



Constitutional Rights

- First Amendment rights

The 85th Legislature acted to safeguard religious liberty by passing **Senate Bill 24**, which prohibits a governmental entity from compelling the production or disclosure of sermons delivered by religious leaders during religious worship or to compel the religious leader to testify regarding the sermon. In 2014, as several religious leaders challenged the City of Houston's Equal Rights Ordinance (which was later rejected by the voters in 2015), the city sent subpoenas to several pastors who spoke against the ordinance, and demanded the production of "all speeches, presentations, or sermons related to HERO, the Petition, Mayor Annise Parker, homosexuality, or gender identity prepared by, delivered by, revised by, or approved by you or in your possession."¹ SB 24 will ensure that such attempts to chill religious speech will not happen again. Additionally, the Legislature passed **House Bill 3859**, another significant religious freedom protection. It prohibits state discrimination or adverse action against a child welfare services provider for making decisions based on sincerely held religious beliefs, or for declining to provide or facilitate service for abortions, contraceptives, drugs, devices, or services that are potentially abortion-inducing.

- Second Amendment rights

Notably, **Senate Bill 16** reduced the fee to obtain or renew a license to carry a handgun to \$40; from a current cost of \$140 for an original license and \$70 for a renewal license.² This will better ensure that persons wishing to exercise their Second Amendment rights will not be prevented from doing so based solely on financial inability. **House Bill 3784** allows the classroom portion of a handgun proficiency class to be offered online, instead of just in person as under current law. This reform will further ease the burden of obtaining a handgun license

Another commonsense reform was achieved with **House Bill 435**, which establishes as a defense to prosecution for the offense of trespass by a concealed handgun license holder, that the license holder is volunteer emergency services personnel. This ensures that potentially life-saving services will not be delayed by a requirement that volunteer emergency services personnel take time to store their weapons elsewhere. Similarly, language in **Senate Bill 1566** provides that a school district or open-enrollment charter school may not prohibit a school employee, who holds a license to carry a handgun, from storing a firearm in a locked motor vehicle in a parking lot, provided that the firearm is not in plain view.

Also, **Senate Bill 263** removed an overly prescriptive requirement that the test for a handgun license include a demonstration of the degree of proficiency that is required to effectively operate a handgun of .32 caliber or above, regardless of the caliber handgun that the applicant actually owns or will use. **House Bill 1819** ensures that state law is no more restrictive than federal law by allowing a person to possess, manufacture, transport, repair or sell a firearm silencer so long as it is classified as a curio or relic by the U.S. Department of Justice or complies with federal law.

- [Convention of the states](#)

The U.S. Constitution gives states the power to address national problems when our federal government refuses to yield. Article V provides an alternate path to amendment when Congress refuses to act in the best interests of the country. An amendment to the Constitution must be considered if two-thirds of state legislatures call for a convention. Once a convention is called, the amendment is accepted if three-fourths of the state legislatures or state conventions ratify it.³ Although the convention method has never been used to amend the Constitution, the threat has worked in the past to prompt Congress to act.

Senate Joint Resolution 2 is a mechanism by which the Legislature applies to the United States Congress to call a convention under Article V of the United States Constitution for the purposes of amending the Constitution to:

- (1) Impose fiscal restraints on the federal government.
- (2) Limit the power and jurisdiction of the federal government.
- (3) Limit the terms of office of federal officials and congressmen.

If the federal government is allowed to continue growing beyond its means, states will be further subsumed by federal power, rather than the equal partner in governance they were intended by the Founders to be. To prevent fiscal ruin and to preserve prosperity for future generations, fiscal restraints on Congress should be enshrined in the Constitution.

Senate Bill 21 works together with SJR 2 by providing the qualifications, duties, and limitations of Texas delegates to a convention called under Article V of the United States Constitution. It provides that if once an Article V convention is called, the legislature appoints the Texas delegation, which would be headed by the Governor. It specifically lays out the duties of delegates, including that they must follow instructions laid out and approved by both chambers of the Texas Legislature. Any delegate who does not follow instructions or takes an unauthorized vote (as determined by the Legislature) is disqualified from serving as a delegate and shall be replaced by an alternate delegate.

Tax Relief and Fiscal Reform

Several narrowly-focused property tax reform bills were passed by the 85th Legislature; however, comprehensive reform was not achieved and is one of the areas the Governor has asked the First Called Session of the 85th Legislature to address. In addition to property taxes, the legislature tackled other areas of fiscal reform, as outlined below.

- [Property tax reform](#)

Under current law, partially disabled veterans are entitled to a reduction in property taxation in proportion to their disability rating if their homestead was donated to them by a charitable organization *at no cost to the veteran*. The constitutional amendment put to the voters by **House Joint Resolution 21** establishes that a veteran is also eligible for the exemption if their homestead was provided to them by a charitable organization at a cost of no more than 50 percent of its market value. The Legislature also passed **House Bill 150**, the enabling legislation.

The Legislature submitted to the voters **Senate Joint Resolution 1**, which proposes a constitutional amendment allowing the Legislature to provide for an exemption from *ad valorem* taxation for all or part of the market value of the residence homestead of the surviving spouse of a first responder killed or fatally wounded in the line of duty, until such time as the surviving spouse remarries. The dollar amount of the exemption of the first homestead for which the surviving spouse first received the exemption would be transferable as an exemption on any subsequently qualified residence homestead(s), again so long as the surviving spouse does not remarry. The Legislature also passed **Senate Bill 15**, the enabling legislation for the amendment proposed by SJR 1.

House Bill 455 creates flexibility in property appraisals by authorizing a property owner to appear by conference call to offer argument at a protest hearing before the appraisal review board of an appraisal district, rather than requiring in person attendance.

Under preexisting law, a chief appraiser is required to reject *any* homestead exemption application that is filed later than one year of a delinquency date for taxes owed on the property. **House Bill 626** changes this to two years, or five years for disabled veterans.

Preexisting law provides a specific method of appraisal agricultural land that reflects the unique economic characteristics of these types of properties. **House Bill 777** provides that this appraisal method must still be employed if the owner of the land is deployed or stationed outside of this state as a member of the U.S. armed services, *and* intends to continue to use the land for agricultural purposes within 180 days of his or her deployment ending.

House Bill 804 allows lessees to be informed of their property's appraised value within a reasonable timeframe. The bill requires that a property owner send their lessees a copy of any notice of appraised value within five days of receipt of the notice. The bill also allows a lessee to request that a chief appraiser send direct notice of a property's appraisal to the lessee.

- *Fiscal accountability*

Senate Bill 1831 requires the Comptroller to submit a report to the Legislature that identifies the following for each state agency: each program the state agency is statutorily required to implement for which no appropriation was made for the preceding state fiscal year, along with a citation to the law imposing the requirement, and the amount and source of money the state agency spent, if any, to implement any portion of the program during the preceding state fiscal year. The bill represents a common-sense way to identify and then ideally eliminate programs and statutory requirements that are not funded by the legislature. It is critical that such information be used to *repeal* these programs, rather than to fund them.

- *Municipal pension reform*

Over the past interim, issues within local municipality pensions plans have reached critical mass. Four Texas cities – Austin, Dallas, Houston, and San Antonio – rank in the top 15 cities nationally in terms of unfunded pension liabilities.⁴ According to Moody's, Dallas's unfunded pension liability is 550% of annual operating revenues,⁵ and is on track to become insolvent by 2028.⁶ This is due in large part to retirees pulling hundreds of millions of dollars out of the plan within a brief period of time amid rumors of a cap on withdrawal amounts,⁷ which is allowed under current plan rules.⁸

House Bill 3158 makes broad changes to the Dallas Pension Plan (Plan), including raising the retirement age to 58 and reducing the pension multiplier calculation to 2.3%; eliminating cost of living adjustments (COLAs) until the Plan is profitable; and prohibiting wholesale lump distributions from a deferred retirement option plan (DROP). However, lifetime payouts are allowed to ensure the system remains actuarially sound. The Legislature also passed **Senate Bill 2190**, which requires cuts in future employee benefits, coupled with the sale of bonds to reduce the City of Houston's pension deficit.

Education

It was a busy session in the realm of public education. The legislature did not pass comprehensive school choice or school finance reform, but there is still hope that it will do so in the upcoming special session. Regardless, several significant reforms *were* passed, and four of the primary ones are discussed below.

- *Ending inappropriate teacher-student relationships*

In Fiscal Year 2016, the Texas Education Agency (TEA) launched investigations into 222 teachers based on allegations of improper relationships with students, an 80 percent increase since 2008.⁹ Although some research shows that Alabama has the highest per capita rate of these cases, Texas leads the nation in absolute number of cases.¹⁰ **Senate Bill 7** addresses the problem of inappropriate teacher-student relationships on multiple levels – including via teacher education, increasing channels of communication between investigative entities, requiring the adoption of school electronic communication policies, and closing a loophole under current law that provides that the offense of “Improper Relationship Between Educator and Student” only applies where the educator and student are from the same school district.

- *Online Education Resources*

Under current law, a student must be enrolled in a Texas public school in the preceding year in order to be eligible to enroll full-time in courses provided through the state Virtual School Network (TxVSN). **Senate Bill 587** modifies that provision to allow a student who is a dependent of a U.S. military member who has been deployed or transferred to Texas to enroll full-time in courses provided through the TxVSN if that student was enrolled in a publicly funded school outside of Texas in the preceding school year. TxVSN is an underutilized education mechanism, and any reforms that increase the student population eligible to enroll full-time should be supported.

Separately, **Senate Bill 1784** explicitly provides that a state-developed open-source instructional material may include content not owned by the state and for which preexisting rights may exist if the content is in the public domain, usable with limitations under U.S. copyright law, or licensed by the state use in an open-source instructional material. SB 1784 also lays out provisions for TEA to license open-source instructional materials, providing that copyright notices must be maintained intact, the authorship of the material must be specified, any modification of the material must be indicated, no assertion of sponsorship or endorsement by TEA or the state is allowed unless authorized by TEA, and must provide clear and conspicuous notice of how and where a person may obtain the material free of charge.

- Career Readiness Education

Senate Bill 22 establishes a new technical preparation program called Pathways in Technology Early High School (P-TECH), administered by TEA. This program, whose statutory requirements are far more extensive than the tech-prep program being replaced, requires the providers:

1. Be open enrollment;
2. Provide for a high school student to also take postsecondary courses;
3. Allow a participating student to earn both a high school diploma and an associate degree, a two-year postsecondary certificate, or industry certification after six years of study; and,
4. Include articulation agreements with institutions of higher education to provide access to postsecondary education and training opportunities, and MOU's with regional business or industry to provide work-based training and education.

Senate Bill 276 lifts a cap providing that the adult high school diploma and industry certification charter school pilot program may not serve more than 150 individuals. Only one school is currently operating to meet the needs of this pilot program: the Goodwill Excel Center of Austin.¹¹ The bill allows that model to be replicated, allowing lifelong learners seeking to learn technical skills to improve their ability to participate productively in the workforce.

Transportation and Infrastructure

- Safety and Emergency Services

The Legislature passed a number of bills related to emergency services vehicles, ensuring adequate access and protections for emergency services personnel.

House Bill 1372 requires the Texas Commission of Licensing and Regulation to provide information that must be included in each driver education or driving safety course relating to law enforcement procedures for traffic stops. This must include a demonstration of the proper actions a driver should take during a traffic stop, and information regarding appropriate interactions with law enforcement. Virtually any driver who spends enough time on Texas roadways will eventually encounter law enforcement, and at that point it is important that the driver be trained to encourage positive and safe interactions. **House Bill 1249** prohibits a person from operating a motor vehicle that resembles an emergency medical services (EMS) vehicle, unless it actually is an EMS vehicle or is for other legitimate governmental functions. As with existing prohibitions on imitating a police vehicle, this is an important measure to ensure that EMS vehicles are treated with the respect and deference by drivers needed to ensure prompt emergency medical treatment, and that drivers do not accrue unfair advantages on motorways by posing as EMS drivers. **House Bill 1816** requires the Department of Public Safety's Division of Emergency Management to establish procedures to assist medical supply distributors (i.e. persons authorized to transport prescription drugs and other medical supplies) in accessing disaster areas and provide medical supply distributors with documentation specifying the distributors' access to highways, streets, and bridges during disasters. The bill states that a vehicle used by a medical supply distributor to transport

prescription drugs to emergency facilities in disaster zones may access those areas so long as law enforcement can provide adequate security, and the vehicle will not negatively impact evacuation/response activities.

- *Reducing regulations on commercial traffic*

Under current law, most commercial motor vehicles (CMVs) in Texas are subject to inspection by DPS. CMV means a self-propelled or towed vehicle, other than a farm vehicle with a gross weight, registered weight, or gross weight rating of less than 48,000 pounds; if the vehicle either weighs at least 26,000 pounds, is designed or used to transport more than 15 passengers, or is used to transport hazardous materials. **House Bill 1793** exempts from the registration requirement any vehicle that is not domiciled in Texas, is registered in this state or as part of the DPS International Registration Plan (a set of reciprocal registration agreements with other jurisdictions), and has been issued a certificate of inspection in compliance with federal motor carrier safety regulations. The bill wisely remove an unnecessary and duplicative requirement for Texas to regulate a CMV that may only be in state for a short while and is already in compliance with federal law.

Senate Bill 1524 allows TxDMV to issue permits for “intermodal shipping containers,” which are enclosed, standardized, reusable containers used to transport cargo and designed to be alternately loaded on ships, rail systems, and semitrailers, which when combined with a vehicle has a gross weight or axle weight that exceeds the limits allowed by law. Preexisting law only allows shipping containers up to the weight limit of 82,000 pounds; allowing extra carrying capacity would allow the running of full containers from a manufacturing or chemical plant to the port. This reduces shipping costs not only from the facility to the port, but also for shipping costs. The permit fee is intended to recoup costs the state and counties will face through increased damage to roads by the movement of heavy loads.

Israel

Israel, our most trusted ally in the Middle East, is once again becoming the focus of a concerted discrimination policy. In response, “[m]ore than a dozen states in the last two years have passed anti-boycott, divestment, sanctions laws of the sort proposed in North Carolina, and several other state legislatures are currently considering passing similar laws this spring[.]”¹² **House Bill 89** prohibits investing in, and contracting with, companies that boycott Israel. The bill requires the Comptroller to maintain a list of companies that boycott Israel and creates a process for notifying companies that they are not in compliance with the prohibition. If, after proper notification, the company continues to boycott Israel, the state government entity with which it has contracted shall “sell, redeem, divest, or withdraw all publicly traded securities of the company,” with limited exceptions. The *Jerusalem Post* has described Texas’ prohibition as the strongest such law in the nation.¹³

Pro-Life Legislation

The 85th Legislature made considerable strides in protecting the life of the unborn. Most significant of these efforts is **Senate Bill 8**, which enacts parts of Governor Abbott’s LIFE initiative. The bill contains a ban on partial birth abortions, imposing a state jail felony on anyone who knowingly performs one, unless the abortion is done to save the life of the mother. Civil damages may be awarded to the father of the fetus, or parent of the mother of the fetus, for emotional

distress and mental anguish. The bill also bans the gruesome practice of so-called “dismemberment” abortions, which are performed by clamps or forceps and extract an unborn child, literally, one piece of a time. Finally, the bill restricts the types of facilities that may donate and accept human fetal and pregnancy-related tissue. No tissue from an elective abortion may be donated, and an authorized facility must obtain informed consent before receiving the tissue. The purchase and sale of fetal tissue is expressly prohibited, and fetal remains must be properly disposed of by interment or cremation. Previously, disposal was allowed in landfills and by a barbaric practice known as “maceration” or “grating.”

These reforms are especially necessary following revelations made by a series of undercover videos that were released in 2015 by released by the Center for Medical Progress. The videos depicted various employees and facilities of Planned Parenthood (PP), talking crassly about terminating women’s pregnancies and then harvesting the “products of conception” for scientific research. The footage suggests not only that PP may financially benefit from the sale of fetal body parts but also that elective abortions of second trimester, fully-intact infants in utero was a routine practice, at least at one Texas facility in Houston. **SB 8** responds to all of these issues by effectively removing any incentive for abortion providers to engage in this practice, eliminating infant body parts as a potential commodity.

The elimination of partial birth abortions will also help. Though this practice has already been banned at the federal level, it has never been codified in Texas law. According to the bill author’s statement of intent, “[t]his leaves the federal government with the sole discretion to decide when and how to prosecute providers who perform this criminal act. Federal statute should be codified in state statute to ensure state law enforcement will have the full authority and direction to take enforcement action against anyone performing this act.”¹⁴

A second major piece of pro-life legislation was **House Bill 785**, which provides for the dissemination of embryo donation information by a physician performing in vitro fertilization (IVF) procedures involving embryo creation. An infertile couple often creates multiple embryos when they go through in-vitro fertilization. Once they have completed their family and birthed a child (or children), any of their remaining embryos are cryo-preserved. When couples have these unused embryos in storage, some believe that the only option is that they ultimately be destroyed. That is not the case, as they may also choose the life-giving option of donating the remaining embryos for adoption – allowing another infertile couple the experience of pregnancy and childbirth. **HB 785** will ensure that more families here about this option.

Judicial Reform

The legislature tackled a variety of issues related to court procedure and lawsuit reform. Perhaps the most notable piece of legislation in this area was **House Bill 1774**. It addresses abuse of insurance lawsuits for property damage and loss related to hailstorms. The bill provides a predictable, reasonable process for lawsuits arising from insured property damage or loss. It requires claimants to provide notice, which allows insurers to send out inspectors to either: (a) collect evidence for a potential trial, and, in some cases, (b) determine whether or not they have made a mistake with respect to a claim that they may attempt to cure or settle. It would also provide protections for agents of insurance companies, as it makes little sense for the insured to subject an agent to litigation when that agent was acting within the scope of his or her duties

House Bill 45 and **Senate Bill 944** address the application of foreign law in Texas courts, ensuring that foreign marriage relationships, parent-child relationships, and court judgments that violate constitutional rights and the state’s public

policy imperatives will not be recognized as legally valid. The latter bill expands the grounds on which a court can decline to recognize a foreign-country judgment. When a proceeding in a foreign court was not compatible with the requirements of due process, Texas courts will not have to recognize it. These protections will ensure that when judges are forced to deal with law from countries with norm systems antithetical to our own, they may still uphold constitutional, moral, and cultural imperatives like a woman’s freedom to choose her marriage partner, her right to equal property distribution, due process standards requiring notice and process, and her interest in a fair custody determination.¹⁵

Finally, **House Bill 3321** ensures that protective orders will be expediently issued in certain parts of the state, where previous processes were convoluted and inefficient – a small but important reform.

Transparency and Government Accountability

One of the most pressing set of issues this session involved keeping state agencies accountable to citizens. This was done by restructuring the Department of Family and Protective Services, enacting ethics reforms, passing election integrity measures, and reducing government bureaucracy.

- **Child welfare – reforming the state’s child protection agency**

For decades, the Texas CPS system has faced challenges ranging from staffing and a shortage of placement options to what have been deemed potentially preventable child fatalities. In early 2015 DFPS was hiring new caseworkers at a rate of about 200 each month, with 33 of those new hires leaving within six months.¹⁶ Despite an in-depth Sunset review and subsequent legislation, as well as an independent top-down investigation of the entire CPS system complete with specific recommendations for improvement,¹⁷ the issues did not appear to improve. **House Bill 4**, **House Bill 5**, and **Senate Bill 11** together will result in drastically needed overhaul of the system. Specifically, the bills increase the monetary assistance available to “kinship care” families that meet income eligibility requirements, move DFPS from the umbrella of HHSC oversight and establish it as a standalone agency, and expand community-based foster care. Allowing DFPS to exist as a standalone agency will ensure the agency head is fully accountable to the governor and additional layers of bureaucracy are removed between front line CPS workers and state leadership. Existing as a single independent agency will also allow the DFPS Commissioner to set priorities for the agency without consideration of an entire system of programs vying for the same pool of administrative services.

While current law ensures that certain foster children are served by being placed in the “least restrictive” setting or environment, a definition for that standard is not currently in statute. **House Bill 1542** usefully provides such a definition and introduces clarity to ensure children are placed in the most family-like arrangements. **House Bill 871**, meanwhile, requires the Department of Family and Protective Services (DFPS) to cooperate with nonprofit and faith-based organizations in providing certain support services, including respite care, to families in crisis, and by providing information on additional child and family services that are available within the child’s community. **HB 871** would help ensure that local community organizations are able to assist in serving families in crisis, and provides for an “authorization agreement” to be entered into between a child’s parent and any authorized adult caregiver for temporary care of the child. Allowing more providers to engage with these families increases the opportunity to widen a family’s support system, with the ultimate goal of preventing the need for a child’s removal.

- *Ethics and procurement reform*

Senate Bill 500, House Bill 501, and House Bill 505 met Governor Abbott’s emergency call to enact various ethics reforms. SB 500 imposes significant penalties upon election officials convicted of certain corruption offenses. First, on the date the felony conviction becomes final, the official automatically vacates their elected office. Second, and perhaps more importantly, such a conviction would result in a loss of benefits from the Employees Retirement System of Texas or another system if the official is otherwise eligible for membership in a public retirement system wholly or partly because the person held an elected office. That includes, among other things, loss of retirement annuity and suspension of annuity payments.

HB 501 expands the financial disclosure requirements for legislators, their spouses, and dependent children, and other officials to include contracts with governmental entities. It is common sense that people can benefit equally well when gifts or benefits are enjoyed by close family members. If a legislator’s spouse or child benefits financially from a government contract or action, then that benefit should be disclosed to voters, as HB 501 proposes. Of the many things that voters are entitled to know, financial interests that could compromise an elected official’s ability to fairly serve all constituents and objectively evaluate the pros and cons of proposed legislation are, perhaps, the most relevant. Additionally, HB 505 establishes a two-year cooling off period before former elected officials could use their campaign funds for political contributions as a lobbyist.

Senate Bill 533 remedies some issues confronting the state procurement process, particularly with regard to the Texas Multiple Award Schedule (TXMAS) and agency-vendor communications. TXMAS is built around the federal General Services Administration (GSA) schedule of goods and services. If a provider has a certified GSA contract in any of the categories on the schedule (which range from financial services to fleet maintenance, and even furniture) then that provider can apply the federal contract to state government. A state agency may then select a provider directly from the TXMAS list and avoid the full procurement process, including the labor-intensive development of a request for proposal (RFP). By capping most TXMAS procurements at \$1 million, SB 20 (84R, 2015) significantly hampered the ability of state agencies to utilize this useful tool and subjected both state agencies and private vendors to a significantly increased administrative burden. **SB 533** establishes more reasonable limitations on the use of TXMAS than those in current law.

Partly as a result of SB 20 (84R, 2015), many state agencies have adopted rigid rules prohibiting communications and dialogue with the vendor community. While these requirements were not part of SB 20, many of the state’s purchasers now enforce a “zero tolerance” approach to communicating with the vendor community, even outside of the proposal process. For instance the Department of Public Safety (DPS) informed incumbent and potential vendors that “Texas Department of Public Safety personnel are unable to meet with you to discuss the agency’s potential needs relating to your service or product...[DPS] has a policy in place strongly discouraging agency personnel from meeting with potential vendors.¹⁸ The need to ensure transparency and fairness is fundamental to public sector contracting and procurement. However, by not allowing a meaningful dialogue between the vendor community and state personnel, the state is missing opportunities to tap into private sector expertise to solve complex state business problems through innovation. **SB 533** represents a step toward remedying these issues.

House Bill 1116 abolishes the Statewide Procurement Advisory Council (SPAC) and repeals associated statutes. The SPAC has considerable overlap with the state's "Contract Advisory Team" (CAT), which essentially does the same thing as SPAC with respect to state contracts that have a value of \$10 million or more. SPAC is an unnecessary additional layer of government, complicating numerous state contracting processes, and its repeal will better streamline procurement procedure.

- *Cybercrime and Cybersecurity*

House Bill 8 and House Bill 9 improve the state's approach to cybercrime and cybersecurity. **HB 8** would require each state agency to have an independent cybersecurity risk assessment conducted every two years, and mandates state agency staff cybersecurity training requirements, among other provisions. **HB 9**, the "Texas Cybercrime Act," makes it a crime to "intentionally interrupt[] or suspend[] access to a computer system or computer network without the effective consent of the owner." Similarly, altering data as it transmits between two computers in a computer network or computer system without the effective consent of the owner; or introduce malware, including ransomware, onto a computer, network, or system without the effective consent of the owner would also be a criminal offense.

According to the U.S. Justice Department and Federal Bureau of Investigation's most recent annual report (2015) in internet crime, nearly 3 million complaints related to internet crime have been filed since 2000.¹⁹ That number is even more staggering when considered in the context of the fact that only an estimated fifteen percent of internet crime fraud victims report their crimes to law enforcement.²⁰ One of the largest issues addressed by **HB 8**, ransomware, was the subject of 2,453 complaints to the Internet Crime Complaint Center (IC3), with losses of over \$1.6 million.²¹ According to IC3, Texas was the third highest state in terms of internet crime complaints in 2015 with over 18,000 victims and nearly \$63 million in losses.²² These two bills will help the state address these issues in Texas.

- *Election integrity and Election Law*

Senate Bill 5 expands the list of acceptable identification (ID) types that may be used when voting. Under the bill's reforms, passport cards and recently expired identifications may be used, as well as gun licenses, bank statements, certified birth certificates, and paychecks. The new law lets people without an ID cast a ballot by signing a "reasonable impediment" affidavit, but anyone lying on the affidavits can be charged with a felony. The bill also requires the Secretary of State to establish a program using mobile units to provide "election identification certificates" to voters.

Somewhat relatedly, **House Bill 25** eliminates straight-party voting. This would not prohibit a person from voting strictly along party lines. Rather, it would require the voter to vote office-by-office, and individually choose each candidate. This would hopefully encourage voters to put more thought into researching the candidates in each election, and foster more civic engagement.

- *Reducing bureaucracy and punishing regulatory overreach*

House Bill 1290 prohibits state agencies from adopting a new rule unless it repeals one first. The bill would exempt rules specifically required by the legislature or necessary to protect the health and safety of the residents of Texas. A look at the Texas Register, which publishes proposed revisions and new agency rules each week, reveals that state agencies and regulatory bodies are publishing 200 pages of new and revised rules and regulations every week. While rulemaking in-and-of-itself is not a problem per-se, the practice has been abused. The bill thus addresses a significant problem, which is that agencies are simply legislating internally through their respective rulemaking authorities. It requires state agencies to prioritize their rules, abandoning old, unnecessary, and outdated rules for rules it perceives as a necessity. **Senate Bill 526** eliminates four committees and task forces that the Office of the Attorney General deemed as inactive and therefore unnecessary. **Senate Bill 813** provides for the recovery of damages, attorney's fees, and costs for citizens that are subjected to frivolous or unreasonable regulatory proceedings by state agencies.

Border Security

The most important piece of border security legislation this session was undoubtedly **Senate Bill 4**, which addresses so-called "sanctuary" jurisdictions. Under the final version of the bill, a local government entity or campus police department may not adopt a policy limiting the enforcement of immigration law, or disallowing a peace officer from inquiring about a detained or arrested person's immigration status. The entity may also not prevent a peace officer from sending immigration status information of detained persons to federal authorities. Adherence to federal "detainer requests," which essentially ask local law enforcement authorities to hold defendants until Immigration and Customs Enforcement can pick them up, is also required. Noncompliance can result in civil fines being levied, as well as responsible individuals being removed from office. The bill will aid federal immigration enforcement efforts and ensure that certain local officials – perhaps most notably the sheriffs of Travis and Dallas County – cooperate to the fullest extent possible.

The State Budget

The legislature passed a conservative, balanced state budget in **Senate Bill 1**. Despite utilizing roughly \$900 million from the Rainy Day Fund and not including meaningful tax relief, funds were kept below population and inflation growth, appropriating \$216.8 billion All Funds²³, an increase of approximately 0.42 percent from the current projected 2016-17 All Funds expenditures of \$215.9 billion.²⁴ It made significant investments in critical priorities – public education (including reducing recapture), border security, community mental health services, and Child Protective Services, among many others. The Health and Human Services budget also created a series of notably strong provisions:

HHSC Rider 34- Medicaid Funding Reduction and Cost Containment. This rider requires HHSC to develop and implement various cost containment initiatives to achieve savings and efficiencies in the Medicaid program, including, but not limited to, seeking federal flexibility; maximizing co-pays in the Medicaid program; and increasing third-party recoupments.

HHSC Rider 49- Funding for Abstinence Sexual Education. This rider appropriates \$1 million GR/ \$16 million FF to implement abstinence sexual education to reduce the need for future family planning services for unwed minors.

HHSC Riders 52 and 56- Prohibition on Abortions. These riders assure that no state tax dollars may be used to pay for the direct or indirect costs of abortion in Medicaid, the Healthy Texas Women Program, or the Family Planning Program.

HHSC Rider 201- Enhanced Eligibility Screening Tools. This rider directs HHSC to cross-match certain data (i.e, death records, employment and wage records, lottery winnings, residency checks, etc.) against enrollment records for Medicaid, CHIP, SNAP and TANF and prepare a report by September 1, 2018, on the results of those matches. Based on those findings, HHSC is to conduct a cross-match of all records to date and, based on the findings of that report. This rider helps ensure the integrity of these public assistance programs through the use of technology and information that is largely already available to the state.

Economic Freedom

- **Occupational Licensing**

House Bill 91 requires each state occupational licensing authority to conduct a review of each of its licenses with a criminal history requirement and make a recommendation regarding whether the requirement should be retained, modified, or repealed. While it makes sense to prohibit a person convicted of embezzlement from working in a bank, it makes little sense to prohibit a veterinarian from licensure based on a crime unrelated to treating animals. Criminal penalties should only be considered when harm to the general public is a real possibility and should not be imposed for operating without a license. **Senate Bill 2065** eliminates regulations and licensing requirements identified by Texas Department of Licensing and Regulation (TDLR) as appropriate for repeal, and the removal of which will not adversely affect public health and safety. The measure is an omnibus bill that includes many different occupational requirements, but some of the notable ones eliminated are provisions requiring “shampoo apprentice” permits and “temporary common worker” licenses. Relatedly, **House Bill 1657** provides additional flexibility for interior designers, allowing experienced professional to postpone burdensome and time-consuming licensing exams when they have appropriate qualifications, and **Senate Bill 848** streamlines licensing of driver education course providers, removing unnecessary impediments.

- **Preemption of local ordinances**

Recent municipal actions taken against ride-hailing firms like Uber and Lyft led to the need for, and passage of, **House Bill 100**, which takes aim at what Governor Abbott has referred to as the “patchwork” problem of conflicting local regulations across the state. In order to ensure uniformity and allow innovative technology companies to continue operations, the bill preempts all local regulations that touch on so-called “transportation network companies” (TNCs). The bill gives the state exclusive authority to regulate TNCs, and localities are prohibited from imposing a licensing requirement, regulating entry into the market, or imposing a tax on TNCs. Moving forward, TNCs will be required to apply for a state permit, as well as ensure driver safety by reviewing potential driver’s criminal history and driving records. **House Bill 1449** is another important preemption reform. It limits regulatory burdens on the housing industry and increases housing affordability for Texans, by prohibiting localities from adopting a regulation that imposes certain “linkage” fees on new construction.

Health Care Reform

The session was a successful one for health care reform. **Senate Bill 1107** provides a clear and accountable regulatory structure for telemedicine services – outlining, for example, how valid physician-patient relationships may be established *without* the need for an in-person consultation. The bill ensures that health care professionals are subjected to the same standard of care that would apply in a face-to-face context, while affording telemedicine providers increased flexibility to operate across the state. **House Bill 10**, **House Bill 13**, **House Bill 1486**, and **Senate Bill 27** all made noteworthy changes to the state’s mental health system. This package of legislation enacts behavioral health “parity” requirements that ensure that individuals are not denied access to care, and provides resources to help consumers navigate the complicated behavioral health care market. A matching grant program is established for community mental health programs, and the state’s primary health agency – the Health and Human Services Commission (HHSC) is directed to develop rules allowing “peer specialists” to provide mental health services. This is intended to address the state’s significant mental health workforce shortage. Notably, the legislation also increases access to mental health care specifically for *military veterans*.

House Bill 2379 and **Senate Bill 377** deal with two additional health issues. The former clarifies that the Office of the Inspector General (OIG) retains authority over investigatory and audit functions – such as investigations into health care waste, fraud, and abuse, thus preserving OIG’s necessary independence. The latter updates the Texas Achieving a Better Life Experience (ABLE) program, which allows people with disabilities to have tax-free savings accounts to fund and manage necessary health care related to their disability, thus leading to greater independence and healthier living.

Finally, **Senate Bill 507** expands mandatory mediation procedures for settlements to emergency out-of-network health benefit claims at facilities including licensed ambulatory surgical centers, birthing centers, hospitals, or freestanding emergency medical care facilities. An individual would qualify for mediation if he or she received benefits through the Teacher Retirement System of Texas (TRS), including TRS-Care and TRS-ActiveCare. The bill will allow more consumers to use mediation to reduce the costs of unexpected emergency medical bills.

Law Enforcement & Criminal Justice

In the realm of law enforcement and criminal justice reform, the legislature took active steps in the following four areas, in addition to others:

- [Protecting the vulnerable](#)

Current state law does not contain statutes criminalizing the possession or promotion of “child erotica” images, portraying unclothed or partially clothed children in sexually-suggestive ways. **House Bill 1810** addresses that dearth in current statute by creating the offense of “possession or promotion of lewd visual material depicting a child.” **House Bill 1808** also protect minors, but in a different way: it holds that an actor who engages in certain sexual or trafficking offenses commits the applicable offense, *regardless of whether the actor knows the age of the victim*. **House Bill 2529** clarifies what is meant by “coercion” in the context of compelling a person to perform prostitution. **House Bill 3019**

criminalizes conduct resulting in serious bodily injury to persons at boarding home facilities, as well as to individuals with intellectual or developmental disabilities. [Senate Bill 1063](#) allows the Department of Family and Protective Services, under certain circumstances, to conduct home visits as part of investigations regarding child neglect or abuse.

- [Protection and recognition for peace officers and first responders](#)

[Senate Bill 12](#) was one of Lieutenant Governor Dan Patrick's legislative priorities this session; it establishes a bulletproof vest and body armor grant program, providing financial assistance to law enforcement agencies that wish to equip their officers with these bodily protections. [Senate Bill 1138](#) codifies the "blue alert" system that Governor Rick Perry established by executive order in 2008. The blue alerts would notify law enforcement agencies and media outlets when a police officer is injured or killed, with the hope of apprehending the suspect quickly. (A similar alert system for missing senior citizens notably was enacted by [House Bill 2639](#).)

[House Bill 3042](#) designates July 7 as Fallen Law Enforcement Officer Day, which would be regularly observed at the state Capitol with appropriate ceremonies to commemorate police officers who died in the line of duty. The date has special significance, since it was when five officers were killed in Dallas during a 2015 Black Lives Matter protest.

[Senate Bill 15](#) entitles the surviving spouse of a first responder who was killed or fatally injured in the line of duty to a property tax exemption.

- [Rape testing kit backlog](#)

[House Bill 1729](#) creates a grant program for the testing of sexual offense ("rape kit") evidence. The grants allow counties and law enforcement agencies to pay accredited crime laboratories to test rape kit evidence, and they would be funded by voluntary donations of \$1 or more from persons applying for driver's licenses. While Texas has made strides in the past few years, there is still a significant backlog of rape kits that have not been tested, and the bill admirably addresses that issue with an innovative "crowd-funding" approach. This will allow local entities to more quickly and accurately test evidence, thus expediting criminal proceedings and providing victims with a sense of closure.

- [Preventing wrongful convictions](#)

[House Bill 34](#) resulted from recommendations made by the Timothy Cole Exoneration Commission, established in 2015 to review cases in which an innocent person was convicted of a crime only to be later exonerated by the state. The bill requires a law enforcement agency to make and retain an electronic recording of any custodial interrogation of a person suspected of committing or a felony offense. It also requires a state prosecutor to track the testimony of jailhouse informants, as well as mandate that law enforcement agencies be uniformly trained on the subject of faulty eye-witness identification.

ENDNOTES

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¹⁷ The Stephen Group, “DFPS CPS Operational Review,” June 2014, available at http://www.stephengroupinc.com/pdfs/Recommendations_Report_6-17_Final.pdf.

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²¹ https://pdf.ic3.gov/2015_IC3Report.pdf

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