

In Brief

Senate Research Center

August 1999

Kids Come First with the 76th Texas Legislature

The 5.6 million children of Texas reaped record benefits as a result of the work of the 76th Texas Legislature, which passed new laws that will help educate, protect, support, and provide health care to Texas children.

For example, Texas legislators increased funding in record amounts for education, and further developed and enlarged the Children's Health Insurance Plan (CHIP). The legislature also expanded the number of child protective service workers and allocated tobacco settlement receipts for a variety of children's programs. This issue brief describes major initiatives enacted by the 76th Legislature on behalf of the children of Texas.

EDUCATION

The 76th Texas Legislature recognized that educating our children should be the state's highest priority and passed landmark legislation designed to improve the state's educational system. Students in Texas schools and universities are the beneficiaries of the largest increase in education funding in the state's history. Education, including public and higher education, will receive \$44.5 billion, an increase of \$5.5 billion, or 14.1 percent over the previous biennium.

Public education will receive \$31.1 billion. Of this, \$3.8 billion in General Revenue funds will provide property tax relief, increase teachers' salaries, finance school facilities, and compensate districts experiencing declines in property values. A major public education finance bill, sponsored by Senator Bivins, will fund a \$3,000 annual pay raise for every full-time public school teacher in the state, plus full-time librarians, school nurses, and counselors. School districts will be eligible for grants to implement or expand Head Start, pre-kindergarten, kindergarten, after-school care, and ninth-grade dropout prevention programs.

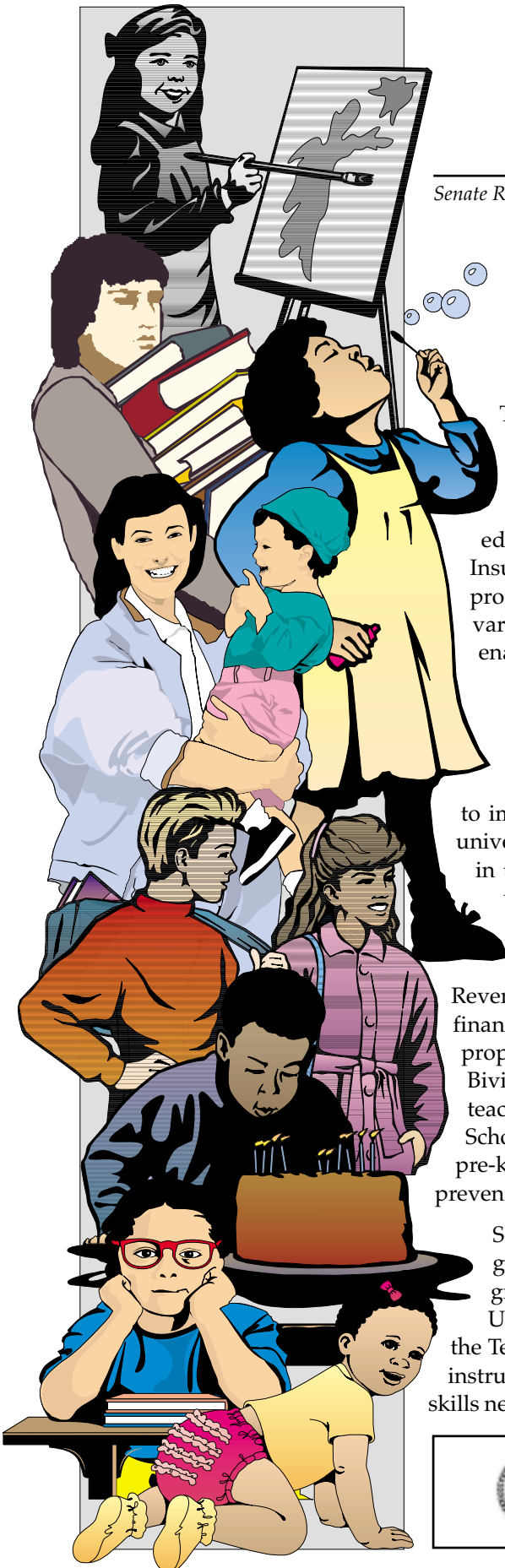
Social promotion, which is the practice of promoting a student to the next grade level when the student has not mastered the skills of the current grade level, has been a concern for Texas leadership, educators, and parents. Under Senator Bivins' public education finance bill, a student who fails the Texas Assessment of Academic Skills (TAAS) test will receive accelerated instruction through a new program developed to help the student master the skills needed to move to the next grade. A student who fails the TAAS test three

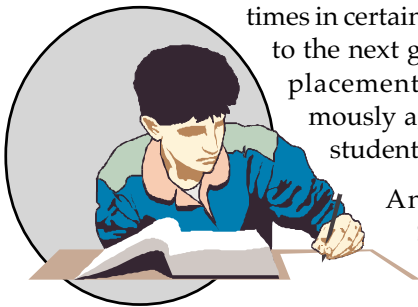
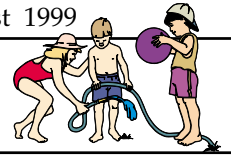


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times in certain grades cannot go on to the next grade, unless a grade placement committee unanimously agrees to promote the student.

Another measure by Senator Bivins expands the TAAS tests to include new

math tests for grades nine and ten, and a new reading test for grade nine. Tests in science, social studies, writing, reading, and language arts will be added for specific grades.

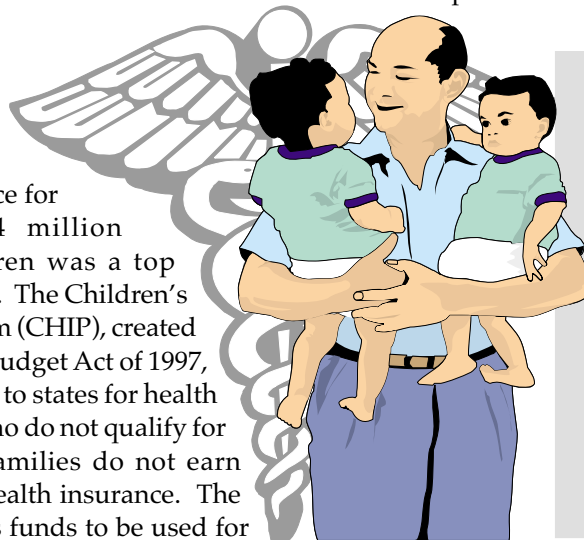
Grants ranging from \$50,000 to \$150,000 will be directed for training, materials, and employing pre-reading instructors, under another measure by Senator Bivins. Further, Head Start Programs must add services so that each child will be prepared to enter school and ready to learn after completing Head Start.

A Master Reading Teacher Grant Program will be established under legislation sponsored by Senator Sibley. The program will encourage teachers to become certified as master reading teachers and encourage them to work with other teachers and students to improve student reading performance. The program is directed to campuses with a high need for this assistance. Each master reading teacher is eligible for a stipend of up to \$5,000 per year; \$12 million in General Revenue was set aside for the program.

HEALTH CARE FOR YOUNG TEXANS

Children's Health Insurance Program

Access to health insurance for a portion of the 1.4 million uninsured Texas children was a top priority for Senate action. The Children's Health Insurance Program (CHIP), created by the federal Balanced Budget Act of 1997, provides federal funding to states for health insurance for children who do not qualify for Medicaid, but whose families do not earn enough to buy private health insurance. The federal program requires funds to be used for



children who are age 18 and younger and who are in families living at or below 200 percent of the poverty level.

The first phase of Texas' plan for CHIP was approved in 1998 and added children ages 15 to 18 years, with incomes of up to 100 percent of the federal poverty level, to Texas' Medicaid program. The second phase resulted in a number of key decisions regarding eligibility, benefits, administration of the system, delivery of services, and cost sharing. Senator Moncrief, along with other senators of the 76th Legislature, wrote the third phase of CHIP to maximize federal funding and allocate money from the tobacco lawsuit settlement. The Texas Legislature appropriated \$179.6 million from Tobacco Settlement Receipts for CHIP to help pay for insurance for children under 19 years of age who live in families with incomes up to 200 percent of the federal poverty level. The state-designed plan will start by providing a health insurance benefits package equal in value to the basic state employee plan offered by health maintenance organizations. The bill requires CHIP to be implemented no later than September 1, 2000, unless the federal government does not approve the state's plan. A separate program will also cover children who are legal immigrants and who are not eligible for Medicaid or the main CHIP program.

A related measure by Senator Barrientos will enable state employees, who meet income eligibility requirements for CHIP, to enroll in a comparable plan under the Employees Retirement System (ERS). The federal CHIP program does not cover children of state employees. An appropriation of \$13.2 million from Tobacco Settlement Receipts was included to fund state contributions to the ERS plan.

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Health Screenings for Children

Detecting birth defects early is one key to attaining health and quality of life for the children and families affected by these disorders. The importance of early detection is evidenced in the passage of several bills by the 76th Legislature. Senator Moncrief passed a bill that requires hospitals and other facilities to offer hearing loss screenings for all newborn babies. Services will be available for those babies who have been identified through the screening as having a hearing loss. The Texas Department of Health (TDH) will set up a system to keep records about babies who have been screened. TDH will receive \$2.8 million in Tobacco Settlement Receipts to implement the screening program.

Senator Zaffirini sponsored a similar bill requiring TDH to implement rules ensuring that children who are in day care or day care homes are screened for vision, hearing, and any other special senses or communications disorders. Currently, day care centers and homes are required to screen each child and to maintain records about the screenings, but less than one-half of them actually send in reports to the state, so determining whether the centers and homes follow the law is difficult. The newly required rules should improve this situation.

Health maintenance organizations are required to provide well-child care from birth, including newborn screenings, in their benefits package, as required by federal law. In a bill by Senator Sibley, coverage for childhood immunizations that are required by statute or rule will be covered as well.

Mental Health Services

Getting mental health care for the children of Texas has often been difficult due to the fragmentation between state and local agencies, programs, and funding sources. A plan to expand an initiative for Texas children's mental health funding and to increase local control of spending for mental health services was designed by Senator Nelson to overcome these difficulties. The Texas Integrated Funding Initiative will award grants to community projects to finance mental health services for children who, due to being severely emotionally disturbed, may be at risk of being placed in foster care or residential treatment, or being incarcerated. The Health and Human Services Commission received funding from state agencies serving at-risk youth to finance the program.



Parental Notification

Requiring a parent to be notified when a minor seeks an abortion has been the subject of controversy for some time in Texas, as well as other states. The 76th Legislature, in a bill by Senator Shapiro, now prohibits a doctor from performing an abortion on a minor unless the doctor has given at least 48 hours notice to the minor's parent, guardian, or managing conservator. A doctor may perform an immediate abortion on a minor without the required notification, to prevent death or serious irreversible injury.

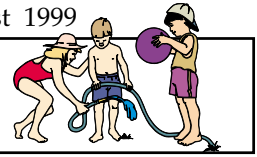
However, a minor can apply for a court order allowing an abortion without notification. If the court determines that either the minor is mature and sufficiently well informed to make the decision to have an abortion, or that notifying the parents would not be in the minor's best interest, or might lead to physical, sexual, or emotional abuse of the minor, the court must issue an order allowing an abortion without notification. The act will provide for expedited trials and appeals, and will deem all court records confidential.

School-Based Health Centers

Recognizing that a school may be the primary place a student's health care needs are evidenced and addressed, Senator West sponsored a measure that establishes a grant program to assist school districts with the costs of operating school-based health centers. School districts may receive up to \$250,000 every two years from the grants. Health care, immunizations, dental care, health education, and preventive health strategies are some of the services to be offered by the centers. Reproductive services, counseling, or referrals may not be provided through a center using grants awarded under the program. Students must receive a parent's or guardian's permission in order to receive any services through the centers.

TOBACCO SETTLEMENT MONEY FOR HEALTH CARE

Legislation enacted during the 76th Legislature, including the state appropriations bill for the 2000-2001 biennium, allocates money awarded to Texas under the settlement reached between the state and the tobacco companies. Senator Ratliff sponsored two bills implementing a memorandum of understanding that all future tobacco settlement funds will be directed for the benefit of

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children and public health. Both of these bills established separate permanent funds from which investment returns may be appropriated to certain health or higher education agencies. One of these funds is the Permanent Fund for Children and Public Health, which was endowed at \$100 million. Investment returns from this fund may be appropriated to TDH to improve children's health care and for grants to local communities to address public health priorities; TDH will receive \$20 million in interest earnings from this endowment fund during the 2000-2001 biennium.

A third bill by Senator Ratliff will implement the County and Hospital District agreement regarding the Comprehensive Settlement Agreement between the State of Texas and the tobacco companies. This agreement details the creation of two funds for distributing money to local political subdivisions, based on their unreimbursed health care expenses. The subdivisions which will receive funds under these provisions are hospital districts, subdivisions with public hospitals, and counties responsible for providing indigent health care.

The state appropriations bill allocates \$309.1 million in Tobacco Settlement Receipts and an estimated \$149 million from funds endowed with Tobacco Settlement Receipts. The \$309.1 million will provide \$179.6 million for CHIP and additional money for a variety of health and human services programs. Overall, health and human services agencies will receive approximately \$348.1 million in funding from Tobacco Settlement Receipts and endowed funds. Other agencies received the balance of the tobacco settlement appropriations.

MAKING OUR CHILDREN LESS TAXING

Shopping for children's school clothes will be easier on parents' pocket books under a measure drafted by Senator Ellis. A back-to-school sales tax holiday will happen across Texas during the first Friday in August through the following Sunday at midnight. Clothing and footwear costing less than \$100 will qualify for this once-a-year tax exemption.

Children will be the beneficiaries with the creation of a franchise tax credit for corporations that set up and operate day care centers for their employees' children. Corporations can also benefit from a tax break for providing child care services for their employees' children at other day care centers or at state-registered family homes. Another round of franchise tax credits will be

awarded to companies financing before- and after-school child care programs.



Countering the use and abuse of illegal or dangerous substances by children was the goal of several pieces of legislation. In order to prevent inhalant abuse by minors, Senator Whitmire enacted tougher penalties for people who sell or provide volatile chemical substances to people who are younger than 18 years of age. Some offenses will now be felonies, carrying more severe penalties if offenses are committed near schools, playgrounds, school buses, youth centers, or other similar facilities.

Reports about some Texas high school coaches who encouraged the use of performance-enhancing dietary supplements among their students or athletes caught the public's attention. Senator West sponsored a bill to prevent school district employees from marketing or distributing these supplements to their students, or from endorsing the use of the supplements. Employees who violate these provisions commit a Class C misdemeanor.

Ephedrine is one of those dietary supplements that has raised concern about its misuse as a stimulant or weight loss aid. To protect minors from potential over-the-counter sales of ephedrine, Senator Wentworth made it a misdemeanor crime for a person who is not a doctor or health care provider to sell or furnish a product containing ephedrine to a minor.

KEEPING OUR CHILDREN SAFE

Children of all ages love the carnival, particularly the amusement park rides. Unfortunately, injury and death can occur if amusement park rides are not maintained or designed with safety in mind. Senator Barrientos tightened the regulation of amusement rides by authorizing state and local law enforcement officials to conduct spot inspections and immediately shut down a ride for either safety problems or failure to comply with insurance or inspection requirements. It is a Class B misdemeanor to put together or operate a ride while intoxicated.

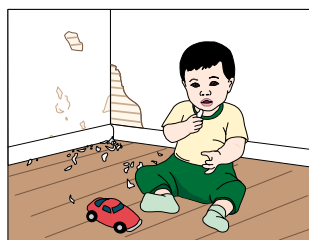
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Convincing kids to buckle up for safety can be tough, particularly as children get older. But now, buckling up in both the front and back seat is the law. A bill by Senator Moncrief requires a child between the ages of four and 14 to be strapped into his or her safety belt, if the seat is equipped with a safety belt. Pickup trucks are included in this restriction.

Parents of teenagers are often surprised by their teen's behavior, but they will no longer be able to come home with newly pierced body parts under provisions of a bill written by Senator Madla. People who are younger than 18 years of age will no longer be able to get their bodies pierced without parental consent.

While there are some restrictions on employing children, they may frequently be hired to sell products, such as in door-to-door solicitations. Senator Zaffirini's bill adds protections for children who sell items or services outside of retail stores, or who solicit donations or distribute advertising. Employers must now obtain written consent from a child's parent or guardian before a child can be hired. A map of the sales route must be provided as well as the name of everyone who supervises the trips. Additionally, the hours a child works in soliciting sales must be limited.

PROTECTING VULNERABLE CHILDREN



In this time of economic plenty, beefing up the state's ability to protect children from abuse and neglect received legislative attention. The 76th Legislature increased the number of front-line protective service

workers in Child Protective Services (CPS) of the Department of Protective and Regulatory Services (DPRS). The Texas Legislature granted an increase of \$67.5 million for CPS for 160 new positions, increased salaries, and other improvements. Additional funding was directed for services needed by abused children and increases in the amounts paid to people and institutions who care for foster children. Senator Gallegos sponsored a bill which will achieve more effective coordination of investigations by employing at least one child protective services investigations coordinator in each region. A coordinator's job duties will consist of reviewing, monitoring, and approving decisions on cases involving

children at high risk of abuse or neglect.

Senator West passed legislation assisting grandparents, especially those living below the poverty level, who are raising their grandchildren. The bill will allow a cash payment up to \$1,000 to be made to grandparents below the poverty level who are caring for their grandchildren, and will require DPRS to refer the families to support services. A bill by Senator Harris will bring Texas law into line with recent changes in federal law regarding the taking of emergency possession of children in danger of abuse or neglect, and the procedures for removing children from an unsafe home and placing them in foster care.

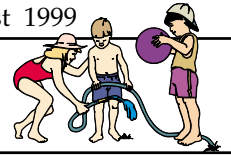
In a move to more effectively provide services to children at risk of abuse, neglect, or juvenile delinquency, a bill by Senator West consolidates many of the prevention and early intervention services offered in Texas. Programs in DPRS and other state agencies, such as the Communities in Schools program, the Services to At-Risk Youth (STAR) program, the Community Youth Development grant program, the Parents as Teachers program, and the Buffalo Soldier Heritage program, will be housed in one division in DPRS.

Following up on actions taken by previous Texas Legislatures to speed up the placement of foster care children into permanent homes, the 76th Legislature enacted a bill by Senator Zaffirini, which will allow regional presiding judges to determine if courts in their area need additional full-time or part-time associate judges in order to complete foster care cases within legal time limits, and to appoint such judges.



Two bills sponsored by Senator Shapiro will help protect children from sexual assault and sex offenders. One bill makes failure to stop or report the aggravated sexual assault of a child a Class A misdemeanor. A second bill requires a parent to inform the other parent if the first parent resides for at least 30 days with, marries, or intends to marry, a sex offender or a person charged with a sex offense. Failure to tell the other parent is a Class C misdemeanor.

In previous legislative sessions, drug-free and gun-free zones were created to protect children. Senator Cain's bill creates child safety zones to be designated by judges and parole boards. The zones prohibit certain sex offenders from venturing into these specific areas, which

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include schools, day-care facilities, playgrounds, public or private youth centers, public swimming pools, or video arcades.

IMPROVING CHILD CARE

Many young Texas children spend most of their waking hours in child care. A key element in good child care is making sure the child care-giver remains constant. Unfortunately, many child care workers leave their jobs after a short period of time due to various factors, including low pay for a demanding job. Senator Zaffirini sponsored legislation to provide increased stability in the child care workforce by offering scholarship, bonus, and wage supplementation programs for child care workers. Scholarships of up to \$1,000 may be awarded to people pursuing professional child care training. The Texas Workforce Commission may pay a bonus or wage supplementation to students who get the scholarship and work in the child care field.

Child care workers can also benefit from a new student loan repayment program advocated by Senator Ellis. Workers who have degrees in early childhood development may qualify for repayment of up to 15 percent of their student loans if they serve as an early childhood care worker in Texas for at least two years.

MAKING SURE CHILD SUPPORT WORKS

Making sure Texas children receive the child support due them has been an ongoing focus of the Texas Legislature. Senator Harris took the lead in shepherding legislation to improve the collection of child support, which is administered by the Office of the Attorney General (OAG). After continued legislative concerns about the ability of the OAG to collect child support payments, the Texas Legislature gave a temporary vote of confidence to Attorney General John Cornyn by allowing the OAG to continue to operate the child support program for two more years, but subject to Sunset Commission review. The OAG will use new authority and interagency efforts,

contained in several bills by Senator Harris, to improve child support collections. Legislation will streamline the process of determining paternity and establish an administrative enforcement process for obtaining child support in paternity cases. The legislature also reinforced the authority of child support court masters so they are able to enforce child support cases more quickly. The bill mandates a closer working relationship between the OAG and counties because many child support orders are collected and enforced by the counties. Historically, there have been many complaints alleging inefficiency and ineffectiveness in the state's child support collection efforts. Senator Harris' bill addresses this problem by requiring a new program in the OAG to improve the resolution of

complaints, such as complaints from parents who call to report they have not received their child support payments.

Identifying and finding absent parents to require them to pay child support is a continuing problem in child support enforcement. The need for cooperation and information sharing between state agencies to secure child support for

Texas children is critical, particularly for children in foster care. The bill by Senator Harris also requires the OAG and health and human service agencies to help DPRS get child support for foster children by cooperatively sharing information needed to identify and find the absent parent or relative.

A second bill by Harris sets up a system to regularly monitor the timeliness of child support payments in cases in which a person has a history of failing to pay child support. The monitors, appointed to help child support masters, act as the judges in child support cases, helping enforce child support by keeping the master aware of the ongoing payment history in a case. If a parent fails to pay child support, the monitor makes the master aware of the failure, and efforts to collect the support are intensified. This bill also allows the OAG to require some parents, particularly those unemployed or underemployed, to complete job training classes or counseling to improve their earning ability.

Currently, if a judge orders wages to be garnished to pay child support, employers in Texas must withhold a



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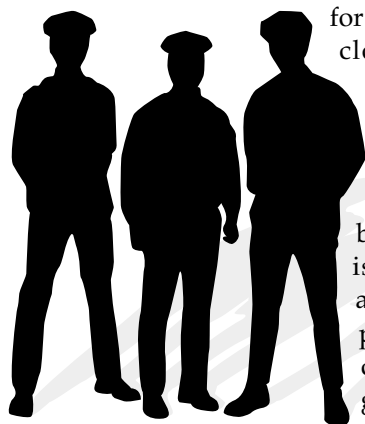
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portion of wages for child support owed to a parent who has custody of a child. If employers do not comply with a court order that mandates the withholding of wages, a new law by Senator Harris will make the employer liable for the amount of wages withheld but not sent to pay the child support, plus interest.

GETTING TOUGH ON YOUNG CRIMINALS

As many parents know, children need not only support and nourishment, but discipline as well. To this end, lawmakers enacted measures to make life more difficult



for youth offenders, and moved closer to treating the most violent and hardened youth offenders as adult criminals.

The recent shooting sprees by juveniles spurred the legislature to enact two bills aimed at curbing the use and possession of firearms. Now, children who are caught with guns while committing crimes will suffer more

serious consequences. Senator Shapiro sponsored a bill that allows the police to detain a juvenile who is alleged to have used or possessed a gun while committing a crime, and to lock him or her up until a judge holds a hearing and decides whether it is safe to release the youth. As a result of a bill sponsored by Senator Ellis, if minors are caught with guns, they will have to confess who provided the gun and how it was obtained in exchange for receiving probation for their crime.

It's 10:00. Do You Know Where Your Gang Members Are?

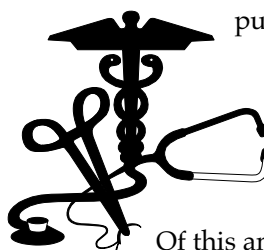
In response to the growth in the number of gang members and the spreading of gang activities across neighborhoods, cities, and the state, Senator West led the Texas Legislature in tackling the gang problem with a package of bills designed to intensify the tracking and punishing of gang activity. A statewide gang intelligence database will be created that will contain local level information on people involved in gang-related activity. To assure the protection of individual rights and the accuracy of information, federal and state intelligence-gathering standards will be used to gather information

on people suspected of gang activity. A judicial appeal process is available for persons who believe information about themselves or their children has been erroneously reported in the database. Two other bills by Senator West promote information sharing between law enforcement agencies across the state. One bill creates the Texas Violent Gang Task Force. The task force is required to develop a statewide networking system that will provide timely access to gang information. The second West bill requires the OAG to establish an electronic gang resource system to provide law enforcement agencies with information about criminal street gangs in Texas. Two additional bills, one by Senator West and one by Senator Ellis, create a penalty for those who recruit others as gang members. The bill sponsored by Senator Ellis makes it a felony offense to coerce, induce, or solicit a child into a gang under threats of bodily injury or actually causing bodily injury.

Senator Bivins, consistent with his focus on improving education, made classroom safety a priority by passing a law providing for the expulsion of students who assault their teachers.

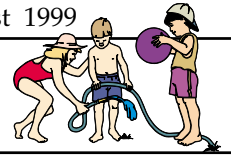
A bill by Senator Lucio lifts restrictions on disseminating information about juvenile offenders. The Department of Public Safety will be able to put out an all-points bulletin on juvenile offenders suspected of committing homicide, kidnapping, a sexual offense, an assaultive offense, aggravated robbery, or robbery, or of fleeing from arrest for one of these crimes.

Building on the work of the past two legislatures, Senator Harris was integral to the passage of an omnibus bill updating juvenile justice procedures, particularly those relating to juvenile offenders with mental illness or mental retardation. This bill aims to improve the identification of young mentally ill or mentally retarded offenders, and to incorporate needed treatment into their punishment or incarceration.



MEDICAID

Medicaid will cost Texas health and human service agencies a projected \$18.8 billion in 2000-2001. Of this amount, \$11.6 billion will come from federal funds and \$7.2 billion from General Revenue funds. An additional \$81.2 million was appropriated from Tobacco Settlement Receipts. To help combat fraud in this large program, Senator Nelson sponsored a measure that will require children enrolled in

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Medicaid and under 15 years of age to be accompanied by an authorized adult, parent, or guardian for certain medical visits to ensure that there are no questions about what treatments were provided and billed to Medicaid. This new requirement will minimize questions about potentially fraudulent Medicaid billing practices.



Part of Texas' assistance to poor children has historically been designed to provide medical care through Medicaid. Children receive financial assistance under the Temporary Assistance for Needy Families (TANF) program, but if a family loses TANF eligibility, Medicaid eligibility for children also expires. However, there will be some children who lose TANF who may still be eligible for Medicaid, under the program's complex eligibility structure. Senator Zaffirini wanted to be certain that these children continued to receive

the medical coverage to which they were entitled. Her bill requires the state to review a child's eligibility for Medicaid if TANF benefits are lost and notify the family about other avenues of potential eligibility for Medicaid.

Disabled children or children with special health care needs may participate in special Medicaid programs, called waivers, that provide services to care for children outside of institutional settings. To make sure that children enrolled in waiver programs receive needed services that support families and that those services are planned in coordination with other Medicaid services, Senator Zaffirini's bill will require state agencies operating Medicaid waivers to evaluate both the particular needs of disabled children as well as their families' choice to keep their disabled child in their home, rather than an institution.

MOVING FROM WELFARE TO WORK

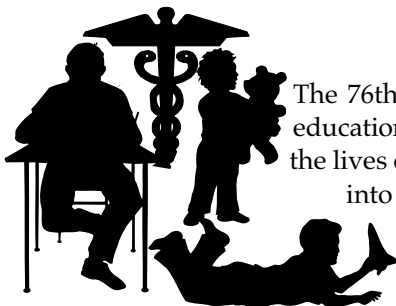
The Texas Legislature has worked to reform the welfare system in Texas, first enacting a major reform bill in 1995, then adopting federal reforms to Texas' system in 1997. In 1999, Senators Carona, Ellis, and Zaffirini wrote legislation to fine-tune Texas' efforts to support recipients of TANF as they become self sufficient and move into the workforce. Although these bills do not focus specifically on children, children who receive TANF will benefit as the parents improve their skills and increase their wage earning potential.

The new measures will:

- designate state agency liaisons to faith-based organizations in order to promote the organizations' involvement with needy Texans;
- establish a test program for individual development accounts to assist low-income persons in saving for education or home ownership; and
- bring work requirements for TANF in line with federal requirements as the state's welfare waiver expires.

Through appropriations enacted in the state budget process, TANF recipients who find work will have most of their earnings for four months not counted toward TANF eligibility. Knowing they will not immediately lose their eligibility for TANF benefits should encourage recipients to find and keep work. This new procedure will cost \$17.7 million over the next two years. An additional \$61.6 million in federal TANF funds will be applied toward maintaining the average monthly TANF grant at 17 percent of the federal poverty level and provide once-a-year grants of \$60 for each child receiving TANF.

CONCLUSION



The 76th Legislature kept its promise of putting children first by funding programs in education, child health, child welfare, and child protection. These investments will improve the lives of our upcoming generation of workers and leaders, and will take this great state into the new year, century, and millennium.

—by Tammy Edgerly and Linda Gibson, SRC