

POLICY OVERVIEW

Every child deserves access to education—but that basic right is currently under threat in Texas

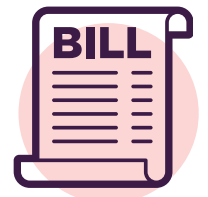
The 89th Texas legislative session will begin January 14, 2025, and the filing period for bills started in November, which means that some of the proposed legislation that will be considered and voted on by our state legislature has already been introduced.



As a staunch supporter of child well-being, Children's Defense Fund-Texas (CDF-Texas) is committed to the just and fair inclusion of all children into a society where all young people can participate, prosper, and reach their full potential, regardless of immigration status. We believe that receiving a comprehensive education that equips every student for lifelong success and active civic participation is fundamental to children's well-being. A lack of formal education robs children of the ability to achieve financial security and meet their basic needs, as well as the opportunity to thrive intellectually, socially, and psychologically, to pursue their dreams, and to contribute their unique gifts to the world. CDF-Texas is deeply concerned about six recently filed bills that seek to deny access to public education to youth in Texas based on immigration status.

House Bill 371

One such bill is [HB 371](#), which was introduced by state representative Benjamin Bumgardner. HB 371 proposes amending the Texas Education Code to prohibit admitting children who are "unlawfully present in the United States" to public schools and pre-K programs free of charge unless the federal government agrees to pay the state for the cost of educating such students, which is highly unlikely to happen. This bill also seeks to prevent Texas public schools from receiving funding to cover the costs of these students' education, and it requires school officials to establish minimum proof of every student's U.S. citizenship or "lawful presence" in the U.S. as part of the enrollment process.



Restricting access to public education based on immigration status will cause immediate and long-term harm to [more than 100,000](#) children in Texas.

In 1982, the Supreme Court of the United States ruled in a case called [Plyler v. Doe](#) that a similar Texas law violated the Equal Protection Clause of the Fourteenth Amendment to the Constitution. The Court stated in its decision that this law, which withheld state funds from school districts to educate students who were not "legally admitted" into the U.S. and authorized school districts to deny such children enrollment, unfairly "impose[d] a lifetime hardship" on children who had no control over their situation and could "neither affect their parents' conduct nor their own undocumented status."



The court highlighted the fundamental importance of education to children's lifelong well-being and wrote that "the deprivation of education takes an inestimable toll on the social, economic, intellectual, and psychological well-being of the individual, and poses an obstacle to individual achievement." The Court also noted the negative impact of this discriminatory law by stating, "Public education has a pivotal role in maintaining the fabric of our society and in sustaining our political and cultural heritage."

HB 371 would unfairly impose the same lifetime hardship on youth as the discriminatory law that the Supreme Court struck down in *Plyer*. If HB 371 becomes law, undocumented children in Texas will lose access to all free public education. Losing the opportunity to receive any formal education will have life-long impacts on these children’s ability to enter the workforce, meaningfully participate in society, and financially support themselves and their families. Many of these young people may never learn to read. Some may struggle to become fluent in English. In the short term, if they are unable to attend school, these children are also at immediate risk of being left unsupervised while their parents are at work. Alternatively, if a parent or caregiver is no longer able to work due to the need to stay home to care for a child who is no longer enrolled in school, the family’s finances could be destabilized, placing children at a greater risk of hunger, housing instability, or homelessness.

In addition to the bill’s impacts on undocumented children, the requirement for *all* Texas students to provide minimum proof of U.S. citizenship or lawful presence in the U.S. prior to free admission to public school creates potential barriers for many other young people to attend school as well. For example, school admission could be delayed or prevented for U.S. citizen children whose parents or guardians are unable to readily provide copies of required documentation. Many immigrant children could also be denied access to public education under this proposed legislation even though they have immigration documents or pending immigration applications, simply because of the complexity of their immigration situations and the fact that local school officials are unfamiliar with federal immigration law. This is a risk for victims of [human trafficking](#), children granted or applying for [Special Immigrant Juvenile Status](#) because they have been abandoned, neglected, or abused, and children who have pending [asylum cases](#), temporary protected status, or humanitarian parole. The term “lawfully present” is not defined in HB 371, elsewhere in Texas law, or in any single federal statute. So, determining whether someone is “lawfully present” in the United States is often a complex legal analysis—one that local school district officials are not equipped to accurately carry out.

House Bills 160, 232, 424, 979, and 1324

A second set of bills seeks to block young people’s access to post-secondary education based on immigration status. These bills are [HB 160](#), [HB 232](#), [HB 424](#), [HB 979](#), and [HB 1324](#) (introduced by state representatives Terri Leo Wilson, Cody Vasut, Richard Hayes, Briscoe Cain, and Mike Olcott, respectively). All these bills propose amending the Texas Education Code to require all students who are “not authorized under federal statute to be present in the United States” to pay nonresident tuition at public institutions of higher learning.



Representative Leo Wilson’s bill, [HB 160](#), goes even further to block access to higher education by requiring undocumented students to pay their college or university “the difference between resident and nonresident tuition” for each term during which they pay resident tuition due to an “erroneous classification or other misclassification” as residents. Students in this situation would be denied access to their certificate, diploma, or official transcript until they pay the retroactive tuition increase for those previous academic terms.

HB 160 also contains a provision requiring public colleges and universities in Texas to “immediately” report to law enforcement if they learn during the residency verification process that an enrolled student is “not authorized under federal statute to be present in the United States.”

Raising tuition rates and requiring schools to report undocumented students to law enforcement will discourage immigrant youth from pursuing higher education and prevent them from achieving long-term financial security.

If the policies proposed in HB 160, HB 232, HB 424, HB 979, and HB 1324 become law, the increased cost of nonresident tuition will place higher education out of reach for many undocumented youth and other young people in complex immigration situations. (As described above, trying to determine who is or is not “lawfully present” or “authorized” to be in the United States is often a complex task, and college and university staff and administrators lack immigration law expertise.) At many public universities, nonresident tuition is [more than double or triple](#) the cost of resident tuition. At the University of Texas at Austin, nonresident undergraduate tuition is approximately [four times](#) the cost of resident tuition.



HB 160 also threatens to plunge students into tens of thousands of dollars of new debt without warning by potentially increasing tuition fees for academic terms they have already completed. Under this bill, undocumented students who have already begun or completed their degrees, but who have not yet received their diploma or transcript by the time the bill comes into force, could be unfairly denied the official transcript and credential they need to secure employment, support themselves financially, and advance in their careers until they are able to pay off the new tuition debt created by the bill. Yet, paying that debt will be virtually impossible without access to those same documents.

Finally, the requirement under HB 160 for institutions of higher learning to report to law enforcement when they believe an immigrant student is unauthorized would make it impossible for undocumented students to access higher education without exposing themselves to the risk of being detained and deported. This mandatory reporting provision is also likely to create fear, confusion, and a hostile environment that discourages many other immigrant students from applying to or remaining enrolled at colleges and universities across the state.

All children deserve an education that allows them to fully participate in society, provide for themselves and their families, and reach their highest potential.

Education is fundamental to the ability of young people to understand and actively participate in shaping the world around them. Broad access to public education benefits all Texans by ensuring that our state’s youth are equipped with the skills and knowledge they need to care for themselves and their families and contribute their unique capabilities to our culture, society, and economy. No one benefits from trapping children and young people in cycles of poverty and social exclusion.



Be a champion for children and youth.

Let’s safeguard our collective future by supporting access to public education for all young people, regardless of immigration status. CDF-TX urges Texans to contact their state representatives and senators to voice opposition to HB 371, HB 160, HB 232, HB 424, HB 979, HB 1324, and any other attempts during the upcoming legislative session to prevent children and youth in Texas from accessing education.

