

# Texas Children and the 2023 Legislative Session

Review of Policy Progress During  
the 2023 Texas Legislative Session:

## Child Protection

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## Review of Policy Progress During the 2023 Texas Legislative Session:

# Child Protection

While child protection issues, such as foster care reform and child abuse prevention, were not in the legislative limelight, it was a transformational session for child protection in many ways. Lawmakers took important steps to improve foster care facilities, ensure more children are placed with family or trusted caregivers rather than strangers, and help older youth leaving foster care become more financially independent. The Legislature also passed an historic \$548 million All Funds increase for the Department of Family and Protective Services (DFPS) in the next state budget, including a significant investment in prevention efforts, a boost for Community-Based Care, a shift to “rate modernization” to increase funding where it is needed most in the foster care system, and funding to support and stabilize the DFPS workforce. However, a number of the positive steps this session come with an asterisk, as described below, and there were important proposals that the Legislature failed to pass as well.

Significant improvements this session include:

- **The Legislature fully funded the foster care “rate modernization” proposal from DFPS and the Health and Human Services Commission (HHSC).** This \$220 million increase in funding will result in a 12-20 percent pay increase to foster care providers. The Legislature approved ongoing rate enhancements for providers serving children with high needs and added \$31 million in general revenue to increase funding for providers serving all other children in foster care before rate modernization goes into effect on January 1, 2025. This funding will improve providers’ ability to meet the unique needs of children in foster care, improve placement stability, and strengthen the quality of foster care services.
- **Legislators passed two important bills to improve the quality of foster care facilities.** SB 1930 improves legal representation of youth in foster care and ensures they spend more time in loving homes with caring families instead of impersonal facilities with a high risk of abuse. The bill ensures judges proactively monitor the child’s progress in the Residential Treatment Center (RTC) and the child’s plan of service, which includes information about successfully returning the child to a family. The bill also outlines new duties for attorneys or CASA volunteers representing children placed in RTCs and ensures parents can participate in meetings about their child’s treatment in an RTC. We were also pleased to see the Legislature pass SB 593, which right-sizes state foster care regulations so the providers managing these facilities — and the state’s oversight of these providers — can stay focused on critical safety standards instead of burdensome regulations that make it harder for foster care providers to remain open.
- **Lawmakers passed SB 1379 to create a pilot program to help youth in foster care set up bank accounts.** This bill will support the financial independence of youth exiting foster care.

- **The Legislature also approved \$57 million in general revenue to stabilize the DFPS workforce and strengthen administrative functions.** This funding will offset increased travel costs, enhance support staff salaries, stabilize frontline staff salaries, and more. This funding will allow frontline staff to focus more on their job of supporting children and families as opposed to administrative tasks and enable DFPS to fill critical roles to guide child-focused reforms.

Several other positive steps come with an asterisk:

- **The Legislature approved a significant increase in child abuse prevention services, providing an additional \$65 million to connect over 20,000 additional families with evidence-based services over the next biennium.** However, it will be important to monitor how the state manages those services now that SB 24 is moving them from DFPS to HHSC and allowing programs with limited to no evidence base to compete for the state contracts to provide those services.
- **By passing DFPS Rider 43, the Legislature made progress on leveraging the federal Family First Prevention Services Act (FFPSA) to connect more families to services that can keep children out of foster care.** The rider continues the Family First Act pilot programs initiated by the Legislature in 2021 and directs DFPS to expand the availability of the programs to more families. Unfortunately, SB 1853, which would have provided flexibility to reach more families through the pilot programs, did not pass. Additionally, the Legislature missed an opportunity this session to provide clear direction to DFPS to seek federal approval for a long-term Family First Act implementation plan.
- **Another bright spot this session was the Legislature’s work on placing more children with grandparents or other kinship caregivers instead of strangers in foster care.** Currently, most kinship caregivers do not get licensed, so they do not receive the same funding and support as foster families. To address that challenge, the Legislature passed a budget rider (Special Provisions Section 26 in Article II) to develop a new, easier-to-obtain license specifically for kinship care. However, it will take time to develop and implement the license. In

the meantime, the Legislature provided \$7 million in general revenue to help more kin become licensed and provide other concrete financial support, as well as increase mental health support for kinship caregivers in Community-Based Care regions. Any unlicensed kinship caregivers will continue to receive less funding than licensed foster families and only receive funding for a limited time; however, when rate modernization takes effect, their payments will double.

- **The Legislature increased funding for a state-level mental health team to support youth in foster care, which should further reduce the Children Without Placement crisis.** The Legislature added five FTEs to the DFPS mental health team to coordinate mental health services for youth in foster care and recommend strategies to strengthen service options. They also dedicated 20 inpatient mental health beds and three new mobile crisis teams funded through HHSC to children in DFPS conservatorship. Unfortunately, the approved measures may not fully address this ongoing crisis. The Legislature failed to approve other DFPS-requested funding for mental health services that the expert panel in the federal lawsuit recommended to reduce the Children Without Placement crisis, such as respite, YES Waiver slots, capacity building grants, or Community Resource Coordination Groups. Additionally, legislation to further address the Children Without Placement crisis, SB 1853, did not pass. The bill would have prevented DFPS from recommending that a child remain in an unlicensed temporary placement if a suitable licensed placement is available. There were also talks about DFPS potentially avoiding responsibility for Children Without Placement. Fortunately, that legislation did not move forward.

A few proposed policy changes related to family preservation did not pass but will see continued discussion:

- **SB 1853 would have allowed Family-Based Safety Services (FBSS) and Family First Act services to be incorporated into Community-Based Care (CBC).** Allowing CBC to provide family preservation services and expanding access to Family First Act services will likely be an ongoing discussion in the next legislative session.

- **Joint Managing Conservatorship (JMC), which involves DFPS acting as a co-parent for children with unmet mental health needs, was a significant topic of debate.** During legislative hearings, concerns arose about the children who enter foster care through JMC but end up as Children Without Placement (with temporary accommodations like hotel rooms or in placements outside Texas) because of the limited resources available to DFPS. Proposed bills with different approaches and goals aimed to improve the situation and ensure children receive appropriate care within JMC. None made it through the legislative process. It will be important to continue the conversation and explore alternatives to JMC that increase access to children’s mental health services without over relying on the foster care system, such as providing support through the YES Waiver, Family First Act services, or the RTC Project.

**Our disappointments this session include the Legislature’s failure to pass several important bills to support older youth and the Legislature’s decision to eliminate anonymous reports of suspected child abuse or neglect.** Many bills to help older youth in foster care gained traction in the House but did not move in the Senate. The bills would have improved access to higher education and housing and diverted

youth from the juvenile justice system. The most concerning child protection bill that did pass this session was HB 63, which prohibits DFPS from conducting even a preliminary investigation when it receives anonymous reports of child abuse or neglect. About one thousand anonymous reports last year resulted in a substantiated finding of abuse or neglect. HB 1667 offered legislators a better option, but it did not pass. The bill would have discouraged anonymous reporting without eliminating it, reduced mandatory reporting, and improved support for families in low-risk situations.

**Moving forward, significantly more work needs to be done on Texas child protection policy.** Legislators clearly recognized the importance of investing in services that keep children safely with their families and out of foster care. However, effectively implementing these programs and leveraging the opportunities under the Family First Act will take sustained attention, particularly as prevention programs shift from DFPS to HHSC. The extensive foster care reforms and investments passed this session will also require robust work by DFPS, HHSC, and other stakeholders — including the federal court overseeing the Texas foster care lawsuit. Additionally, advocates and legislators will need to continue building momentum to pass legislation to better support older youth in foster care.



# OUTCOMES FOR KEY CHILD PROTECTION LEGISLATION

*\* Indicates a bill aligns with a recommendation of the Texas School Readiness Dashboard.*

## PASSED

### Support Children

#### **HB 3765 by Rep. Bucy**

Ensures that children in foster care have appropriate luggage for moving their personal belongings.

#### **SB 593 by Sen. Sparks**

Similar to HB 1517 by Rep. Frank

Right-sizes state regulations for foster care providers to promote safety and avoid unnecessary burdensome rules.

#### **SB 1379 by Sen. Parker**

Similar to HB 2645 by Rep. Lujan

Helps youth develop greater financial independence when they age out of foster care by establishing a pilot program to help youth set up checking or savings accounts.

#### **SB 1849 by Sen. Kolkhorst**

Similar to HB 4236 by Rep. Noble

Improves data-sharing among state agencies and service providers regarding misconduct by former employees.

#### **SB 1930 by Sen. Kolkhorst**

Similar to HB 1972 by Rep. Campos and HB 2541 by Rep. Garcia

Ensures children in foster care spend more time with families rather than in facilities by enhancing legal representation while children are in facilities and requiring judges to actively monitor progress and the timeline for a swift return to families.

#### **SB 2120 by Sen. Zaffirini**

Provides legal representation and services to indigent parents or children named in a suit filed by DFPS.

### Impact Children

#### **HB 730 by Rep. Frank**

Changes procedures for parents during an investigation or during a Parent Child Safety Placement.

#### **HB 3462 by Rep. Noble**

Standardizes the regulations governing the five HHSC ombudsman offices, including the DFPS ombudsman.

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**SB 24 by Sen. Kolkhorst**

Transfers the state's Prevention and Early Intervention (PEI) program from DFPS to HHSC, removes evidence-based requirements for several PEI services, and codifies the state's existing Alternatives to Abortion program.

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**Raise Concerns**

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**HB 63 by Rep. Swanson**

Eliminates anonymous reporting of suspected child abuse or neglect.

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**HB 1087 by Rep. Hull**

Requires DFPS petitions to include affidavits describing reasonable efforts made to prevent child removal. If reasonable efforts are lacking, the court is prohibited from terminating parental rights at the end of the trial, despite grounds for termination and the child's best interest. This will likely lead to more children being placed in long-term foster care with no opportunity for another permanent home.

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**DID NOT PASS**

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**Support Children**

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**HB 347 by Rep. Jarvis Johnson**

Would have required law enforcement to find a caregiver for a child following a parent's arrest or incarceration, thereby reducing unnecessary CPS involvement with the child's family.

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**HB 811 by Rep. Meza**

Similar to SB 673 by Sen. Zaffirini

Would have exempted medical providers, in certain circumstances, from reporting to DFPS a mother who has used a controlled substance during pregnancy.

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**HB 1323 by Rep. Talarico**

Would have strengthened outreach about higher education opportunities for youth leaving foster care and streamlined access to the tuition and fee waiver.

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**HB 1342 by Rep. Wu**

Similar to SB 1330 by Sen. Perry

Would have improved data sharing between DFPS and the Texas Juvenile Justice Department.

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**HB 1435 by Jarvis Johnson**

Would have required county sheriffs to designate a family liaison officer to facilitate communication between prisoners and their families

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<b>HB 1667 by Rep. Jetton</b>	Would have changed CPS reporting requirements, creating greater opportunities to provide preservation services to families without an investigation.
<b>HB 1680 by Rep. Howard</b>	Would have allowed minors to consent to receiving home visiting services so that teen parents can access support for their new family.
<b>HB 2066 by Rep. Cook</b> Similar to SB 441 by Sen. Menéndez	Would have diverted youth in foster care away from the juvenile justice system by requiring DFPS-approved crisis response training for staff in foster care facilities, directing local juvenile justice boards to include children in foster care facilities in their existing diversion policies, and tracking how many youth are referred to the juvenile justice system.
<b>HB 2108 by Rep. Allison</b> Similar to SB 937 by Sen. Eckhardt	Would have expanded access to higher education tuition and fee waivers for adoptees by including adults who were adopted before 2009.
<b>HB 2181 by Rep. Rose</b>	Would have directed the Texas Department of Housing and Community Affairs to administer a youth and young adult homeless housing and services grant program.
<b>HB 2481 by Rep. Garcia</b> Similar to SB 137 by Sen. West	Would have provided access to counseling and a crisis management program to relatives or other designated caregivers and children in foster care.
<b>HB 2794 by Rep. Lujan</b> Similar to SB 2109 by Sen. Johnson	Would have allowed CASA programs to use state funding to serve on court-ordered services cases in addition to cases involving a suit affecting the parent-child relationship and clarified that judges may appoint a guardian ad litem in cases relating to certain court-ordered services.
<b>HB 2822 by Rep. Garcia</b>	Would have required the Texas Interagency Council for the Homeless to conduct a study and craft recommendations on the unique housing needs of youth who are aging out of foster care or exiting the juvenile justice system.
<b>HB 2898 by Rep. Garcia</b>	Would have classified suicide as a preventable death for purposes relating to the review and investigation of child fatalities.
<b>HB 2996 by Rep. Zweiner</b>	Would have allowed cities to require landlords to accept housing vouchers for youth experiencing homelessness.

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**HB 3189 by Rep. Garcia**

Would have directed DFPS and other agencies to adequately inform potential relative and designated caregivers of a child of the minimum living standards used to evaluate the individual's home as a prerequisite to placing the child with that caregiver.

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**HB 4065 by Rep. Rose**

Similar to SB 2423 by Sen. Johnson

Would have required DFPS to include in its annual report data on suicide attempts by children in foster care and to provide notice to the parent of a child in foster care who attempts suicide.

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**HB 4905 by Rep. Campos**

Similar to HB 5030 by Rep. Frank

Would have ensured that DFPS may only co-parent a child (through joint managing conservatorship) when it is in the best interest of the child and DFPS has the resources to help address the child's needs.

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**SB 1853 by Sen. Kolkhorst \***

Would have broadened the definition of groups or populations eligible for reimbursement under the Family First Prevention Services Act for services provided in Community Based Care.

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### Raise Concerns

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**HB 1229 by Rep. Harris**

Similar to SB 1165 by Sen. Birdwell

Would have ensured that current and prospective foster parents will not be required to provide a registry of weapons present in their home and that any information about such weapons will not be used against them by the state or by a child-placing agency.

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**SB 2591 by Sen. West**

Would have eliminated judges' discretion in granting joint managing conservatorship, which is reserved for families who have exhausted resources seeking mental health care for their child. The bill may have increased the number of children with significant mental health needs who enter foster care without safe, suitable placements.

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**Texans Care for Children** is a statewide, non-profit, non-partisan, multi-issue children's policy organization. We drive policy change to improve the lives of Texas children today for a stronger Texas tomorrow. We envision a Texas in which all children grow up to be healthy, safe, successful, and on a path to fulfill their promise. [www.txchildren.org](http://www.txchildren.org)

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