



HB 1361: Privatization of Child Protective Services

House Human Services Committee

April 12, 2007

Thank you, Chairman Rose and members, for taking testimony today from Texans Care For Children. We are a non-profit organization composed of over 120 organizations and individuals working to improve the well-being of Texas' children. Texans Care For Children's Board is composed of leaders from across the state representing various sectors including business, church, professional, volunteer and non-profit organizations. We advocate for state and local policy that brings about a better quality of life for the children of our state. Each session, in concert with our membership, we develop a legislative agenda that supports efforts to improve the lives of Texas' children in six areas: child poverty, child health care, child mental health, early care and education, child welfare, and juvenile justice.

Thank you for addressing the deep needs in foster care in 2005. The system still needs your attention; the most crucial problems have simply shifted from investigations to children in care. Please continue the investment that you made last session to keep kids in the state's care safe.

What Does the House Need to do for Successful CPS Reform?

As the House considers its approach to CPS reform, four actions are needed in order to protect and better serve children in the CPS system:

1. Reverse Privatization of Substitute Care (Foster and Adoption Services)

The House is already leading the Senate in this area: the House version of the budget omits the Department of Family and Protective Service's (DFPS) funding request (\$24.5 million in All Funds, \$17.6 million in General Revenue) to transfer state foster homes to the private sector while the Senate budget includes the funds. The House should hold its course on this issue. Foster families who work directly with the Department have chosen to do so even though they could go through a private child placing agency, instead. It is certain that some foster families would not transfer from the state to a private agency, which is a problem because Texas lacks enough foster families to place all foster children in appropriate placements. As a result, children are living temporarily in Child Protective Services offices and staying in hotels and in emergency shelters. Reducing the pool of qualified foster parents for any reason means less capacity to care for children. Further, DFPS substitute care services accounted for 64% of all adoptions last year. Losing DFPS' adoption capacity would decrease the state's ability to move children to permanency in a timely way.

2. Minimize Case Management Privatization

Texans Care For Children views privatization of Child Protective Services as the transfer of essential state functions to the private sector, which is subject to conflicts of interest not present in the public sector. The children of Texas need both the public and private components of today's child welfare system since every resource makes a difference in the under-resourced system that we have today. Public-private partnership is different than outsourcing, however, and it is the former that serves children's interests most clearly. The committee substitute of SB 758 (Nelson) is an improvement over current law in both the 10% pilot project and the definitions of case management (see below), but HB 1361 (Naishtat) takes a more optimal approach to privatization. HB 1361 would clarify DFPS' authority to contract for quality services at a good cost without requiring it to privatize any service on a set timeline.

3. Define Case Management Roles Carefully

The state stands in place of the parent for a foster child and it should retain decision-making authority concerning children in its charge. By giving a private provider authority to develop and revise case plans and coordinate a child and family's services, the strengths of the private sector can be well utilized, while not compromising the state's necessary responsibility for approving a child's placements, for approving the child and family service plans, for carrying out court-related duties, or for taking any other actions necessary to provide for a child's safety and well-being. This is a very complex component of the privatization discussion, and if the House embraces any level of case management privatization, it should adopt the careful division of labor the Senate has developed in the committee substitute of SB 758. The language in that bill strikes a delicate balance in crafting the role of the private provider and the public CPS caseworker for cases in which the case management function is privatized.

4. Reduce Conservatorship Caseloads

Texas CPS conservatorship caseloads average 45, though the Child Welfare League of America recommends caseloads of 12-15 and the national average is 24. Because of caseload burdens, caseworkers burn out; turnover was 40% for new caseworkers in 2005. High turnover translates into a less experienced workforce and greater stress on remaining workers. Overburdened caseworkers sometimes fail to make appropriate decisions, compromising children's safety. In 2004, 38 foster children died under the state's watch, and in 2005 that number increased to 48. If we do not provide resources to devote more attention to all children in the system, we can expect that children will continue to die in the state's care. DFPS has requested funds, currently in the House and Senate budgets, to lower conservatorship caseloads to 41 by FY 2009. That is a positive step, but it does not go far enough to keep kids safe. Language from HB 3108 (Bolton), HB 3756 (Naishtat), or SB 1410 (West) and sufficient funding should be adopted to lower caseloads closer to the national average of 24 cases.

Would HB 1361 achieve what is needed in CPS Reform?

In the four areas of reform that Texans Care has identified, HB 1361 would need only minor changes.

- **Privatization of Substitute Care (Foster and Adoption Services)**
HB 1361 would remove the requirement for DFPS to contract out for substitute care (foster and adoption services) while clarifying that the Department must assess foster care needs across the state and then that it *may* contract with private agencies to meet those needs.
Action: No change needed.
- **Privatization of Case Management**
HB 1361 would repeal the privatization of case management services and clarify that, after the Department assesses substitute care and case management needs, it may contract for any case management services except the court-related duties.
Action: No change needed.
- **Definition of Case Management**
Since HB 1361 anticipates that DFPS may outsource some case management functions where doing so is needful and beneficial, it also specifies that the Department may *not* privatize the court-related duties involved in case management. Though the bill would not change the definition of case management, it accomplishes a similar outcome by cordoning off the privatization of court functions in statute. The language in the committee substitute of SB 758 goes further by preserving DFPS' authority to approve a child's placements, approve the child and family service plans, and take any other actions necessary to provide for a child's safety and well-being.
Action: Amend the bill so that, if DFPS contracts out case management services, it retains the authority to approve a child's placements, approve the child and family service plans, and take any other actions necessary to provide for a child's safety and well-being.
- **Caseload Reduction**
Currently, HB 1361 would require DFPS to develop a plan for reducing caseloads as part of a larger improvement plan, though it does not identify specific target caseloads for inclusion in the statute.
Action: The bill should be amended to put caseload reductions in statute and should be accompanied by funding sufficient to implement the lower caseload levels over time. The author's HB 3756 would accomplish this and could be adopted separately or combined into HB 1361.

If you have any questions, please feel free to contact us at 512.473.2274 or visit our website at www.texanscareforchildren.org.

Respectfully,
Susan Craven
Executive Director
scraven@texanscareforchildren.org

Jodie Smith
Public Policy Coordinator
jsmith@texanscareforchildren.org