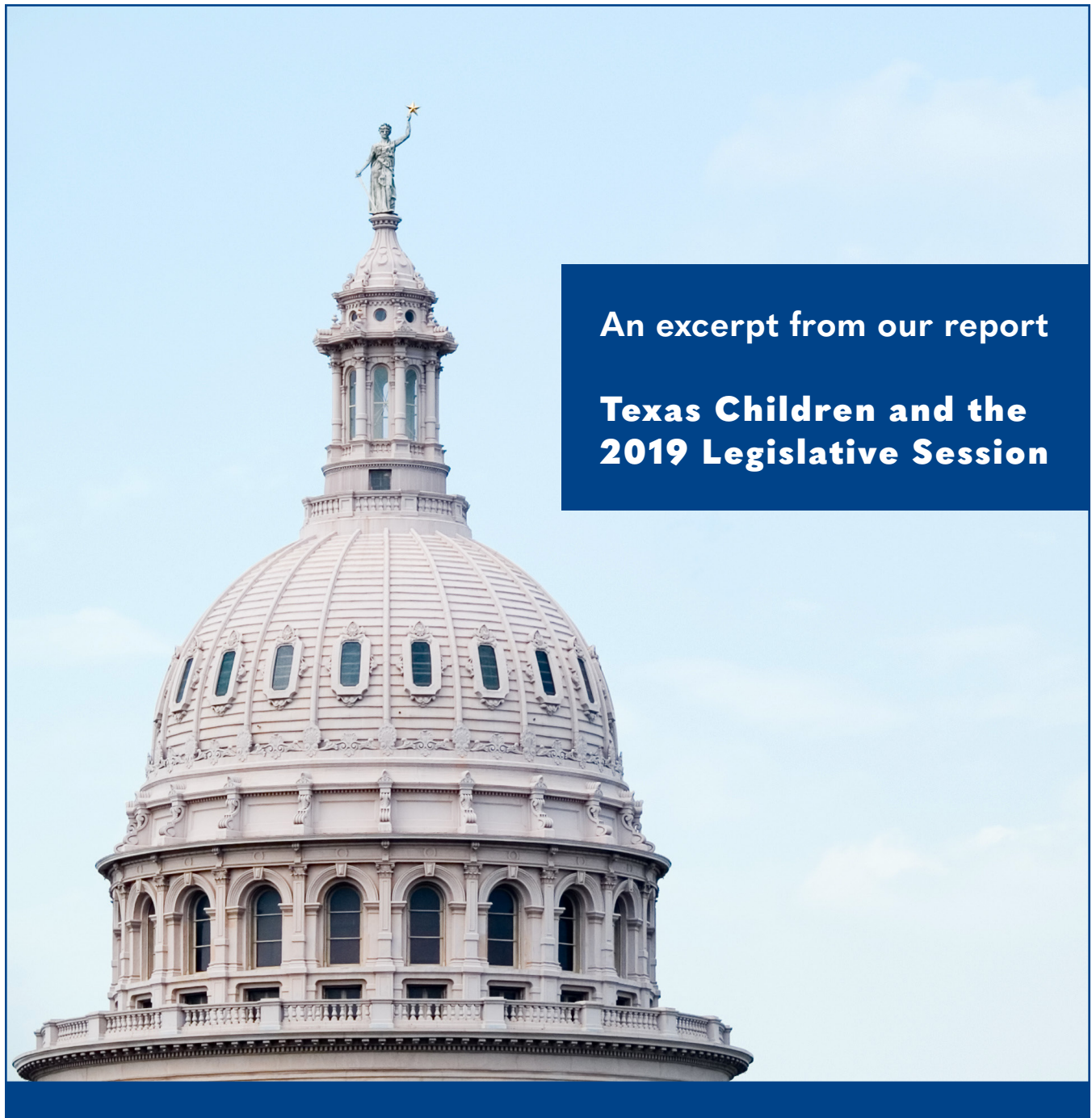


Review of

# **CHILD PROTECTION**

Policy Progress During the 2019 Texas Legislative Session



An excerpt from our report

**Texas Children and the  
2019 Legislative Session**

# Review of Child Protection Policy Progress During the 2019 Texas Legislative Session

State leaders paid little attention to Child Protective Services (CPS) issues during the 2019 legislative session despite the serious ongoing challenges in the state's foster care system. Nonetheless, Texans Care for Children secured an important victory for pregnant and parenting youth in foster care and their children.

Texas leaders made important progress on CPS during the 2017 legislative session, but as they returned to the Capitol in 2019 they still faced a number of areas with significant needs, including: supporting families to allow more children to stay safely with their parents; improving safety in foster care; and ensuring that children in foster care are healing and thriving. Problems in these areas were highlighted in many places, including reporting by the state's foster care ombudsman, the lawsuit against the state's foster care system, and research by Texans Care for Children. Additionally, the federal Family First Prevention Services Act (FFPSA), which will take effect in Texas on October 1, 2021, after the state's decision to delay implementation, created new opportunities and challenges for the state to meet its child protection goals.

Unfortunately, this year the Legislature largely embraced the status quo for foster care and CPS. A handful of important, positive child protection bills passed, but they mostly make narrow improvements rather than implementing still-needed, significant reforms. Similarly, **funding for the Department of**

**Family and Protective Services** (DFPS) in the state budget largely maintains the status quo, providing marginal increases for the state's effective Prevention and Early Intervention programs; limited increases to maintain lower caseloads for investigators and potentially reduce caseloads for foster care caseworkers; and inadequate funding for staff to support older youth in foster care and other current challenges. The budget decisions contrast with the pre-session requests from DFPS, which identified significant funding needs.

The Legislature made some progress towards keeping families together. **Parental substance use** is one of the main reasons children enter foster care in Texas. The Legislature passed a notable increase in funding for substance use prevention and treatment for pregnant women and mothers. Lawmakers also passed a few bills that should improve data related to parental substance use and prenatal exposure as well as improve family reunification in CPS cases.

One of the bright spots was passage of HB 475, a bill Texans Care for Children helped craft and champion. The bill implements one of the recommendations from our 2018 report on supporting **pregnant and parenting youth in foster care** to help keep them and their children safe and healthy. The bill seeks to reduce the likelihood that children of youth in foster care will be removed by CPS by providing parenting information to pregnant and parenting youth in foster care if they are



not receiving that information through the state's Helping through Intervention Program (HIP) program. The HIP program is unavailable in many rural communities and other parts of the state. The Legislature did not pass other bills that were filed to support pregnant and parenting youth in foster care.

It was concerning to see that a number of legislators filed bills that had the potential to make it **more difficult to remove children from dangerous situations** rather than supporting families in crisis. While these bills

did not pass, it will be important to monitor child protection debates to ensure they do not gain further traction.

Very limited progress was made to improve **child safety in foster care**. The funding provided by the Legislature may be insufficient to reduce caseloads, and two bills that would have furthered this goal did not pass. A bill that would have strengthened the oversight provided by the Foster Care Ombudsman also did not pass.



The Legislature fully funded **Community Based Care** (CBC), which seeks to improve support and the quality of homes for youth in foster care. They expanded Phase I (in which a local contractor takes over the responsibility of finding safe, high-quality, nearby homes for children in a region) to the Lubbock area and to the counties surrounding San Antonio, bringing the number of Phase 1 regions to five. The Legislature also provided funding to start Phase II (in which the local contractor also on takes case management for kinship, family reunification, permanency, and other responsibilities) in the three regions that already implemented Phase I. Stakeholders and advocates will be monitoring the continued rollout of CBC in regions across Texas, especially the new rollout of Phase II.

In 2017, the Legislature commissioned a Workgroup to develop recommendations that would better support youth making the difficult **transition from foster care to adulthood**. Unfortunately, lawmakers did not hold a hearing on SB 480, the bill to implement the Workgroup's recommendations. This bill would have ensured more youth understand the medications they are taking, removed barriers that prevent youth from finding stable housing, and more. Although the Legislature passed HB 53 to help improve financial literacy and HB 123 to make it easier for youth to get a Driver's License or state identification, there is still much more work to do to meaningfully support transition-aged youth in foster care.

Prior to the legislative session, the House Human Services Committee and the Children's Commission at the Texas Supreme Court worked intensively on strategies to expand **trauma-informed care** in the Texas child

welfare system. Ten bills were filed this session in efforts to further this goal, but none of them passed.

The Legislature only passed two bills related to the **FFPSA, the new federal law** that will significantly shape states' child protection efforts in the coming months and years. Lawmakers passed SB 355 to require DFPS to develop a strategic plan for implementing prevention programs that comply with the FFPSA, as well as the continued rollout of CBC and methods to maximize state and federal resources in the evolving child welfare landscape. By passing SB 781, they also directed DFPS to weigh the costs and benefits of developing or upgrading foster homes to meet the heightened standards the FFPSA will require to continue to receive federal funding. Unfortunately, the Legislature failed to pass bills or provided funding to ensure that Texas is ready to implement the law when it takes effect in October 2021, meaning the state may lose federal funding for foster homes and face delays in leveraging the new prevention opportunities.

Over the next two years, state leaders will need to recommit to protecting children in Texas, do a better job of supporting at-risk families so that more children can stay safely with their families rather than entering foster care, and improve support for youth in foster care. They will have to do so in the context of preparing for the opportunities and challenges presented by the FFPSA, implementing the final orders that federal courts issue in response to the lawsuit against the state's foster care system, and continuing the rollout of Community Based Care to ensure strong outcomes for children.

# Outcomes for Key Child Protection Legislation

**PASSED**

## Support Children

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### HB 53 by Rep. Minjarez

This bill requires Preparation for Adult Living (PAL) training for youth transitioning out of foster care to cover new topics including civic engagement and financial literacy.

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### HB 72 by Rep. White

Similar bill: SB 1493 by Sen. Paxton

This bill allows adoptive parents to opt into STAR Health Medicaid for a child with a chronic health condition and establishes a program that protects the continuity of care for each child following adoption.

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### HB 123 by Rep. White

Similar bill: SB 481 by Sen. Watson

This bill allows youth in foster care, youth experiencing homelessness, and unaccompanied minors to receive a copy of their birth certificate without parental consent and with no fee, and apply for a Driver's License or state ID without paying a fee.

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### HB 475 by Rep. Howard

Similar bill: SB 1290 by Sen. Watson

This bill ensures pregnant and parenting youth in foster care receive basic parenting education and services that will help preserve their young families. The bill addresses youth in regions of the state that are not served by the Helping through Intervention and Prevention (HIP) program.

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### HB 811 by Rep. White

Similar bill: SB 424 by Sen. West

This bill requires public schools to consider whether a child is experiencing homelessness or is in foster care when taking disciplinary action.

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### HB 1702 by Rep. Howard

Similar bill: SB 1357 by Sen. Hancock

This bill helps colleges and universities identify students who were formerly in foster care, requires schools to provide information to those students about available supports, and encourages staff to receive relevant training.

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### HB 1780 by Rep. Miller

This bill requires courts to consider whether a parent made a good faith effort to complete substance use treatment in determining whether to extend the dismissal date in CPS cases to give more families an opportunity to successfully reunify.

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## Support Children (continued)

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### HB 2737 by Rep. Wu

This bill requires the Children’s Commission to develop guidelines for judges that will establish greater uniformity in how Texas handles juvenile justice or CPS cases involving children with mental illness; placement of children and termination of parental rights in CPS cases; and the release of detained children, certification of juveniles to stand trial as adults, and the use of restraints or clothing worn during juvenile proceedings.

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### HB 3390 by Rep. Sanford

This bill requires guardians ad litem, attorneys ad litem, and CPS caseworkers to ask children, in a developmentally appropriate way, about any adult who could be a caregiver for the child. This bill will ensure that judges ask children about the relationships in their lives at every permanency hearing.

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### HB 3809 by Rep. Goldman

This bill extends the statute of limitations for child sexual abuse for individuals and culpable organizations.

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### SB 355 by Sen. West

Similar bill: HB 4263 by Rep. Klick

This bill requires the Department of Family and Protective Services to develop a strategic plan to improve coordination and effectiveness of services for children at risk of entering foster care by leveraging federal funds made available through the Family First Prevention Services Act. This bill also requires strategic planning for Community Based Care as well as methods to maximize state and federal resources in the evolving child welfare landscape.

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## Impact Children

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### SB 195 by Sen. Perry

This bill requires DFPS to publicly report state-level data related to parental substance use and prenatal substance exposure.

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### SB 781 by Sen. Kolkhorst

Similar bill: HB 1698 by Rep. Leman

This bill changes the licensing process for General Residential Operations and Residential Treatment Centers, removes evaluation as a minimum standards enforcement mechanism, requires DFPS to develop protocols to reduce runaways and increase normalcy activities, moves residential child care licensing toward performance-based contracting, and requires DFPS to develop a strategic plan for developing foster care facilities eligible for federal financial participation under the Family First Prevention Services Act.

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## Raise Concerns

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### HB 2363 by Rep. Harris

This bill allows foster parents to store loaded guns in a locked storage container. Previously, guns had to be unloaded, locked, and stored separately from ammunition.

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### HB 2764 by Rep. Frank

This bill requires DFPS to review and simplify minimum standards so they are more flexible and caps training for foster parents at 35 hours.

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## DID NOT PASS

## Support Children

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### HB 45 by Rep. Minjarez

This bill would have required DFPS to work with community-based organizations to establish a mentor program to serve youth age 14 and older in foster care.

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### HB 141 by Rep. M. González

Similar bill: SB 255 by Sen. Rodríguez

This bill would have required DFPS to hire caseworkers with at least a bachelor's degree in social work.

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### HB 473 by Rep. Howard

Similar bill: SB 1288 by Sen. Watson

This bill would have improved state data collection and reporting on pregnant and parenting youth in foster care to inform state decisions about expanding services and supports.

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### HB 474 by Rep. Howard

Similar bill: SB 1289 by Sen. Watson

This bill would have ensured DFPS' foster care needs assessment helps the state implement the federal Family First Prevention Services Act (FFPSA) by collecting information on placements that will continue to be reimbursable using federal funding.

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### HB 576 by Rep. White

This bill would have provided monetary assistance to low-income parental child safety placements.

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### HB 988 by Rep. Walle

This bill would have set caseload limits for certain Child Protective Services (CPS) and Adult Protective Services (APS) caseworkers as well as child-care licensing inspectors. This bill would have required the DFPS abuse and neglect hotline to maintain low hold times and low call abandonment rates.

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### HB 1162 by Rep. Jarvis Johnson

This bill would have required courts to provide a guardian ad litem or attorney ad litem for a child for the entire time the child remains in the conservatorship of DFPS.

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## Support Children (continued)

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<b>HB 1224 by Rep. White</b>	This bill would have required peace officers or a person that has custody of an arrested child to notify DFPS to determine if the child is in foster care. It also would have required DFPS to develop procedures to review reports of arrested children and provide services to ensure the child's best interests are being represented.
<b>HB 1362 by Rep. Wu</b>	This bill would have required DFPS to conduct a workload study to help the agency determine safe and appropriate caseworker caseload levels, which would help the state comply with the lawsuit against the Texas foster care system.
<b>HB 1536 by Rep. Miller</b> Similar bill: SB 2419 by Sen. Fallon	This bill would have expanded trauma-informed care across the Texas child welfare system.
<b>HB 1846 by Rep. Klick</b> Similar bill: SB 1660 by Sen. Zaffirini	This bill would have required courts to review DFPS' efforts to ensure each child has regular, ongoing opportunities to engage in age-appropriate normalcy activities at each permanency hearing.
<b>HB 1907 by Rep. Howard</b> Similar bill: SB 1291 by Sen. Watson	This bill would have established optional trainings for professionals working with youth in foster care to help them communicate important information about healthy relationships, health care, and available supports for pregnant and parenting youth in foster care.
<b>HB 2614 by Rep. Cole</b>	This bill would have established a pilot program to assist youth in foster care in achieving financial security and independence as they transition to independent living.
<b>HB 3370 by Rep. Deshotel</b> Similar bill: SB 1347 by Sen. Watson	This bill would have required the foster care ombudsman to notify youth about the outcome of the investigation into a complaint filed by that youth and required the ombudsman to report to DFPS monthly on their investigations.
<b>HB 3950 by Rep. Frank</b>	This bill would have created a joint legislative committee to evaluate and develop a strategic plan for continued rollout of Community Based Care and implementation of the Family First Prevention Services Act.
<b>HB 3393 by Rep. Jarvis Johnson</b>	This bill would have established a workgroup at DFPS to develop a plan to ensure that youth formerly in foster care who complete the Preparation for Adult Living program are able to receive college credit for completing the program.
<b>HB 3786 by Rep. Coleman</b>	This bill would have encouraged counties to consider developing family drug courts.

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## Support Children (continued)

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### HB 4138 by Rep. Klick

This bill would have prevented unnecessary disruptions in health care coverage for young adults who were formerly in foster care by streamlining the process to determine Medicaid eligibility through automatic enrollment and recertification of eligible individuals.

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### HB 4183 by Rep. Parker

This bill would have required state agencies to develop a strategic plan to prevent and address adverse childhood experiences.

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### SB 98 by Sen. Menéndez

This bill would have increased the number of kinship caregivers eligible to receive financial assistance by removing the licensing requirement.

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### SB 333 by Sen. West

This bill would have required attorneys ad litem to be appointed to children in long-term foster care.

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### SB 480 by Sen. Watson

Similar bill: HB 3379 by Rep. Klick

This bill would have improved services and supports for older youth in foster care and youth transitioning out of care, drawing on recommendations from the DFPS SB 1758 Workgroup.

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### SB 951 by Sen. Watson

Similar bill: HB 2926 by Rep. Hinojosa

This bill would have established a Family First Prevention Services Act task force to assess the readiness of this state to implement the new federal law by 2021.

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### SB 1333 by Sen. West

This bill would have expanded trauma-informed care across the Texas child welfare system based on recommendations made in the Statewide Collaborative on Trauma-Informed Care's Blueprint.

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### SB 1535 by Sen. Menéndez

This bill would have required better communication between DFPS, Child Care Licensing, and the Foster Care Ombudsman (FCO). This bill also would have required Single Source Continuum Contractors (SSCCs) under Community Based Care to give the FCO access to internal records outside of the DFPS IMPACT system and strengthened communication between the FCO and SSCCs.

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## Raise Concerns

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### HB 1109 by Rep. Swanson

This bill would have allowed Child Placing Agencies to waive training requirements for foster parents.

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### HB 1910 by Rep. Dean

This bill would have prevented courts from considering a parent's acknowledgement or failure to acknowledge a child's gender identity or expression when making decisions regarding conservatorship or termination of parents' rights.

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### HB 2134 by Rep. Klick

This bill would have required all children involved in child abuse and neglect investigations to receive a specialty physician consultation, regardless of whether it is directed by the parent, attorney, department, or a medical professional. This bill also would have prevented DFPS and courts from using the best evidence to determine whether a child has experienced maltreatment.

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### HB 2756 by Rep. Leach

Similar bill: SB 2365 by Sen. Hughes

This bill would have made it more difficult to protect children and reunify families involved with CPS. It likely would have changed the process for emergency removals and required a finding of parental fitness at the outset of a CPS case, which would have to be disproven before families could be reunified.

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### HB 3331 by Rep. Frank

Similar bill: SB 2091 by Sen. Hughes

This bill would have changed reasonable efforts findings by adding a balancing test that focused on the trauma of removal while ignoring the trauma associated with prolonged abuse or neglect. It would have changed the evidentiary standard for non-emergency removals, excluded certain acts or omissions from the definition of neglect, and more.

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### HB 4189 by Rep. Middleton

This bill would have hampered the ability of professional reporters to report suspected abuse or neglect to DFPS. This bill would have required actual knowledge of abuse or neglect rather than a suspicion of abuse or neglect.

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