

Review of

CHILD PROTECTION

Policy Progress During the 2021 Texas Legislative Session

An excerpt from our report:

Texas Children and the 2021 Legislative Session



Review of Child Protection Policy Progress During the 2021 Texas Legislative Session

During the 2021 legislative session, lawmakers passed bills to make significant improvements to the child protection system, but there is much more work to do. Our team and our partners from the Child Protection Roundtable worked closely with legislators to pass bills that will help more children move more quickly from group facilities to loving families, develop more foster homes equipped to serve pregnant and parenting youth, support older youth in foster care, and leverage the federal Family First Prevention Services Act (FFPSA) to keep more children safe with their families and out of foster care. We appreciate the work by Senator Lois Kolkhorst, Rep. James Frank, Rep. Jarvis Johnson, and others on these bills. We are also pleased to see that several proposals that we opposed did not pass. We are disappointed that the Legislature failed to increase funding for Prevention and Early Intervention (PEI) at DFPS and neglected to increase reimbursement rates to ease the shortage of safe and effective foster care homes and services. And we are concerned that the Legislature may be pinning too much hope on Community-Based Care, especially in light of inadequate funding for providers. There are significant challenges ahead for the Texas child protection system. Nonetheless, we're cautiously optimistic that Texas is largely pointed in the right direction: working to keep children safe with their families and out of foster care when possible and working to ensure that kids who do enter foster care can heal and thrive.

Our team worked with legislators to successfully pass several important bills this session. For example, SB 1575 by Sen. Kolkhorst and Rep. Tom Oliverson will boost judicial oversight to ensure that kids with significant behavior challenges staying in foster care group facilities designated as "Qualified Residential Treatment Programs" (QRTPs) will be transferred to homes with families as soon as possible. The move is a key step for helping children and for complying with the FFPSA. The bill also directs the Children's Commission to conduct a study that could expand these best practices

to children in Residential Treatment Centers. Additionally, thanks to a funding boost via Rider 48 in the state budget, Texas will have an opportunity through a DFPS pilot to develop more QRTPs to serve children in foster care with the most significant behavioral health challenges. QRTPs are facilities certified as meeting certain best practices outlined in the FFPSA — such as trauma-informed care, family engagement, and aftercare services — that will help each child successfully transition from an institutional setting and remain stable with a family in the community.

The Legislature also passed SB 1896 by Sen. Kolkhorst and Rep. Frank, an omnibus bill to improve the safety and quality of the foster care system. The bill includes two priorities championed by our staff. The first directs DFPS to develop foster care homes prepared to serve unique populations in foster care, including pregnant and parenting youth, trafficking survivors, young adults, and others. (Similarly, Rider 29 in the state budget directs DFPS to report on the availability of these placements.) Our second priority included in the bill addresses Treatment Foster Care, a proven model where a professional foster family receiving additional training and support takes care of a child with significant behavioral health challenges in a home instead of an institution. At the beginning of session, DFPS expanded Treatment Foster Care to include children over age 10. SB 1896 codified that change and added flexibility so the model can serve even more children.

Additionally, lawmakers passed other important bills to support older youth in foster care, working closely with our team and coalition partners. For example, HB 700 by Rep. Jarvis Johnson and Sen. Judith Zaffirini helps youth take advantage of their college tuition waiver, allows 17-year-olds to administer — and therefore better understand — their own medication when it's safe, updates Preparation for Adult Living (PAL) classes and curriculum, helps youth establish a rental history, improves transition planning by starting sooner and strengthening communication with youth, removes barriers that prevent youth from staying in extended care, and prevents youth with significant behavioral health challenges from aging out of a Residential Treatment Center when they turn 18 so they are not forced to fend for themselves. Rep. Johnson also passed HB 1315 with Sen. Beverly Powell to ensure continuous legal representation for youth in foster care and HB 80 with Sen. John

Whitmire to help youth in foster care stay out of the adult justice system by eliminating fines as a punishment for minor mistakes. Many youth are often unable to pay those fines, resulting in arrest when a youth turns 17.

The Legislature also approved HB 567 by Rep. Frank and Sen. Bryan Hughes, making it harder for the courts to remove children from their families. We support keeping more children with their families and appreciate that the authors and stakeholders worked to incorporate our input into the legislation. However, to ensure that children are not endangered, it will be important to monitor how CPS interprets and implements the bill's provision changing the definition of child neglect from exposure to "substantial risk" to exposure to "immediate danger."

While legislators took steps to improve foster care and make it harder to remove children from their families, the Legislature did little — with one notable exception — to strengthen support for families when children are at risk of removal by CPS. For example, we are disappointed the Legislature turned down DFPS' request for additional funding for PEI services that prevent abuse and neglect. The main exception to this trend was HB 3041 by Rep. Frank and Sen. Kolkhorst. Leveraging the federal FFPSA, the Legislature passed this important bill to establish two pilot programs to work with families that are already involved with CPS, aiming to keep kids safe with their families and out of foster care. After CPS investigates a case and determines that it needs court intervention, children may become eligible for these pilots. Courts will decide whether to connect families with prevention services while a child stays with their biological parents instead of removing the child. It will be important to monitor these pilots to see whether certain families are inadvertently excluded from receiving prevention services

as an alternative to removal due to the bill's narrow definition of "foster care candidacy." Rider 48 in the state budget provides funding to implement HB 3041 and other FFPSA efforts.

We are also concerned that the Legislature may be pinning too much hope on Community-Based Care (CBC) as the answer to all the system's problems when the evidence on outcomes for children is mixed at best. Under CBC, a local organization, rather than state officials, takes the lead on foster care in a particular region. We expect CBC contractors to continue to struggle to meet children's needs, especially in light of the Legislature's failure to increase reimbursement rates for foster care providers.

While the legislative session was noteworthy for all the legislation that passed regarding the child protection system, we were glad to see that some harmful bills did not pass, such as proposals to eliminate anonymous reporting to CPS, criminalize traumatized youth who are resistant to their foster care placements, and separate transgender youth from loving parents, potentially driving them into foster care.

Unfortunately, some good child protection bills failed to pass as well, including two that were approved by the House but never referred to a Senate committee: HB 2333 by Rep. Donna Howard to scale up evidence-based, voluntary nurse home visits for caregivers with newborns, such as visits conducted through Family Connects, and HB 1237 by Rep. James White to reduce racial disproportionality and disparities in the CPS system. These bills would have helped Texas safely reduce the number of children entering foster care.

The main child protection disappointment of the session was the Legislature's failure to increase funding for reimbursement rates for foster care providers. The foster care system relies on nonprofits and other providers to operate homes for children with complex needs, recruit foster parents, offer mental health treatment, and deliver other services. One of the big reasons there is a shortage of safe and effective homes and services is the inadequate payments offered to these providers. To avoid exacerbating the current shortage and undermining good bills that passed this session, we urge the Governor and Legislature to address reimbursement rates in a special legislative session.



Outcomes for Key Child Protection Legislation

PASSED

Support Children

HB 80 by Rep. Jarvis Johnson

This bill replaces fines and fees for youth in foster care who commit class C misdemeanors with community services.

HB 567 by Rep. Frank

Similar to SB 190 by Sen. Hughes

This bill establishes important procedural guardrails for CPS and court-ordered services cases to create urgency around reunifying children with their parents.

HB 607 by Rep. Howard

Similar to SB 2607 by Sen. Menéndez;
Passed as a provision of SB 1896

This bill supports children in foster care, including pregnant and parenting youth, by conducting a foster care needs assessment.

HB 700 by Rep. Jarvis Johnson

Includes provisions similar to SB 1084
by Sen. Powell

This bill requires CPS to ensure youth receive college credit for participating in PAL classes.

HB 1315 by Rep. Jarvis Johnson

This bill requires the appointment of a CASA, guardian ad litem, or attorney ad litem after a parent's rights are terminated in a CPS case and the child enters permanent foster care.

HB 2926 by Rep. Parker

This bill allows for the reinstatement of parental rights following termination of parental rights.

HB 3041 by Rep. Frank

Similar to SB 1576 by Sen. Kolkhorst

This bill creates two pilot programs in which courts would decide whether to connect families with prevention services while a child stays with their biological parents instead of removing the child and placing that child in foster care.

HB 4041 by Rep. Neave

Passed as a provision of SB 1896
by Sen. Kolkhorst

This bill aims to prevent suicide in foster care.

SB 263 by Sen. Menéndez

Similar to HB 116 by Rep. Minjarez

This bill provides financial support for grandparents and other kinship caregivers who are informally caring for a child at risk of entering foster care.

SB 642 by Sen. West

This bill improves mental health services for children at risk of relinquishment.

Support Children (continued)

SB 863 by Sen. Blanco

Similar to HB 2985 by Rep. Hull

This bill authorizes the temporary relocation of children in foster care facilities during a declared state of disaster.

SB 910 by Sen. Schwertner

This bill helps DFPS plan for incorporating prevention services funding through the Family First Prevention Services Act into Community Based Care.

SB 1059 by Sen. Paxton

Similar to HB 2963 by Rep. Klick

This bill ensures continuous health care coverage for young adults aging out of foster care.

SB 1079 by Sen. Campbell

Passed as a provision of the state budget

This bill strengthens accountability and transparency long-term by codifying recent improvements to the CPS monthly reporting system.

SB 1084 by Sen. Powell

Similar to HB 2632 by Rep. Minjarez;
Passed as a provision of HB 700
by Rep. Jarvis Johnson

This bill requires CPS to begin transition planning earlier, removes barriers to extended care, and ensures older youth have more skills and resources to become independent.

SB 1575 by Sen. Kolkhorst

Similar to HB 4476 by Rep. Oliverson

This bill ensures that children in foster care only remain in "QRTP" facilities when necessary and that a plan is developed to move each child into a family-based setting when appropriate.

SB 1896 by Sen. Kolkhorst

Includes provisions similar to HB 607
by Rep. Howard and SB 2067
by Sen. Menéndez

This omnibus CPS bill makes numerous changes, including implementing recommendations to identify and address gaps in foster care for serving pregnant and parenting youth.

SB 2049 by Sen. Menéndez

Similar to HB 3895 by Rep. Wu

This bill clarifies the role of guardians ad litem for children who are in the juvenile justice system and the CPS system.

SB 2054 by Sen. Menéndez

Similar to HB 2286 by Rep. White

This bill helps youth in foster care access drivers education and safety courses so they can get their driver's licenses.

Impact Children

HB 2536 by Rep. Krause

Similar to SB 2015 by Sen. Buckingham

This bill excludes a parent seeking more than one medical opinion on a child's health conditions from the definition of neglect and as a reason to terminate the parent-child relationship.

HB 3379 by Rep. Leman

This bill changes the standard for reporting child abuse and neglect from "cause for concern" to "reasonable cause for concern."

Impact Children (continued)

HB 3820 by Rep. Klick

Passed as a provision of SB 1578 by Sen. Kolkhorst

This bill changes processes related to Child Abuse Pediatricians involved in CPS cases.

SB 1578 by Sen. Kolkhorst

This bill requires the children's commission to study the use of opinions from medical professionals in making determinations related to the abuse or neglect of a child.

DID NOT PASS

Support Children

HB 542 by Rep. White

This bill would have established guidelines for placing a child in a foster care facility where a preventable death has occurred and prevented a facility that has caused a child's death from reopening if HHSC terminated a contract with that facility for that reason.

HB 1237 by Rep. White

Similar to HB 155 by Rep. Rose and SB 75 by Sen. Miles

This bill would have required DFPS to address disproportionality and disparities in the CPS system.

HB 1790 by Rep. Darby

This bill would have kept relatives involved in CPS cases and increased opportunities to keep children in foster care connected to their biological families.

HB 2333 by Rep. Howard

Similar to SB 1520 by Sen. Seliger

This bill would have scaled up evidence-based voluntary nurse home visits for caregivers with newborns, such as visits conducted through Family Connects.

HB 2308 by Rep. Gates

This bill would have increased the use of parental child safety placements, allowed orders that would remove an alleged perpetrator from the home, and strengthened accountability for reasonable efforts to keep a child in their home as opposed to removal.

HB 2490 by Rep. Howard

Similar to SB 1200 by Sen. Powell

This bill would have allowed minors to consent for home visiting services designed to serve pregnant women.

HB 2650 by Rep. Jarvis Johnson

This bill would have prevented unnecessary law enforcement reports to CPS when parents are arrested for a reason unrelated to child maltreatment.

HB 2821 by Rep. White

Similar to SB 2085 by Sen. Menéndez

This bill would have instructed juvenile boards to develop policies that divert youth in foster care facilities from the juvenile justice system.

Support Children (continued)

HB 3493 by Rep. Parker

This bill would have strengthened Prevention and Early Intervention services at DFPS by incorporating services to prevent or address adverse childhood experiences into the array of services provided in communities across Texas.

HB 3815 by Rep. Hunter

This bill would have expanded eligibility for extended foster care and education and training vouchers consistent with the Family First Prevention Services Act.

HB 4055 by Rep. Meza

This bill would have clarified that pregnant women with substance use disorders who are seeking treatment should not be reported to CPS.

Impact Children

HB 2055 by Rep. Klick

Similar to HB 1190 by Rep. Krause, SB 1603 by Sen. Kolkhorst, and SB 1672 by Sen. Hall.

This bill would have changed the procedures related to adding a person to the central registry of child abuse and neglect.

HB 2298 by Rep. Cason

Similar to HB 2737 by Rep. Minjarez

This bill would have delineated the rights of parents in CPS cases and added required procedures to ensure CPS gives parents notice of those rights.

HB 3691 by Rep. Frank

This bill would have remodeled statewide implementation of Community-Based Care.

Raise Concerns

HB 1098 by Rep. Gates

This bill would have prohibited anonymous reports to DFPS regarding suspected child abuse or neglect.

HB 2550 by Rep. Dutton

This bill would have limited the services that CPS may contract for and provide to families.

HB 2551 by Rep. Dutton

This bill would have limited kinship caregiver options and disrupted foster care placements by requiring parental consent for kinship placement and allowing parents to revoke their consent at any time.

HB 2983 by Rep. Hull

This bill would have eliminated the initial medical examination currently required for certain children entering foster care.

SB 1646 by Sen. Perry

Similar to HB 68 by Rep. Toth and HB 4014 by Rep. Hefner

This bill would have led to CPS potentially removing transgender children from their homes if the children receive medically recommended gender-affirming care.



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