

# TEXAS STATUTES REGARDING SUICIDE



2015

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The following is a list of Texas laws (statutes) that relate to suicide prevention, services, or reporting.

The statutes are organized by subject, with a short explanation of what the law does and, when relevant, what suicide prevention advocates should know about that section of the law. The statutes are presented as excerpts, with only the section of the law that relates to suicide, bullying, or other related issues, included. In many cases, the statute excerpts have been slightly edited and/or reformatted for clarity and ease of reading, but no content or meaning should have been affected. The reference to "suicide" will be underlined in most passages. The full citation is provided after each excerpt for those that want to see the entire section of the law.

This list is current as of July 1, 2015, and includes updates from bills that passed the 84<sup>th</sup> Texas Legislature (2015 Legislative Session). Changes to Texas statutes made during the 2015 Legislative Session will be noted by the designation "NEW Texas Law" or "REVISED Texas Law." When the new law is mixed in with language in existing law, the language of the new portion of the law will be shown in italics.

The document does not contain references to several sections of statute that address suicide in the Texas Insurance Code or in the area of wills and estates, due to the complicated nature of those areas of law. Nor do we include references to the Texas Administrative Code (i.e., agency regulations) at this time, due to the length of the document.

Note: During the 84<sup>th</sup> Legislative Session, 2015, all health and human services agencies went through the Sunset review process, and legislation was passed that will significantly impact the structure and functions of health and human service agencies in Texas in the next decade. At the present time, however, none of those changes impact the legal requirements included in this summary.

## SCHOOLS AND SCHOOL PERSONNEL

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**What you should know:** Public schools in Texas must have a “district improvement plan” which must include strategies for suicide prevention. Advocates of suicide prevention should work with their school district’s local committees and stakeholders to ensure the district’s plan and training includes methods for addressing suicide prevention.

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### **Texas Law: Texas Education Code – District-Level Planning and Decision-Making**

- ▶ Each school district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee established under Section 11.251 of the Education Code. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the achievement indicators adopted under Section 39.053 (c) (1)-(4) of the Education Code.
- ▶ The district improvement plan must include strategies for improvement of student performance that include methods for addressing the needs of students for special programs, including suicide prevention programs (in accordance with Health and Safety Code requirements regarding parental or guardian notification procedures), conflict resolution, violence prevention, or dyslexia treatment programs.

Tex. Education Code §11.252 (a)(3)(B)

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**What you should know:** Teachers must have best practice-based training in mental health, substance abuse, and youth suicide to receive a teaching certificate.

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### **REVISED Texas Law (SB 674): Texas Education Code – Educator Preparation**

Before the State Board for Educator Certification can issue a teaching certificate to an individual, the individual must receive instruction *regarding mental health, substance abuse, and youth suicide*. *The instruction required must:*

- *be provided through a program selected from the list of recommended best practice-based programs the Department of State Health Services (in coordination with the Texas Education Agency) publishes every year in compliance with Health and Safety Code requirements described on pages 13-15; and*
- *include effective strategies for teaching and intervening with students with mental or emotional disorders, including de-escalation techniques and positive behavioral interventions and supports.*

Note: SB 674 builds upon SB 460 that was passed by the 83<sup>rd</sup> Legislature in 2013. In addition to the new language italicized above requiring the educator training to be based on best practices, SB 674 also deleted provisions in this section of the Education Code that allowed the training to be developed by a panel appointed by the Texas Board of Educator Certification and which did

not require the training to be best practice-based. SB 674 effectively makes the same best-practice standards apply to both educator preparation training and on-going staff development training.

Further, the training no longer has to include information on compliance with Texas Education Code Section 38.010 requirements that prohibit a school employee from referring a student to a counselor outside the school without the consent and approval of the student's parent and the school administration. Section 38.010 was not repealed, however; those requirements would still apply.

Tex. Education Code §21.044 (c-1)

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**What you should know:** Educators may receive continuing education in mental health first aid.

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### **Texas Law : Texas Education Code – Continuing Education**

The State Board for Educator Certification must adopt rules to allow a public school educator to fulfill certain continuing education requirements by participating in a mental health first aid training program.

Tex. Education Code §21.054 (d)

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**What you should know:** Schools must provide best practice-based training on suicide prevention as part of staff development, and may provide training on bullying (along with other topics).

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### **NEW Texas Law (HB 2186): Texas Education Code – Staff Development**

School district staff development for all new district and open enrollment charter school educators **must** include suicide prevention training annually as part of the district or charter school's new employee orientation, and must also be provided to existing school district and open-enrollment charter school educators on a schedule adopted in rules by the Texas Education Agency (TEA). The training must use a best practice-based program(s) recommended by the Department of State Health Services in coordination with TEA in compliance with requirements in the Health and Safety Code (discussed on pages 13-15) that the agencies collaboratively provide schools with an updated list of best practice suicide prevention programs each year.

The suicide prevention training requirement may be satisfied through independent review of suicide prevention training material that complies with the guidelines developed by TEA and is offered online.

Note: Previous law allowed (but did not require) school district staff development to include certain training, including training in preventing, identifying, responding to, and reporting incidents of bullying. Now, in addition, the law **requires** annual training specifically on best practice-based suicide prevention.

Tex. Education Code §21.451(d), (d-1), and (d-2)

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**What you should know:** School peace officers and school resource officers in larger school districts will be required to receive training on mental health and positive behavior interventions, and other related topics, before serving in a school. Suicide prevention advocates should give input into the content of the training when it is being developed or periodically reviewed.

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### NEW Texas Law (HB 2684): Texas Education Code – Discipline; Law and Order, and Occupations Code, Law Enforcement Officers

A school district with an enrollment of 30,000 or more students that commissions a school district peace officer, or at which a school resource officer provides law enforcement, shall adopt a policy requiring the officer to complete the education and training program required by provisions in the Texas Occupations Code that govern law enforcement officers, including the new ones established in this bill.

The Texas Commission on Law Enforcement (TCOLE) must create, adopt, and distribute a model training curriculum for school district peace officers and school resource officers. (A "school resource officer" is a peace officer who is assigned to a school.)

The curriculum developed under this section must incorporate learning objectives regarding:

- child and adolescent development and psychology;
- positive behavioral interventions and supports, conflict resolution techniques, and restorative justice techniques;
- de-escalation techniques and techniques for limiting the use of force, including the use of physical, mechanical, and chemical restraints;
- the mental and behavioral health needs of children with disabilities or special needs; and
- mental health crisis intervention.

TCOLE must publish the proposed training curriculum for public comment for 30 days before adopting and distributing it. Once it is adopted, TCOLE must provide it to:

- school district police departments;
- law enforcement agencies that place peace officers in a school as school resource officers under a memorandum of understanding; and
- any entity that provides training to school district peace officers or school resource officers.

TCOLE must review the curriculum at least every four years and update it as needed.

TCOLE must adopt rules that will require a school district peace officer or resource officer who will be working in a district with an enrollment of 30,000 or more students to complete the education and training program outlined in this law before or within 120 days of the officer's commission by or placement in the district or a campus. (Note: Officers who have completed an advanced training course conducted by the National Association of School Resource Officers or an equivalent training are exempt from these new training requirements.)

The program must:

- consist of at least 16 hours of training;
- be approved by TCOLE; and
- provide training in accordance with the curriculum developed under Section 1701.262 in each subject area listed in Subsection (c) of that section.

Deadlines: TCOLE must create the model training curriculum for school district peace officers and school resource officers by December 1, 2015. They must make it available to these officers by February 1, 2016. If an officer starts working with a school that has an enrollment of 30,000 or more students before the February date, the officer must complete the training as soon as possible, but not later than June 1, 2016.

School districts with an enrollment of 30,000 or more students must adopt the training policy for school district peace officers and school resource officers required by this law by February 1, 2016,

[Tex. Education Code §37.0812](#), and [Tex. Occupations Code §1701.262 and .263](#)

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**What you should know:** Schools will have a “campus behavior coordinator” who will be responsible for managing disciplinary actions at the school, including notifying parents in certain cases.

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### **NEW Texas Law (SB 107): Texas Education Code – Discipline; Law and Order**

Each Texas public school campus will have to designate a person to serve as the campus behavior coordinator. The person designated may be the principal of the campus or any other campus administrator selected by the principal.

The campus behavior coordinator is responsible for maintaining student discipline on the campus. Although the campus or district policy can make modifications to the coordinator’s responsibilities, one of the core duties of the coordinator is to promptly notify a student’s parent or guardian if the student is suspended (in school or out of school), placed in a disciplinary alternative education program, expelled, placed in a juvenile justice alternative education program, or taken into custody by a law enforcement officer.

The new law allows a teacher to send a student to the campus behavior coordinator’s office to maintain discipline in the classroom, rather than to the principal’s office. The campus behavior coordinator may implement discipline management techniques allowed in the code of conduct, including progressive interventions. The coordinator also must convene a conference with the parent or guardian of the student, the teacher who removed the student (if applicable), and the student. Other due process and appeal procedures are outlined. Primarily, before a student is suspended, expelled, or removed to an alternative education setting, it must be considered whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student’s disciplinary history, and whether the student has a disability

that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary disciplinary action.

Tex. Education Code §§ 37.0012, 37.002(a), 37.007(a), 37.009(a) and (f)

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**What you should know:** Advocates should work with (or get appointed to) their local school board's School Health Advisory Council to ensure the Council recommends that a district's health education curriculum includes appropriate instruction in suicide prevention and other topics.

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### **Texas Law: Texas Education Code – Local School Health Advisory Council and Health Education Instruction**

Local school boards in Texas have been required since 2003 to establish “school health advisory councils” to assist the district in ensuring that local community values are reflected in the district's health education instruction. The district must consider the recommendations of the local council before changing the district's health education curriculum or instruction.

The local school health advisory council's duties include recommending:

- ▶ the number of hours of instruction to be provided in health education;
- ▶ policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, Type 2 diabetes, and mental health concerns through coordination of:
  - + health education;
  - + physical education and physical activity;
  - + nutrition services;
  - + parental involvement;
  - + instruction to prevent the use of tobacco;
  - + school health services;
  - + counseling and guidance services;
  - + a safe and healthy school environment; and
  - + school employee wellness.

Tex. Education Code §28.004 (c) and (d)

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**What you should know:** School counselors should help ensure their school’s counseling programs and services integrate best practices in suicide prevention.

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### **Texas Law: Texas Education Code – School Counselors**

- ▶ The primary responsibility of a school counselor is to counsel students to fully develop each student's academic, career, personal, and social abilities.
- ▶ In addition to a school counselor's responsibility described above, the counselor shall participate in planning, implementing, and evaluating a comprehensive developmental guidance program to serve all students and to address the special needs of students who are at risk of dropping out of school, becoming substance abusers, participating in gang activity, or committing suicide.

Tex. Education Code § 33.006 (a) and (b)

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**What you should know:** Parents may request that their child be transferred to another classroom or another school if their child is a victim of bullying.

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### **Texas Law: Texas Education Code – Transfer of Victims of Bullying**

For this and all other sections of the Education Code, bullying is now defined as “engaging in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the district and that: (1) has the effect or will have the effect of physically harming a student, damaging a student’s property, or placing a student in reasonable fear of harm to the student’s person or of damage to the student’s property; or (2) is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.”

Conduct described above is considered bullying if that conduct exploits an imbalance of power between the student perpetrator and the student victim through written or verbal expression or physical conduct and interferes with a student’s education or substantially disrupts the operation of a school.

- ▶ Parents/guardians may request that their child be transferred to another classroom or another school if their child is a victim of bullying. It is the responsibility of the board of trustees or the board’s designee to verify that the student has been a victim of bullying before the transfer may occur and “may consider past student behavior when identifying a bully.” School districts are not required to provide transportation to a student who transfers to another school.
- ▶ A district may transfer the student who engaged in bullying to another campus at the campus to which the victim was assigned at the time the bullying occurred, or a campus other than that campus -- after consulting with the parent of the student who engaged in bullying.

Tex. Education Code § 25.0342 and § 37.0832

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**What you should know:** Student Codes of Conduct must prohibit bullying and other harassing behaviors.

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**Texas Law: Texas Education Code – Student Code of Conduct:**

Student codes of conduct, developed by the district board of trustees, must be posted and prominently displayed at each school or be made available at the principal’s office. The code of conduct must:

- ▶ Specify circumstances under which a student may be removed from a classroom, school campus, alternative education program, or a school bus or vehicle owned or operated by the school district;
- ▶ Specify conditions when a principal or administrator may transfer a student to an alternative education program;
- ▶ Outline conditions under which a student may be suspended or expelled;
- ▶ Address parent/guardian notification of code violations that result in suspension, removal to a disciplinary alternative education program, or expulsion;
- ▶ Prohibit bullying, harassment, and making hit lists, and ensure that district employees enforce these prohibitions; and
- ▶ Provide methods for classroom management, student discipline, and preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

Defines “harassment” as “threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student’s physical or emotional health or safety.”

Tex. Education Code § 37.001

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**What you should know:** Advocates should work with their local school boards in developing bullying prevention policies.

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**Texas Law: Texas Education Code – Discipline, Law and Order; Bullying Prevention Policies and Procedures**

The Board of Trustees of each school district must adopt a policy, including any necessary procedures, concerning bullying that:

- ▶ prohibits the bullying of a student;
- ▶ prohibits retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;

- ▶ establishes a procedure for providing notice of an incident of bullying to a parent or guardian of the victim and a parent or guardian of the bully within a reasonable amount of time after the incident;
- ▶ establishes the actions a student should take to obtain assistance and intervention in response to bullying;
- ▶ sets out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;
- ▶ establishes procedures for reporting an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred;
- ▶ prohibits the imposition of a disciplinary measure on a student who is a victim of bullying on the basis of that student's use of reasonable self-defense in response to the bullying; and
- ▶ requires that discipline for bullying of a student with disabilities comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act.

The procedures adopted must be included annually in the student and employee school district handbooks and in the district improvement plan under Education Code Section 11.252 (District-Level Planning and Decision-Making). Also requires that the procedure for reporting bullying be posted on the district's Internet website to the extent practicable.

[Tex. Education Code § 37.0832](#)

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### **Texas Law: Texas Education Code – Essential Knowledge and Skills Curriculum**

In addition to any other essential knowledge and skills the State Board of Education adopts for the health curriculum under another section of the Education Code, the board shall adopt for the health curriculum, in consultation with the Texas School Safety Center, essential knowledge and skills that include evidence-based practices that will effectively address awareness, prevention, identification, self-defense in response to, and resolution of and intervention in bullying and harassment.

[Tex. Education Code §28.002 \(s\)](#)

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**What you should know:** Parents and guardians have certain rights pertaining to mental health care, medications, and their children.

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### **Texas Law: Texas Education Code – Health and Safety; Psychotropic Drugs and Psychiatric Evaluations or Examinations**

(a) In this section:

- (1) "Parent" includes a guardian or other person standing in parental relation.
- (2) "Psychotropic drug" means a substance that is:

- (A) used in the diagnosis, treatment, or prevention of a disease or as a component of a medication; and
- (B) intended to have an altering effect on perception, emotion, or behavior.

(b) A school district employee may not:

- (1) recommend that a student use a psychotropic drug; or
- (2) suggest any particular diagnosis; or
- (3) use the refusal by a parent to consent to administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student as grounds, by itself, for prohibiting the child from attending a class or participating in a school-related activity.

(c) Subsection (b) does not:

- (1) prevent an appropriate referral under the child find system required under the Individuals with Disabilities Education Act; or
- (2) prohibit a school district employee who is a registered nurse, advanced nurse practitioner, physician, or certified or appropriately credentialed mental health professional from recommending that a child be evaluated by an appropriate medical practitioner; or
- (3) prohibit a school employee from discussing any aspect of a child's behavior or academic progress with the child's parent or another school district employee.

(d) The board of trustees of each school district shall adopt a policy to ensure implementation and enforcement of this section.

(e) An act in violation of Subsection (b) does not override the immunity from personal liability granted in Section 22.0511 or other law or the district's sovereign and governmental immunity.

Tex. Education Code § 38.016

### **Texas Law: School-Based Health Centers – Parental Consent Required**

- ▶ A school-based health center may provide services to a student only if the district or the provider with whom the district contracts obtains the written consent of the student's parent or guardian or another person having legal control of the student on a consent form developed by the district or provider. The student's parent or guardian or another person having legal control of the student may give consent for a student to receive ongoing services or may limit consent to one or more services provided on a single occasion.
- ▶ The consent form must list every service the school-based health center delivers in a format that complies with all applicable state and federal laws and allows a person to consent to one or more categories of services.

Tex. Education Code § 38.053 (a) and (b)

- ▶ The staff of a school-based health center and the person whose consent is obtained under Section 38.053 shall jointly identify any health-related concerns of a student that may be interfering with the student's well being or ability to succeed in school.

- ▶ If it is determined that a student is in need of a referral for mental health services, the staff of the center shall notify the person whose consent is required under Section 38.053 verbally and in writing of the basis for the referral. The referral may not be provided unless the person provides written consent for the type of service to be provided and provides specific written consent for each treatment occasion.

Tex. Education Code § 38.057 (a) and (b)

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What you should know: Colleges and universities must provide mental health and suicide prevention information to all incoming (including transfer) students.

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### **NEW Texas Law (SB 1624): Texas Education Code, Higher Education – Requirements for Higher Education**

Beginning with the 2016 fall semester, Texas public colleges and universities must provide suicide prevention information to all incoming full-time students – including undergraduate, graduate, professional degree, and transfer students. The information must include:

- available mental health and suicide prevention services offered by the institution or by any associated organizations or programs;
- early warning signs that a person may be considering suicide, and appropriate suicide prevention interventions for a person who may be considering suicide.

The information may be provided through a live presentation or through a format that allows for student interaction, such as an online program or video, but it may not be provided only in a paper format.

The new requirement does not apply to community colleges or private colleges and universities.

Tex. Education Code § 51.9194

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What you should know: Colleges and universities will have to include information on their websites regarding mental health resources for students at the institution.

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### **NEW Texas Law (HB 197): Texas Education Code, Higher Education – Requirements for Higher Education**

- ▶ Every college – including a general academic teaching institution, medical and dental unit, public junior college, public state college, or public technical institute, must create a web page on the institution's website dedicated solely to information regarding the mental health

resources available to students at the institution. The web page must include the address of the nearest local mental health authority.

- ▶ Every higher education institution covered must develop and post the webpage as soon as possible after the act goes into effect on September 1, 2015.

Tex. Education Code § 51.9193

## YOUTH AND FAMILY SERVICES

**What you should know:** A minor generally may seek and receive counseling services from a doctor or a mental health professional without the professional having to obtain consent from the minor's parent or guardian, including counseling regarding suicide prevention. This assures youth they may seek confidential counseling in many situations.

### Texas Law: Texas Family Code – Consent to Counseling

- ▶ A child may consent to counseling for:
  - + suicide prevention;
  - + chemical addiction or dependency; or
  - + sexual, physical, or emotional abuse.
- ▶ A licensed or certified physician, psychologist, counselor, or social worker having reasonable grounds to believe that a child has been sexually, physically, or emotionally abused, is contemplating suicide, or is suffering from a chemical or drug addiction or dependency may:
  - + counsel the child without the consent of the child's parents or, if applicable, managing conservator or guardian;
  - + with or without the consent of the child who is a client, advise the child's parents or, if applicable, managing conservator or guardian of the treatment given to or needed by the child; and
  - + rely on the written statement of the child containing the grounds on which the child has capacity to consent to the child's own treatment under this section.
- ▶ Unless consent is obtained as otherwise allowed by law, a physician, psychologist, counselor, or social worker may not counsel a child if consent is prohibited by a court order.
- ▶ A physician, psychologist, counselor, or social worker counseling a child under this section is not liable for damages except for damages resulting from the person's negligence or willful misconduct.
- ▶ A parent, or, if applicable, managing conservator or guardian, who has not consented to counseling treatment of the child is not obligated to compensate a physician, psychologist, counselor, or social worker for counseling services rendered under this section.

Tex. Family Code § 32.004

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**What you should know:** The Texas state agency responsible for the public mental health system, the Department of State Health Services (DSHS), must have a designated employee who will specialize in suicide prevention to liaison with public schools.

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### **Texas Law: Texas Health & Safety Code – Services for Children and Youth**

- ▶ The department (DSHS) shall ensure the development of programs and the expansion of services at the community level for children with mental illness or intellectual disabilities, or both, and for their families.
- ▶ DSHS shall designate an employee as a youth suicide prevention officer. The officer shall serve as a liaison to the Texas Education Agency and public schools on matters relating to the prevention of and response to suicide or attempted suicide by public school students.

Tex. Health & Safety Code § 533.040 (a) and (c)

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**What you should know:** The Department of State Health Services (in coordination with the Texas Education Agency and education service centers) must provide and annually update a list of best-practice suicide prevention programs for consideration by public schools.

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### **Texas Law: Texas Health and Safety Code – Mental Health Promotion and Intervention, Substance Abuse Prevention and Intervention, and Suicide Prevention.**

(a) Requires the Texas Department of State Health Services (DSHS), in coordination with the Texas Education Agency (TEA) and regional education service centers, to provide and annually update a list of recommended best practice-based programs in the areas listed in (a-1), below, for implementation in public elementary, junior high, middle, and high schools within the general education setting. Authorizes each school district to select from the list a program or programs appropriate for implementation in the district.

(a-1) The list must include programs in the following areas:

- ▶ early mental health intervention;
- ▶ mental health promotion and positive youth development;
- ▶ substance abuse prevention;
- ▶ substance abuse intervention; and
- ▶ suicide prevention.

(a-2) DSHS, TEA, and each regional education service center shall make the list easily accessible on their websites.

(b) Requires that the programs on the list include components that provide for training counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

- (1) recognize students at risk of committing suicide, including students who are or may be the victims of or who engage in bullying;
- (2) recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; and
- (3) intervene effectively with students described by Subdivision (1) or (2) by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian.

(c) Requires DSHS and TEA, in developing the list of programs, to consider:

- (1) any existing suicide prevention method developed by a school district; and
- (2) any Internet or online course or program developed in this state or another state that is based on best practices recognized by the Substance Abuse and Mental Health Services Administration or the Suicide Prevention Resource Center.

(c-1) Requires each school district to provide training described in Subsection (b) for teachers, counselors, principals, and all other appropriate personnel, except that a school district is required to provide the training at an elementary school campus only if sufficient funding and programs are available. A school district may implement a program on the list to satisfy the training requirements.

(c-2) If a school district provides the training described in (c-1):

- (1) the school district employee must participate in the training at least one time; and
- (2) the school district shall maintain records that include the name of each district employee who participated in the training.

(d) Allows the board of trustees of each school district to adopt a policy concerning mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention that:

- (1) establishes a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (b)(2);
- (2) establishes a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (b)(2);
- (3) establishes that the district is authorized to develop a reporting mechanism and is authorized to designate at least one person to act as a liaison officer in the district for the

purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention; and

(4) sets out the available counseling alternatives for a parent or guardian to consider when their child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention.

(e) Requires that the policy prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention.

(f) Requires that the policy and any necessary procedures adopted under Subsection (d) be included in:

(1) the annual student handbook; and

(2) the district improvement plan under Texas Education Code Section 11.252 (District-Level Planning and Decision-Making).

(g) Authorizes DSHS to accept donations for purposes of this section from sources without a conflict of interest. Prohibits DSHS from accepting donations for purposes of this section from an anonymous source.

(h) Required DSHS to submit a report to the legislature relating to the development of the list of programs and the implementation in school districts of selected programs by school districts that choose to implement programs by January 1, 2013. [Note: Although the report should still be publicly available, this Subsection (h) of the law has now expired.]

(i) Clarifies that nothing in this section of the law is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. Provides that policy and procedures adopted in accordance with this section are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action. Clarifies that nothing in this law should be construed as giving school districts the authority to prescribe medications, and that any and all medical decisions are to be made by a parent or guardian of a student.

#### Tex. Health & Safety Code § 161.325

**Texas Law:** The Health and Safety Code (§161.326) and Civil Practice and Remedies Code (§74.151) were also both amended to include language to the effect that requirements in this section of the law about best practices, training, etc., do not change pre-existing laws regarding immunity from liability for school district officers or employees, other than liability from willful or intentional misconduct.

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**What you should know:** Mental Health First Aid is an in-person training that teaches skills and strategies to help someone experiencing a mental health crisis. Although it is not primarily a

suicide prevention program, it does include a section on suicide prevention. The scope of the training was expanded in 2015. (*New language in italics.*)

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### **REVISED Texas Law (SB 133): Texas Health and Safety Code – Mental Health First Aid Training.**

The Department of State Health Services (DSHS), to the extent that funds are appropriated to it for this purpose, shall provide grants to local mental health authorities for training mental health first aid trainers and for providing mental health first aid training to public school *district employees and school resource officers*.

(Note: A "school resource officer" is a peace officer who is assigned to a school. "School district employee" is defined to mean a person employed by a school district who regularly interacts with students through the course of the person's duties, including an educator, a secretary, a school bus driver, or a cafeteria worker. This bill expands the scope of who can receive the training to include any type of school employee, and resource officers.)

Requires the Executive Commissioner of the Texas Health and Human Services Commission to adopt rules to establish the requirement for a person to be approved by DSHS to train employees or contractors of a local mental health authority as first aid trainers. The rules must ensure that a person who is approved by the department is qualified to provide training in:

- ▶ the potential risk factors and warning signs for various mental illnesses, including depression, anxiety, trauma, psychosis, eating disorders, substance abuse disorders, and self-injury;
- ▶ the prevalence of various mental illnesses in the United States and the need to reduce the stigma associated with mental illness;
- ▶ an action plan for use by the employees or contractors that involves the use of skills, resources, and knowledge to assess a situation and develop and implement an appropriate intervention to help an individual experiencing a mental health crisis obtain appropriate professional care; and
- ▶ the evidence-based professional, peer, social, and self-help resources available to help individuals with mental illness.

The mental health first aid training program provided by a local mental health authority under this section must:

- ▶ be conducted by a person trained as a mental health first aid trainer;
- ▶ provide participants with the skills necessary to help an individual experiencing a mental health crisis until the individual is able to obtain appropriate professional care; and include:
  - + instruction in a five-step strategy for helping an individual experiencing a mental health crisis, including assessing risk, listening respectfully to and supporting the individual, and identifying professional help and other supports for the individual;
  - + an introduction to the risk factors and warning signs for mental illness and substance abuse problems;
  - + experiential activities to increase participants' understanding of the impact of mental illness on individuals and families; and
  - + a presentation of evidence-supported treatment and self-help strategies.

A local mental health authority may contract with a regional education service center to provide a mental health first aid training program to educators under this section, and two or more local mental health authorities may collaborate and share resources to develop and operate a training program.

DSHS must grant \$100 to any local mental health authority for each *school district employee or school resource officer* who successfully completes a mental health first aid training program provided by that authority, *and allows DSHS to allocate any unobligated money appropriated for making grants under this bill for supplemental grants.*

The law also includes reporting requirements (such as requiring DSHS to report to the Legislature how many individuals, including school personnel, received the training) and adds provisions relating to the liability of a person who has completed a mental health first aid training program.

Tex. Health & Safety Code § 1001.201 – §1001.206; §1001.2031

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**What you should know:** The Executive Commissioner of the Texas Health and Human Services Commission may direct the Department of State Health Services to monitor the quality of services provided through the Children’s Health Insurance Plan (CHIP), in part by measuring suicide attempts of enrolled youth. This requirement can help ensure health plans will be aware of the importance of suicide prevention activities and services. Advocates may want to inquire about the availability of this data.

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### **Texas Law: Texas Health & Safety Code – Texas Department of State Health Services**

The Health and Human Services Commission may direct the Texas Department of State Health Services to monitor the quality of services delivered to enrollees through outcome measurements including the percent of adolescents reporting attempted suicide.

Tex. Health & Safety Code § 62.052 (a)(3)(D)

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**What you should know:** Child care facilities licensed by the Texas Department of Family and Protective Services (which includes child care facilities, residential facilities, foster homes, and other facilities) must report to the agency any attempted suicide by a child in a regulated facility.

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### **Texas Law: Texas Human Resources Code – Reporting of Incidents and Violations**

In this section, "serious incident" means a suspected or actual incident that threatens or impairs the basic health, safety, or well being of a child. The term includes:

- ▶ the arrest, abuse, neglect, exploitation, running away, attempted suicide, or death of a child;
- ▶ a critical injury of a child; and

- ▶ an illness of a child that requires hospitalization.
- ▶ A person licensed under this chapter shall report to the Department of Family and Protective Services' statewide intake system each serious incident involving a child who receives services from the person, regardless of whether the department is the managing conservator of the child.
- ▶ An employee or volunteer of a general residential operation, child-placing agency, foster home, or foster group home shall report any serious incident directly to the department if the incident involves a child under the care of the operation, agency, or home.
- ▶ A foster parent shall report any serious incident directly to the department if the incident involves a child under the care of the parent.

Tex. Human Resources Code § 42.063

### MEDICAL SERVICES TO MINORS IN THE CONSERVATORSHIP OF THE STATE

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**What you should know:** A medical professional can provide care or services to a youth in the conservatorship of the state (i.e., a child in foster care) in emergency situations without having to obtain the usual consents in order to prevent a child from committing suicide.

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#### **Texas Law: Texas Family Code – Provision of Medical Care in Emergency**

- ▶ Consent or court authorization for the medical care of a foster child otherwise required by this chapter is not required in an emergency during which it is immediately necessary to provide medical care to the foster child to prevent the imminent probability of death or substantial bodily harm to the child or others, including circumstances in which:
  - + the child is overtly or continually threatening or attempting to commit suicide or cause serious bodily harm to the child or others; or
  - + the child is exhibiting the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in placing the child's health in serious jeopardy, serious impairment of bodily functions, or serious dysfunction of any bodily organ or part.
- ▶ The physician providing the medical care or designee shall notify the person authorized to consent to medical care for a foster child about the decision to provide medical care without consent or court authorization in an emergency not later than the second business day after the date of the provision of medical care under this section. This notification must be documented in the foster child's health passport.
- ▶ This section does not apply to the administration of medication under Subchapter G, Chapter 574, Health and Safety Code, to a foster child who is at least 16 years of age and who is placed in an inpatient mental health facility.

Texas Family Code § 266.009 (a)-(c)

## PROVIDING MENTAL HEALTH SERVICES OR MEDICATION WITHOUT CONSENT

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**What you should know:** An individual can be ordered by a court to receive inpatient or outpatient mental health or intellectual disability services if the court finds that the person may cause harm to him or herself without treatment.

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### **Texas Law: Texas Health & Safety Code – Court Ordered Mental Health Services**

Note: This section of the Health & Safety Code contains extensive provisions regarding court-ordered mental health treatment that are too lengthy to be duplicated here. The following is one excerpt that outlines the standard for temporary inpatient court-ordered care.

- ▶ The judge may order a proposed patient to receive court-ordered temporary inpatient mental health services only if the judge or jury finds, from clear and convincing evidence, that the proposed patient is mentally ill and as a result of that mental illness the proposed patient:
  - + is likely to cause serious harm to himself;
  - + is likely to cause serious harm to others; or
  - + is suffering severe and abnormal mental, emotional, or physical distress; experiencing substantial mental or physical deterioration of the proposed patient's ability to function independently, which is exhibited by the proposed patient's inability, except for reasons of indigence, to provide for the proposed patient's basic needs, including food, clothing, health, or safety; and unable to make a rational and informed decision as to whether or not to submit to treatment.

[Tex. Health & Safety Code Chapter 574](#)

**Note:** Chapters 592 and 593 of the Health and Safety Code contain similar provisions regarding admission and commitment as it relates to intellectual disability services.

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**What you should know:** A medical professional can administer psychoactive medication to an individual who is receiving certain inpatient mental health or residential services for persons with intellectual or development disabilities without the individual's consent in certain emergency situations.

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### **Texas Law: Texas Health & Safety Code – Administration of Medication to Patient under Court-Ordered Mental Health Services**

- ▶ A person may not administer a psychoactive medication to a patient who refuses to take the medication voluntarily unless:
  - + the patient is having a medication-related emergency\*;
  - + the patient is under an order issued under Section 574.106 authorizing the administration of the medication regardless of the patient's refusal; or

- + the patient is a ward who is 18 years of age or older and the guardian of the person of the ward consents to the administration of psychoactive medication regardless of the ward's expressed preferences regarding treatment with psychoactive medication.

Tex. Health & Safety Code § 574.103 (a) and (b)(1)-(3)

**Note:** Sec. 576.025 of the Health and Safety Code contains similar, but not identical, provisions related to the administration of psychoactive medication to a patient receiving voluntary or involuntary mental health services who refuses the medication.

### **Texas Law: Texas Health & Safety Code – Administration of Medication to Client Receiving Voluntary or Involuntary Residential Care Services or to a Client Committed to Certain Residential Care Facilities**

- ▶ A person may not administer a psychoactive medication to a client who refuses to take the medication voluntarily unless:
  - + the client is having a medication-related emergency\*;
  - + the client is under an order issued under Section 592.156 authorizing the administration of the medication regardless of the client's refusal; or
  - + the client is a ward who is 18 years of age or older and the guardian of the person of the ward consents to the administration of psychoactive medication regardless of the ward's expressed preferences regarding treatment with psychoactive medication.

Tex. Health & Safety Code § 592.152 – 592.153

\* A “medication emergency” means a situation in which it is immediately necessary to administer medication to an individual:

- ▶ to prevent imminent probable death or substantial bodily harm to the individual because the individual:
  - + overtly or continually is threatening or attempting to commit suicide or serious bodily harm; or
  - + is behaving in a manner that indicates that the client is unable to satisfy the client's need for nourishment, essential medical care, or self-protection; or
- ▶ to prevent imminent physical or emotional harm to another because of threats, attempts, or other acts the client overtly or continually makes or commits.

Tex. Health & Safety Code § 574.101 (2); 592.141 (2)

**Note:** All uses of the phrase “medication-related emergency” in subchapter G of Chapter 574 of Tex. Health and Safety Code and subchapter F of Chapter 592 includes the reference to the risk of suicide. See subsequent sections of Chapter 574 and 592 for procedures related to administration of medication without an individual's consent.

## EFFECT OF SUICIDE ATTEMPT ON A DECLARATION FOR MENTAL HEALTH TREATMENT

**What you should know:** Medical personnel can disregard an individual’s Declaration for Mental Health Treatment in emergency situations in order to prevent the individual from committing suicide.

### Texas Law: Texas Civil Practice & Remedies Code – Disregard of Declaration for Mental Health Treatment.

- ▶ A physician or other health care provider may subject the principal (i.e., the person who is the subject of the Declaration for Mental Health Treatment) to mental health treatment in a manner contrary to the principal's wishes as expressed in a declaration for mental health treatment only:
  - + if the principal is under an order for temporary or extended mental health services under Section 574.034 or 574.035, Health and Safety Code, and treatment is authorized in compliance with Section 574.106, Health and Safety Code; or
  - + in case of an emergency\* when the principal's instructions have not been effective in reducing the severity of the behavior that has caused the emergency.
- ▶ A declaration for mental health treatment does not limit any authority provided by Chapter 573 or 574, Health and Safety Code:
  - + to take a person into custody; or
  - + to admit or retain a person in a mental health treatment facility.
- ▶ This section does not apply to the use of electroconvulsive treatment or other convulsive treatment.

Tex. Civil Practice & Remedies Code Sec. 137.008.

\*"Emergency" means a situation in which it is immediately necessary to treat a patient to prevent:

- ▶ probable imminent death or serious bodily injury to the patient because the patient:
  - + overtly or continually is threatening or attempting to commit suicide or serious bodily injury to the patient; or
  - + is behaving in a manner that indicates that the patient is unable to satisfy the patient's need for nourishment, essential medical care, or self-protection; or
- ▶ imminent physical or emotional harm to another because of threats, attempts, or other acts of the patient.

Tex. Civil Practice & Remedies Code § 137.001 (4)

**Note:** Because this section of the law defines “emergency” to include situations where there is an attempt to treat a patient to prevent death by suicide, all uses of the word “emergency” in Tex. Civil Practice & Remedies Code Chapter 137 would include suicide prevention.

## VETERAN'S SERVICES

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**What you should know:** Programs serving veterans, including women veterans or veterans in rural areas, should be knowledgeable about suicide prevention. *(New language in italics.)*

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### **Texas Law: Texas Government Code – Veterans County Service Offices**

The Texas Veteran's Commission must, among other duties, develop a training handbook containing instruction and case studies addressing how to provide assistance to veterans and their families in a number of areas, and must coordinate with the Department of State Health Services to incorporate a suicide prevention component as part of the accreditation training and examination for County Service Officers that are designated by the County to assist veterans.

Tex. Government Code § 434.038 (e)(4)

### **REVISED Texas Law (SB1304 and SB 1305): Texas Health and Safety Code – Mental Health Program for Veterans**

The Texas Department of State Health Services must develop a mental health intervention program for veterans. The program must include:

- ▶ peer-to-peer counseling;
- ▶ access to licensed mental health professionals for volunteer coordinators and peers;
- ▶ training approved by the department for peers;
- ▶ technical assistance for volunteer coordinators and peers;
- ▶ grants to regional and local organizations providing certain services;
- ▶ recruitment, retention, and screening of community-based therapists;
- ▶ suicide prevention training for volunteer coordinators and peers; and
- ▶ veteran jail diversion services, including veterans courts.

*As part of the mental health intervention program for veterans, the department shall develop a women veterans mental health initiative. (SB 1304)*

*As part of the mental health intervention program for veterans, the department shall develop a rural veterans mental health initiative. (SB 1305)*

The department shall solicit and ensure that specialized training is provided to persons who are peers and who want to provide peer-to-peer counseling or other peer-to-peer services under the program, must establish a grant program to award grants to organizations to deliver the veteran's programs, and must report certain information about how the program is going each year to the Governor and Legislature.

Tex. Health and Safety Code § 1001.202 – §1001.204

## **NEW Texas Law (HB 19): Texas Human Resources Code – Program for Veterans**

The Texas Department of Family and Protective Services (DFPS) must develop and implement a preventive services program for veterans and military families who have committed or experienced or who are at a high risk of:

- family violence; or
- abuse or neglect.

The program must:

- be designed to coordinate with community-based organizations to provide prevention services;
- include a prevention component and an early intervention component;
- include collaboration with services for child welfare, services for early childhood education, and other child and family services programs; and
- coordinate with the community collaboration initiative developed under Subchapter I, Chapter 434, Government Code, and committees formed by local communities as part of that initiative.

(c) The program must be established initially as a pilot program in areas of the state in which the department considers the implementation practicable. The department shall evaluate the outcomes of the pilot program and ensure that the program is producing positive results before implementing the program throughout the state.

(d) The department (DFPS) shall evaluate the program and prepare an annual report on the outcomes of the program. The department shall publish the report on the department's Internet website.

The bill also requires the Texas Veterans Commission and the Department of State Health Services to collaboratively administer the mental health program for veterans developed under Chapter 1001, Health and Safety Code (described above).

The Veteran's Commission would:

- (1) provide training to volunteer coordinators and peers in accordance with Section 434.353;
- (2) provide technical assistance to volunteer coordinators and peers;
- (3) recruit, train, and communicate with community-based therapists, community-based organizations, and faith-based organizations; and
- (4) coordinate services for justice involved veterans.

(d) The Veteran's Commission shall provide appropriate facilities in support of the mental health program for veterans to the extent funding is available for that purpose.

The Veteran's Commission also has to develop and implement methods for providing volunteer coordinator certification training to volunteer coordinators, including providing training for initial certification and recertification and providing continuing education.

(b) The Veteran’s Commission shall manage and coordinate the peer training program to include initial training, advanced training, certification, and continuing education for peers associated with the mental health program for veterans.

#### SUBCHAPTER I. COMMUNITY COLLABORATION INITIATIVE

Sec. 434.401. COMMUNITY COLLABORATION. (a) The Veteran’s Commission and the Department of State Health Services shall include as a part of the mental health program for veterans described by Section 434.352(a) an initiative to encourage local communities to conduct cross-sector collaboration to synchronize locally accessible resources available for veterans and military service members.

(b) The initiative must be designed to encourage local communities to form a committee that is tasked with developing a plan to identify and support the needs of veterans and military service members residing in their community. The Commission may designate general areas of focus for the initiative.

[Tex. Human Resources Code Chapter 52,](#)  
[and Tex. Government Code, Chapter 434, Subchapters H and I](#)

#### **NEW Texas Law (SB 55): Texas Government Code – Grants for Veterans’ Programs**

The Health and Human Services Commission (HHSC) must establish a grant program for supporting community mental health programs providing services and treatment to veterans and their families. The program is contingent on funding being appropriated to HHSC for this purpose. HHSC must use a nonprofit or private entity to act as the administrator of the grant program, which must include assisting, supporting, and advising HHSC in designing, developing, implementing, and managing the program in a number of ways.

Funding was continued for this initiative in Rider **68. Mental Health for Veterans Grant Program**. HHSC will be required to submit a report on the effectiveness of the grants, the number of grants awarded, and the number of veterans served to the Legislative Budget Board and the Governor by December 1, 2016.

[Tex. Government Code § 531.0992](#)

## EFFECT ON EMPLOYMENT FOR PERSON CONVICTED OF THE OFFENSE OF AIDING A SUICIDE

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**What you should know:** A person who has been convicted of aiding a suicide may not be employed in certain state-regulated facilities, such as nursing homes, State Supported Living Centers, assisted living facilities, Home and Community Services Programs, local MH/ID center programs, and others.

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### **Texas Law: Texas Health & Safety Code – Convictions Barring Employment**

A person for whom the facility is entitled to obtain criminal history record information may not be employed in a facility if the person has been convicted of an offense under Section 22.08, Texas Penal Code (aiding suicide).

Tex. Health & Safety Code § 250.006 (a)(8)

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**What you should know:** A nurse's license will be suspended if he or she has been convicted of aiding someone's suicide.

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### **Texas Law: Texas Occupations Code – Required Suspension, Revocation, or Refusal of License for Certain Offenses**

The board of nursing shall suspend a nurse's license or refuse to issue a license to an applicant on proof that the nurse or applicant has been initially convicted of aiding suicide under Section 22.08, Penal Code, and the offense was punished as a state jail felony.

Texas Occupations Code § 301.4535 (a)(9)

## PUBLIC SAFETY/CRIMINAL JUSTICE

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**What you should know:** The Texas Juvenile Justice Department (formerly the Texas Youth Commission) must train juvenile correctional officers in suicide prevention. (*New language in italics.*)

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### **REVISED Texas Law (HB 2372): Texas Human Resources Code – Juvenile Correctional Officers**

The Texas Juvenile Justice Department shall provide *competency-based training* to each juvenile correctional officer employed by the department, which must include on-the-job training, *Each officer must complete at least 300 hours of training in the officer's first year of employment, with at least 240 hours of training before the officer independently commences the officer's duties at a facility. The officer must demonstrate competency in the trained subjects.* The training

must provide the officer with information and instruction related to the officer's duties, including information and instruction concerning the signs of suicide risks and suicide precautions, behavior management, mental health issues, trauma-informed care, and other topics.

Tex. Human Resources Code § 242.009 (b)(4)

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**What you should know:** It is against the law to allow a child under 17 unsupervised access to a loaded firearm.

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### **Texas Law: Texas Penal Code – Making a Firearm Accessible to a Child**

- ▶ A person commits an offense if a child gains access to a readily dischargeable firearm and the person with criminal negligence:
  - + failed to secure the firearm; or
  - + left the firearm in a place to which the person knew or should have known the child would gain access.
- ▶ It is an affirmative defense to prosecution under this section that the child's access to the firearm:
  - + was supervised by a person older than 18 years of age and was for hunting, sporting, or other lawful purposes;
  - + consisted of lawful defense by the child of people or property;
  - + was gained by entering property in violation of this code; or
  - + occurred during a time when the actor was engaged in an agricultural enterprise.
- ▶ Except as provided by the subsection directly below, an offense under this section is a Class C misdemeanor.
- ▶ An offense under this section is a Class A misdemeanor if the child discharges the firearm and causes death or serious bodily injury to himself or another person.
- ▶ A peace officer or other person may not arrest the actor before the seventh day after the date on which the offense is committed if:
  - + the actor is a member of the family, as defined by Section 71.003, Family Code, of the child who discharged the firearm; and
  - + the child in discharging the firearm caused the death of or serious injury to the child.
- ▶ A dealer of firearms shall post in a conspicuous position on the premises where the dealer conducts business a sign that contains the following warning in block letters not less than one inch in height:

"IT IS UNLAWFUL TO STORE, TRANSPORT, OR ABANDON AN UNSECURED FIREARM IN A PLACE WHERE CHILDREN ARE LIKELY TO BE AND CAN OBTAIN ACCESS TO THE FIREARM."

Texas Penal Code § 46.13

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**What you should know:** City or county jails may not be required to install fire sprinklers in jail facilities if a sheriff believes an inmate might use the sprinkler head in an attempt to commit suicide.

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### **Texas Law: Texas Government Code – Fire Sprinkler Head Inspection**

- ▶ On the request of a sheriff, the Commission on Jail Standards shall inspect a facility to determine whether there are areas in the facility in which fire sprinkler heads should not be placed as a fire prevention measure. In making a decision under this section, the commission shall consider:
  - + the numbers and types of inmates having access to the area;
  - + the likelihood that an inmate will attempt to vandalize the fire sprinkler system or commit suicide by hanging from a sprinkler head; and
  - + the suitability of other types of fire prevention and smoke dispersal devices available for use in the area.
- ▶ If the commission determines that fire sprinkler heads should not be placed in a particular area within a facility, neither a county fire marshal nor a municipal officer charged with enforcing ordinances related to fire safety may require the sheriff to install sprinkler heads in that area.

Tex. Government Code § 511.0097

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**What you should know:** A person who is determined to be a danger to themselves or others and who is ordered into in-patient psychiatric treatment may lose their right to possess a firearm, as is required by federal law.

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### **Texas Law: Texas Code of Criminal Procedure - Search Warrants; Health and Safety Code – Emergency Detention**

#### **Disposition of firearm seized from certain persons with mental illness.**

A peace officer is authorized to hold any firearm found on a person who is in a mental health crisis, is determined to be a danger to self or others, and is being detained and transported for an emergency mental health evaluation (i.e., “emergency detention”). Law enforcement is to conduct a follow-up investigation of the person to determine whether the case was dismissed or the person was court ordered into in-patient psychiatric treatment, so that the law enforcement agency will know whether or not it is permissible to return the firearm. The law also includes procedures for law enforcement agencies to return the weapon to the owner or other potential party if they did not meet the criteria for in-patient commitment.

Tex. Health and Safety Code §573.001(g); Code of Crim. Procedure Art.18.191

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**What you should know:** A prison must have a medical or mental health professional assess an inmate before he or she can be sent to solitary confinement to ensure the inmate doesn't have a medical or mental health condition for which solitary confinement could be harmful.

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### **NEW Texas Law (HB 1083): Government Code – Inmate Welfare**

- ▶ Before an inmate can be confined in a Texas Department of Criminal Justice (TDCJ) facility in administrative segregation (i.e., “solitary confinement”), an appropriate medical or mental health care professional must perform a mental health assessment of the inmate.
- ▶ TDCJ may not confine the inmate in administrative segregation if the assessment indicates that type of confinement is not appropriate for the inmate's medical or mental health.

Tex. Government Code § 501.068

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**What you should know:** A person won't be found guilty of certain crimes if the person was using force to prevent another person from committing suicide.

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### **Texas Law: Texas Penal Code – Protection of Life or Health**

- ▶ A person is justified in using force, but not deadly force, against another when and to the degree he reasonably believes the force is immediately necessary to prevent the other from committing suicide or inflicting serious bodily injury to him or herself.
- ▶ A person is justified in using both force and deadly force against another when and to the degree he reasonably believes the force or deadly force is immediately necessary to preserve the other's life in an emergency.

Texas Penal Code § 9.34

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**What you should know:** It is against the law to aid or attempt to aid another person in committing suicide.

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### **Texas Law: Texas Penal Code – Aiding Suicide**

- ▶ A person commits an offense if, with intent to promote or assist the commission of suicide by another, he aids or attempts to aid the other to commit or attempt to commit suicide.
- ▶ An offense under this section is a Class C misdemeanor unless the actor's conduct causes suicide or attempted suicide that results in serious bodily injury, in which event the offense is a state jail felony.

Tex. Penal Code § 22.08 (a) and (b)

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**What you should know:** It is not against the law to assist a person in carrying out an advance directive or DNR order.

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**Texas Law: Health and Safety Code – Honoring Advance Directive or Do Not Resuscitate Order Not Aiding Suicide**

- ▶ A person does not commit an offense under Section 22.08, Penal Code, by withholding or withdrawing life-sustaining treatment from a qualified patient in accordance with this subchapter.

Tex. Health & Safety Code § 166.047

- ▶ A person does not commit an offense under Section 22.08, Penal Code, by withholding cardiopulmonary resuscitation or certain other life-sustaining treatment designated by the board from a person in accordance with this subchapter.

Tex. Health & Safety Code § 166.096

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## REPORTS AND DATA

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**What you should know:** The Texas Health and Human Services Commission Office of Inspector General must report annually to a number of state executive and legislative officials the number of investigations in State Supported Living Centers (formerly called “State Schools”) and in state psychiatric hospitals that involve the suicide of a resident

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**Texas Law: Texas Health & Safety Code – Annual Status Report**

The inspector general shall prepare an annual status report of the inspector general's activities, which must include information that is aggregated and disaggregated by individual center or state hospital regarding the number of investigations conducted that involve the suicide, death, or hospitalization of an alleged victim.

Tex. Health & Safety Code § 555.103 (a) and (b)(4)

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**What you should know:** The Inspector General of the Texas Juvenile Justice Department (TJJD—formerly the Texas Youth Commission) must report regularly to a number of state executive and legislative officials certain information, including the number of investigations they have conducted in TJJD facilities that involve a youth’s suicide.

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**Texas Law: Texas Human Resources Code – Office of Inspector General**

- ▶ The chief inspector general shall on a quarterly basis prepare and deliver a report concerning the operations of the office of inspector general.
- ▶ A report prepared under this section is public information under Chapter 552, Government Code (i.e., "Open Records"), to the extent authorized under that chapter and other law, and the department shall publish the report on the department’s Internet website. A report must be both aggregated and disaggregated by individual facility and include information relating to:
  - + the number of investigations conducted concerning suicides, deaths, and hospitalizations of children in the custody of the department.

Tex. Human Resources Code § 242.102 (g) and (h)(3)

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**What you should know:** Certain entities or agencies may share information about suicides with each other and release data for suicide prevention purposes.

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**Texas law: Texas Health & Safety Code – Memorandum of Understanding on Suicide Data**

- ▶ In this section, "authorized entity" means a medical examiner, a local registrar, a local health authority, a local mental health authority, a community mental health center, a mental health center that acts as a collection agent for the suicide data reported by community mental health centers, or any other political subdivision of this state.
- ▶ An authorized entity may enter into a memorandum of understanding with another authorized entity to share suicide data that does not name a deceased individual. The shared data may include:
  - + the deceased individual's date of birth, race or national origin, gender, and zip code of residence;
  - + any school or college the deceased individual was attending at the time of death;
  - + the suicide method used by the deceased individual;
  - + the deceased individual's status as a veteran or member of the armed services; and
  - + the date of the deceased individual's death.
- ▶ The suicide data an authorized entity receives or provides under the above provisions is not confidential.
- ▶ An authorized entity that receives suicide data under a memorandum of understanding authorized by this section may periodically release suicide data that does not name a deceased individual to an agency or organization with recognized expertise in suicide

prevention. The agency or organization may use suicide data received by the agency or organization under this subsection only for suicide prevention purposes.

- ▶ An authorized entity, or an employee or agent of an authorized entity, is not civilly or criminally liable for receiving or providing suicide data that does not name a deceased individual and that may be shared under a memorandum of understanding authorized by this section.
- ▶ This section does not prohibit the sharing of data as authorized by other law.

Texas Health & Safety Code § 193.011

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**What you should know:** The law authorizes Texas counties to establish “fatality review teams” to investigate unexpected deaths, which include deaths by suicide, and to use the information gathered from the investigations to engage in activities to prevent such deaths in the future – including “advising the legislature, appropriate state agencies, and local law enforcement agencies on changes to law, policy, or practice that will reduce the number of unexpected deaths.”

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### Texas law: Texas Health & Safety Code – Definitions

"Unexpected death" includes a death of an adult that before investigation appears:

- ▶ to have occurred without anticipation or forewarning; and
- ▶ to have been caused by suicide, family violence, or abuse.

**Note:** Because the definition of “unexpected death” includes suicide, all uses of the phrase “unexpected death” in this section of the code, below, also include suicide.

### Establishment of Review Team

- ▶ A multidisciplinary and multiagency unexpected fatality review team may be established for a county to conduct reviews of unexpected deaths that occur within the county. A review team for a county with a population of less than 50,000 may join with an adjacent county or counties to establish a combined review team.
- ▶ The commissioners’ court of a county may oversee the activities of the review team or may designate a county department to oversee those activities. The commissioner's court may designate a nonprofit agency or a political subdivision of the state involved in the support or treatment of victims of family violence, abuse, or suicide to oversee the activities of the review team if the governing body of the nonprofit agency or political subdivision concurs.
- ▶ Members selected under this section should have experience in abuse, neglect, suicide, family violence, or elder abuse.

### Purpose and Powers of Review Team

- ▶ The purpose of a review team is to decrease the incidence of preventable adult deaths by:

- + promoting cooperation, communication, and coordination among agencies involved in responding to unexpected deaths;
  - + developing an understanding of the causes and incidence of unexpected deaths in the county or counties in which the review team is located; and
  - + advising the legislature, appropriate state agencies, and local law enforcement agencies on changes to law, policy, or practice that will reduce the number of unexpected deaths.
- ▶ To achieve its purpose [to decrease the incidence of preventable adult deaths], a review team shall:
- + meet on a regular basis to review fatality cases suspected to have resulted from suicide, family violence, or abuse and recommend methods to improve coordination of services and investigations between agencies that are represented on the team.

### **Duties of Presiding Officer**

The presiding officer of a review team may send notices to the review team members of a meeting to review a fatality involving suspected suicide, family violence, or abuse.

### **Access to Information**

- ▶ A review team may request information and records regarding adult deaths resulting from suicide, family violence, or abuse as necessary to carry out the review team's purpose and duties. Records and information that may be requested under this section include:
- + medical, dental, and mental health care information; and
  - + information and records maintained by any state or local government agency, including:
    - + a birth certificate;
    - + law enforcement investigative data;
    - + medical examiner investigative data;
    - + juvenile court records;
    - + parole and probation information and records; and
    - + adult protective services information and records.

### **Meeting of Review Team**

This section does not prohibit a review team from requesting the attendance at a closed meeting of a person who is not a member of the review team and who has information regarding a fatality resulting from suicide, family violence, or abuse.

### **Report of Unexpected Fatality**

A person, including a health care provider, who knows of the death of an adult that resulted from, or that occurred under circumstances indicating death may have resulted from suicide, family violence, or abuse shall immediately report the death to the medical examiner of the county in which the death occurred or, if the death occurred in a county that does not have a medical examiner's office or that is not part of a medical examiner's district, to a justice of the peace in that county.

## Procedure in the Event of Reportable Death

- ▶ A medical examiner or justice of the peace notified of a death under the above provision may hold an inquest under Chapter 49, Code of Criminal Procedure, to determine whether the death was caused by suicide, family violence, or abuse.
- ▶ Without regard to whether an inquest is held, the medical examiner or justice of the peace shall immediately notify the county or entity designated by the commissioner's court of:
  - + each notification of death received under Section 672.012 (report of unexpected fatality);
  - + each death found to be caused by suicide, family violence, or abuse; or
  - + each death that may be a result of suicide, family violence, or abuse, without regard to whether the suspected suicide, family violence, or abuse is determined to be a sole or contributing cause and without regard to whether the cause of death is conclusively determined.

Tex. Health & Safety Code Chapter 672

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**What you should know:** A medical examiner's office must hold an inquest into the death of a person who dies in the county if the person commits suicide or the circumstances of the death indicate that the death may have been caused by suicide, and the death certificate must state if the cause of death was suicide.

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### Texas law: Texas Code of Criminal Procedure – Medical Examiners/Death Investigations

Any medical examiner, or his duly authorized deputy, shall be authorized, and it shall be his duty, to hold inquests with or without a jury within his county when any person commits suicide, or the circumstances of his death are such as to lead to suspicion that he committed suicide.

Tex. Code of Criminal Procedure Art. 49.25 Sec. 6 (a)(5)

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**What you should know:** In counties that do not have a medical examiner, a justice of the peace shall conduct an inquest into the death of a person who dies in the county if the person commits suicide or the circumstances of the death indicate that the death may have been caused by suicide.

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### Texas law: Texas Code of Criminal Procedure – Deaths Requiring an Inquest

A justice of the peace shall conduct an inquest into the death of a person who dies in the county served by the justice if the person commits suicide or the circumstances of the death indicate that the death may have been caused by suicide.

Tex. Code of Criminal Procedure Art. 49.04 (a)(5)

## **Texas law: Texas Health & Safety Code – Personal Information**

A person conducting an inquest required by Chapter 49, Code of Criminal Procedure, shall complete the medical certification not later than five days after receiving the death or fetal death certificate; and state on the medical certification the disease that caused the death or, if the death was from external causes, the means of death and whether the death was probably accidental, suicidal, or homicidal, and any other information required by the state registrar to properly classify the death.

Tex. Health & Safety Code § 193.005(e)(1) and (2)

## **PUBLIC SAFETY EMERGENCY RESPONSE SYSTEMS**

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**What you should know:** 9-1-1 systems may be used to transmit requests for suicide prevention services.

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## **REVISED Texas law: Texas Health & Safety Code – Transmitting Requests for Emergency Aid**

A 9-1-1 system must be capable of transmitting requests for fire-fighting, law enforcement, ambulance, and medical services to a public safety agency or agencies that provide the requested service at the place from which the call originates. A 9-1-1 system may also provide for transmitting requests for other emergency services, such as poison control, suicide prevention, and civil defense, with the approval of the board and the consent of the participating jurisdiction.

Tex. Health & Safety Code §§ 772.112, 772.212, 772.312, 772.515, and *NEW* § 772.614 (SB 1108)

## **EFFECT OF SUICIDE IN A CIVIL ACTION OR LAWSUIT**

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**What you should know:** A defendant in a civil lawsuit may be not liable for damages in the lawsuit in certain situations if the person suing (i.e., the plaintiff) was committing or attempting to commit suicide and suicide (or the attempt) caused the damages/injury.

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## **Texas law: Texas Civil Practice & Remedies Code – Assumption of the Risk: Affirmative Defense**

It is an affirmative defense to a civil action for damages for personal injury or death that the plaintiff, at the time the cause of action arose, was:

- ▶ committing a felony, for which the plaintiff has been finally convicted, that was the sole cause of the damages sustained by the plaintiff; or

- ▶ committing or attempting to commit suicide, and the plaintiff's conduct in committing or attempting to commit suicide was the sole cause of the damages sustained; provided, however, if the suicide or attempted suicide was caused in whole or in part by a failure on the part of any defendant to comply with an applicable legal standard, then such suicide or attempted suicide shall not be a defense.

**Note:** The above does not apply in any action brought by an employee, or the surviving beneficiaries of an employee, under the Worker's Compensation Law of Texas, or in an action against an insurer based on a contract of insurance, a statute, or common law. In an action to which it does apply, this section of the law will prevail over any other law.

Tex. Civil Practice & Remedies Code § 93.001

## EFFECT OF SUICIDE ON PROPERTY TRANSACTIONS

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**What you should know:** A real estate broker or salesperson does not have to reveal information about whether any person who lived on the property they are brokering committed suicide.

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### **Texas law: Texas Occupations Code – Disclosure of Certain Information Relating to Occupants**

A license holder is not required to inquire about, disclose, or release information relating to whether:

- ▶ a previous or current occupant of real property had, may have had, has, or may have AIDS, an HIV-related illness, or an HIV infection as defined by the Centers for Disease Control and Prevention of the United States Public Health Service; or
- ▶ a death occurred on a property by natural causes, suicide, or accident unrelated to the condition of the property.

Tex. Occupations Code § 1101.556

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**What you should know:** A person attempting to sell property does not have to reveal information about whether any person who lived on the property they are brokering committed suicide.

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### **Texas law: Texas Property Code – Seller's Disclosure of Property Condition**

A seller or seller's agent shall have no duty to make a disclosure or release information related to whether a death by natural causes, suicide, or accident unrelated to the condition of the property occurred on the property or whether a previous occupant had, may have had, has, or may have AIDS, HIV-related illnesses, or HIV infection.

Tex. Property Code § 5.008 (c)

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[www.TexasSuicidePrevention.org](http://www.TexasSuicidePrevention.org)

2015

## ADDENDUM TO SUICIDE PREVENTION STATUTES

### Texas Suicide Prevention Week

**Sunday through Saturday surrounding World Suicide Prevention Day,  
September 10, each year**

#### CONCURRENT RESOLUTION

WHEREAS, Suicide is a major preventable cause of premature death in the State of Texas; and

WHEREAS, According to the latest available figures, approximately 30 Texans attempt suicide every day, and on average, 6 attempts are completed; death by one's own hand stands as the 11th leading cause of mortality in the state overall, ranking 7th among men and 14th among women; and

WHEREAS, Suicide is the third leading cause of death for young Texans and the second leading cause of death for college-age youth; a large number of suicides occur among the middle-aged as well, while the elderly suffer the highest rate; veterans and active-duty military personnel in Texas are also at high risk for suicide; and

WHEREAS, In addition to the personal suffering involved, suicide entails significant social costs; the average medical expense associated with each suicide death is \$4,000, while the medical cost of each suicide attempt averages nearly \$9,000; in addition, the "work loss" cost per suicide death has been calculated at \$1.2 million; and

WHEREAS, The causes of suicide are complex and include psychological, biological, and sociological factors; among those who die by suicide, 90 percent are suffering from an underlying mental health or substance abuse condition; the most common mental health problem affecting those who commit suicide is a depressive disorder; sadly, the stigma attached to mental illness often discourages individuals who are afflicted from seeking help; and

WHEREAS, Public health researchers, however, consider suicide to be one of the most preventable causes of death; opportunities for reducing the incidence of suicide continue to improve, thanks to advances in neuroscience, progress in diagnosing and treating mental illness, and the growing number of community-based suicide prevention initiatives; and

WHEREAS, September 10 is now recognized annually as World Suicide Prevention Day; within this country, the Substance Abuse Mental Health Services Administration, the U.S. Suicide Prevention Resource Center, the American Association of Suicidology, and the American Foundation for Suicide Prevention, together with Mental Health America of Texas and the Texas Suicide Prevention Council, have endorsed the week encompassing September 10 as a time to promote understanding about suicide and to highlight resources for addressing its precipitating causes; now, therefore, be it

**RESOLVED**, That the 82nd Legislature of the State of Texas hereby designate the Sunday through Saturday surrounding World Suicide Prevention Day, September 10, each year as Texas Suicide Prevention Week.