing noxious fumes; employ ridicule, verbal abuse or humiliation; interfere with the student's ability to communicate; immobilize or restrain the student; or interfere with the student's breathing.

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### **SB 1702 by Sen. Whitmire**

Similar bill: HB 3648 by Rep. Guillen

This bill allows the Texas Juvenile Justice Department (TJJD) ombudsman to inspect facilities owned by TJJD and other post-adjudication correctional and residential facilities where juveniles are placed and investigate complaints alleging violations of the rights of the youth in these facilities.

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### **SB 1707 by Sen. Lucio**

Similar bill: HB 3470 by Rep. Allen

This bill requires school districts that have school resource or police officers working in their schools to adopt and publicize policies delineating the responsibilities of these officers, which may only include tasks related to law enforcement, not routine school discipline.

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### **SB 1746 by Sen. Miles**

Similar bill: HB 2116 by Rep. White

This bill expands the list of students considered at risk of dropping out of school to include students who have been incarcerated or have a parent or guardian who has been incarcerated during the student's lifetime.

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## Raise Concerns

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### **SB 2432 by Sen. Taylor**

This bill requires students to be placed in a disciplinary alternative education program for harassment of a school employee, which includes making obscene comments with the intent to annoy or embarrass the school employee.

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## DID NOT PASS

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## Support Children

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### **HB 344 by Rep. Dutton**

This bill would have raised the age of juvenile court jurisdiction to include 17-year-olds.

## Support Children (continued)

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### HB 1189 by Rep. Jarvis Johnson

This bill would have required courts to prescribe community service to youth in foster care in the place of fines and costs that might otherwise be charged.

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### HB 1364 by Rep. Wu

This bill would have ensured that more 10- and 11-year-old children avoid involvement with the juvenile justice system and instead receive more developmentally appropriate services in their communities.

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### HB 2991 by Rep. Talarico

This bill would have required schools to create and implement a positive behavior program for all grade levels that includes restorative practices and establishes a restorative justice coordinating council to assist TEA in developing guidance and resources for districts.

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### HB 4606 by Rep. White

Similar bill: SB 2242 by Sen. Whitmire

This bill would have increased the availability of youth diversion programs for a child who is alleged to have engaged in conduct that constitutes a Class C misdemeanor, other than a traffic offense.

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## Raise Concerns

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### HB 1381 by Rep. Wray

This bill would have enhanced the criminal penalty for aggravated assault committed in or on school property or on a passenger transportation vehicle of a primary or secondary school.

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# VETOED

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## Support Children

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### HB 1771 by Rep. Thierry

This bill sought to prevent children under age 17 from being prosecuted or referred to juvenile court for prostitution and requires law enforcement to make best efforts to connect the child with relatives, treatment services, and/or DFPS if the child cannot be returned to her family.

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### HB 3195 by Rep. Wu

This bill would have given TJJD flexibility to reduce the amount of time certain youth would need to spend in highly structured residential programs and improves the process of transition planning and reentry into the community.



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