

**TEXAS SENATE  
SPECIAL COMMITTEE ON CHILD  
PROTECTIVE SERVICES**



**REPORT TO THE  
88TH LEGISLATURE**

**December 2022**



THE SENATE OF TEXAS  
SPECIAL COMMITTEE ON CHILD PROTECTIVE SERVICES

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December 8, 2022

The Honorable Dan Patrick  
Lieutenant Governor of Texas  
P.O. Box 12068  
Austin, TX 78711

Dear Governor Patrick,

The Senate Special Committee on Child Protective Services, which you convened earlier this year to address problems in the state's child welfare agency, submits this report in response to the charges you assigned to this committee.

Respectfully submitted,

Handwritten signature of Lois Kolkhorst in black ink.

Senator Lois Kolkhorst, Chair

Handwritten signature of Charles Perry in black ink.

Senator Charles Perry, Vice-Chair

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## Executive Summary

The Texas Department of Family and Protective Services (DFPS) serves as the state's child protection and welfare agency charged with protecting children and adults from abuse, neglect, and exploitation and serving as managing conservator of children in the legal custody of the state.

Over the last several biennia, the Texas Legislature made substantial commitments to reforming the child welfare system through several landmark measures, but most notably Senate Bill 11 in the 85th Legislature. That legislation laid the groundwork to create a more comprehensive, community-based system for the delivery of foster care and other related services to children in the conservatorship of the state. This effort, known as Community-Based Care (CBC), chiefly sought to improve outcomes for foster children by increasing the availability and quality of foster care placements, decreasing the time children and families are in the system, and reducing recidivism.

As a corollary, the Legislature made historic investments into the system by funding CBC, adding additional staff and raising salaries for the purposes of driving higher quality performance, and increasing payments to foster care providers. In addition, the Legislature funded numerous studies, evaluations, and external consulting contracts to better align the finance models for foster care with the outcomes desired.

### Formation of the Senate Special Committee on Child Protective Services

In March 2022, the *Texas Tribune* reported that children placed in a Texas facility intended to rehabilitate female domestic minor sex trafficking victims suffered additional exploitation at the hands of the facility staff. Employees of the facility—known as The Refuge located in Bastrop, Texas—were alleged to have trafficked some residents, according to a federal court filing in March 2022.<sup>1</sup> Opened in 2018, the facility offered special amenities and therapeutic services intended to rehabilitate female victims of minor sex trafficking.<sup>2</sup>

Following allegations of abuse by workers at The Refuge, as well as general concerns over the safety of children in the foster care system, Lieutenant Governor Dan Patrick announced the formation of the Texas Senate Special Committee on Child Protective Services on March 13, 2022. He tasked the special committee with "looking at all of the issues at DFPS relating to past legislative reforms, implementation of these reforms, and all ongoing work at the agency" and considering placing the agency in conservatorship.<sup>3</sup>

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<sup>1</sup> Reese Oxner, "Kids in foster care who'd been victims of sex trafficking endured fresh abuse at a state shelter, report says," *Texas Tribune*, March 10, 2022, accessed September 2, 2022, <https://www.texastribune.org/2022/03/10/texas-shelter-sex-trafficking-children/>.

<sup>2</sup> The Refuge web site: <https://therefugedmst.org/the-refuge-ranch>

<sup>3</sup> Texas Senate, "Lt. Governor Dan Patrick Announces Special Committee on Child Protective Services," Press Release. March 11, 2022, accessed August 31, 2022, <https://www.lt.gov.texas.gov/2022/03/11/lt-gov-dan-patrick-announces-special-committee-on-child-protective-services/>.

Lieutenant Governor Patrick appointed the following members of the Texas Senate to the committee:

- Sen. Lois Kolkhorst, R-Brenham, Chair
- Sen. Charles Perry, R-Lubbock, Vice-Chair
- Sen. Brandon Creighton, R-Conroe
- Sen. Joan Huffman, R-Houston
- Sen. Jose Menendez, D-San Antonio
- Sen. Borris Miles, D-Houston
- Sen. Angela Paxton, R-McKinney

The Senate Special Committee on Child Protective Services held three public hearings on March 17, May 3, and May 16, 2022, respectively. Witnesses were invited to testify from various state agencies, including the Department of Family and Protective Services, the Texas Health and Human Services Commission, the Texas Department of Public Safety, the Office of the Attorney General, and the Texas Sunset Advisory Commission.

Various stakeholders representing private providers of foster care services, the judicial branch of the child welfare system, and national experts in child welfare reforms were also invited to testify before the committee.<sup>4</sup> They shared experiences and best practices for systems reform. Former foster youth also testified as to the problems they experienced in state care.

Additionally, Committee Chair Lois Kolkhorst (SD-18) announced during the May 16th hearing that the committee would accept written comments from members of the public.

This report details the major issues examined and provides a summary of recommendations offered by invited witnesses, as well as members of the public who submitted written testimony in accordance with the invitation of the chair of the committee.

## Summary of Key Findings

At its initial hearing, the committee received witness statements from the Department of Family and Protective Services and other agencies related to the investigation of The Refuge incidents. Subsequent hearings provided insights into the status of implementation of Senate Bill 11 passed in 2017 and Senate Bill 1896, passed in 2021.

With regard to The Refuge, DFPS Commissioner Masters noted that investigation policies were not properly followed and that the regional leadership should have escalated the concerns and issues up the chain of command sooner.<sup>5</sup>

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<sup>4</sup> Texas Senate Special Committee on Child Protective Services. Public Hearing Witness List, March 17, 2022, <https://capitol.texas.gov/tlodocs/87R/witlistmtg/pdf/C5222022031712001.PDF>.

Texas Senate Special Committee on Child Protective Services. Public Hearing Witness List, May 3, 2022, <https://capitol.texas.gov/tlodocs/87R/witlistmtg/pdf/C5222022050310001.PDF>.

Texas Senate Special Committee on Child Protective Services. Public Hearing Witness List, May 16, 2022, <https://capitol.texas.gov/tlodocs/87R/witlistmtg/pdf/C5222022051610001.PDF>.

<sup>5</sup>Jaime Masters, Texas Department of Family and Protective Services, *Testimony before the Texas Senate Special Committee on Child Protective Services*, March 17, 2022.

In the wake of the problems, DFPS terminated two investigators,<sup>6</sup> however, the Department's own testimony revealed systemic breakdown in communications and coordination related to the investigations into abuse, neglect and exploitation at The Refuge. Additionally, discussion between witnesses and committee members revealed a lack of effective coordination between DFPS and other agencies with statutory investigation authority or agencies that can provide investigation support, including the Texas Department of Public Safety and the Office of the Texas Attorney General.

Over the course of three hearings, witnesses identified systemic problems that continue to plague the child welfare system, despite increased budgetary support and other reform efforts over the last four biennia, including operational inefficiencies, chronic lack of quality foster placements, and high workforce turnover.

Many of the problems identified in assessments of the agency conducted over the last decade by the Sunset Review Commission and external consultants continue to persist. These assessments emphasized the need for strong leadership and management structure within the department to improve basic operational efficiency, including improvements to the accuracy and timeliness of investigations at residential child care facilities.

Despite new federal funding opportunities, Texas lacks a well-defined model to address abuse and neglect concerns by working with families as an alternative to placing children in foster care. Although the Department has received funding, it has yet to define a "prevention" plan to leverage federal dollars to fund these services.

Moreover, witnesses highlighted the critical role that lawyers and judges play in the child welfare system. Both parties are necessary to hold the Department accountable for the actions of its staff and for following state laws. Counties chiefly are responsible for this legal oversight, yet there is a lack of consistency in the application of legal standards, payment models and training for both lawyers and judges that oversee child protection cases across the state.

And finally, despite passage of Senate Bill 11 during the 85th Legislature, Regular Session, and Senate Bill 1896 in 2021, other legislation, the Department has failed to implement centerpiece reform, Community-Based Care, the decentralization of conservatorship and foster care services. Despite additional resources and funding, DFPS has partially rolled out CBC in only four of 17 regions of the state.

Discussion of these issues between committee members and witnesses resulted in key recommendations to help reform child welfare system and its services. Among them, that the Department must focus on improving performance its core mission, that communities can provide accountable care for children in the system in both prevention and foster care services.

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<sup>6</sup> Robert T. Garrett, "2 state workers fired for failing to flag problems at Central Texas home for sex trafficking victims," *Dallas Morning News*, March 17, 2022, accessed November 1, 2022. <https://www.dallasnews.com/news/politics/2022/03/17/2-state-workers-fired-for-failing-to-flag-problems-at-central-texas-home-for-sex-trafficking-victims/>

## Summary of Recommendations

- Focus the agency on mission critical functions. Ensure that nonessential services at the agency are reduced or eliminated to redirect the Department's resources towards improving outcomes for children and families and its investigation processes and conservatorship services.
- Form a working group between the Department of Family and Protective Services, the Health and Human Services Commission, Department of Public Safety, Office of the Attorney General and local law enforcement to develop policies and recommendations for improving the processes for investigating allegations relating to criminal activities. The working group should also study ways to increase effective training and resources to improving the quality, accuracy and timeliness of all child abuse, neglect and exploitation investigations."
- Improve data sharing between Department systems and processes that record and track reports of abuse, neglect, and exploitation by workers in child welfare with other state agencies that manage workforce in other social services systems. Require interagency cooperation through a formal system for sharing data related to investigations in a predictable and timely manner.
- Ensure providers of foster care and other child welfare services have adequate access to employee background checks and other tools to protect children from potential abuse, neglect and exploitation while in the care of the state.
- Develop mechanisms to ensure uniform application of standards for legal representation and judicial oversight in child welfare cases, including options for better training.
- Reorient Texas towards providing a defined prevention model of services as an alternative to foster care once a family is involved in the system.
- Ensure the delivery of conservatorship and family preservation services continues from a local community level, whether through the Community-Based Care Model or by exploring other local or regional government models within Texas.



## Introduction

Originally stemming from as the Department of Public Welfare by Senate Bill 26 in 1939 "for the encouragement and assistance of adequate methods of community child welfare organization and paying part of the cost of district, county, or other local child welfare services in areas predominantly rural,"<sup>7</sup> the Department of Family and Protective Services (DFPS) is the state's designated child welfare agency. With the passage of the federal Child Abuse Prevention Treatment Act (CAPTA) and the creation of the Family Code in 1974, the Department's role as the designated child welfare agency for Texas has expanded throughout the years. Its focus on child abuse, neglect, and well-being has been reorganized and consolidated, alongside other human services agencies.

The Department chiefly investigates reports of abuse, neglect, and exploitation while administering the foster care system and child abuse prevention programs. DFPS investigators examine abuse, neglect, and exploitation reports for children in the community and in child-care and residential settings (foster care), as well as adults in the community or residing in facilities.<sup>8</sup> Pending the outcomes of those investigations, the department is authorized to pursue remedies to keep children and adults safe.

DFPS currently develops and executes the state plan for child welfare services, subject to federal laws and regulations, in order to access funding. The Department's budget for the FY 2022-23 biennium is \$4.7 billion, and it employs over 13,000 individuals.<sup>9</sup> In FY 2021, nearly 23,000 children were in conservatorship, including children placed in foster care through DFPS.<sup>10</sup>

### Statewide Intake

Pursuant to state law, reports of suspected abuse, neglect, and exploitation are made through the Statewide Intake (SWI) division of DFPS via an online portal and a telephone hotline monitored 24 hours a day, seven days a week. Reports are received from members of the public or mandatory reporters, who are licensed or certified professionals that are required to report any suspected abuse, neglect, or exploitation.<sup>11</sup> SWI assessed 772,206 contacts during FY 2021, while achieving an average hold time of 7.8 minutes; a 34 percent improvement over the previous year.<sup>12</sup>

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<sup>7</sup> Tex. Rev. Civ. Stat. Ann. art. 695c(28) (Vernon Supp. 1939).

<sup>8</sup> Texas Department of Family and Protective Services Web Site: *Mission, Vision and Values*, accessed 8/25/2022. "Our Mission, Vision and Values," Texas Department of Family and Protective Services, accessed August 25, 2022, [https://www.dfps.state.tx.us/About\\_DFPS/mission.asp](https://www.dfps.state.tx.us/About_DFPS/mission.asp).

<sup>9</sup> Texas Legislative Budget Board, *Testimony before the Texas Senate Special Committee on Child Protective Services*, March 17, 2022.

<sup>10</sup> *Ibid.*

<sup>11</sup> Texas Family Code § 261.101.

<sup>12</sup> Texas Legislative Budget Board, *Testimony before the Texas Senate Special Committee on Child Protective Services*, March 17, 2022.

## Child Protective Investigations

Once a report is made to SWI, it is screened for further investigation. The Child Protective Investigation (CPI) division of DFPS conducts in-person interviews with a child and a child's family in relation to reported allegations. CPI seeks to complete investigations within 30 days from the date the report was received by the agency. Confirmed cases of abuse, neglect, and exploitation may result in DFPS filing suit in court for possession and state conservatorship of the child.<sup>13</sup>

Alternative Response is an alternative investigation process that allows DFPS to respond to abuse, neglect, and exploitation reports that initially present with less immediate safety or risk issues in a more flexible way by engaging families while still focusing on the safety of the children. CPI Alternative Response may provide services and support to help families resolve safety issues and reduce future involvement with CPI.

## Child Protective Services

Once in the conservatorship of the state, the Child Protective Services division of DFPS engages with the child and the child's family to either: 1) remedy safety issues within the home to allow the child to return, or 2) seek to terminate parental rights and find an alternate, permanent placement for the child.

Under federal law, a CPS worker assigned to the case is required to visit the child a minimum of every 30 days.<sup>14</sup>

## Family-Based Safety Services (Family Preservation)

Family-Based Safety Services (FBSS) is a stage of service within the child welfare system designed to help avoid the removal of children from their homes by strengthening the family's ability to protect their child and mitigate safety threats. Following an investigation, a family may be referred to FBSS if safety issues are present, but the case does not warrant removal. However, in some cases children may be placed temporarily with relatives or close friends in a Parental Child Safety Placement.<sup>15</sup> An FBSS caseworker typically is assigned to the family to develop and ensure compliance with a safety plan. Safety plans may require changes as to who is living in a home or may offer services to the family to mitigate risks. Services may include protective day care, drug treatment, parenting classes, or other related services. In FY 2021, the department served a total of 27,585 families and 74,092 children in FBSS.<sup>16</sup>

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<sup>13</sup>Texas Family Code § 262.001, et seq.

<sup>14</sup> See, 42 USC § 622(b); 42 USC § 624(f).

<sup>15</sup> Texas Department of Family and Protective Services. "Family-Based Safety Services (FBSS)" web site. Accessed October 21, 2022. [https://www.dfps.state.tx.us/child\\_protection/Family\\_Support/fbss.asp](https://www.dfps.state.tx.us/child_protection/Family_Support/fbss.asp)

<sup>16</sup> Texas Legislative Budget Board, *Testimony before the Texas Senate Special Committee on Child Protective Services*, March 17, 2022.

## Prevention and Early Intervention Programs

The Prevention and Early Intervention (PEI) division of DFPS contracts with community-based programs and agencies to provide intervention services to "at-risk" families. Services are free and participation is voluntary. Many of the programs funded through PEI include "home visiting," whereby a coach/social worker visits periodically to instruct on parenting skills. Not all PEI-contracted services are available in all Texas communities. PEI does not provide housing, transportation, or any services outside of the scope contracted by local providers. Below are the current programs within the PEI division:

- Family and Youth Success Program (FAYS - formerly STAR)
- Fatherhood Effect
- Service Members, Veterans, and Families (SMVF) Program
- Healthy Outcomes through Prevention and Early Support (HOPES)
- Helping through Intervention and Prevention (HIP)
- Texas Home Visiting (THV)
- Texas Nurse Family Partnership (TNFP)
- Community Youth Development (CYD)
- Statewide Youth Services Network (SYSN)

## **Recent Historic Changes to Texas Child Welfare**

During the 72nd Texas Legislature in 1991, the Legislature approved a measure renaming the Department of Public Welfare as the Department of Protective and Regulatory Services (PRS) and charging it with protecting children, elder adults, and persons with disabilities from abuse, neglect, and/or exploitation. The Department also assumed responsibility for licensing child-care facilities and child-placing agencies.

In 1999, the 76th Legislature approved Senate Bill 1574, authorizing the Department to provide programs intended to prevent risky behaviors that lead to child abuse, delinquency, and truancy.

House Bill 2641, 76th Legislative Session, directed the Health and Human Services Commission (HHSC) to serve as the umbrella agency for health and human services state agencies, including PRS.

The Department formally became known as the Texas Department of Family and Protective Services following enactment of House Bill 2292 in 2003, which reorganized the agencies and delivery systems for health and human services.

In 2015, following a review by the Texas Sunset Advisory Commission, DFPS underwent further change as the Commission recommended consolidating prevention programs within the Department. It also recommended maintaining the Department as a separate agency under the auspices of HHSC.<sup>17</sup>

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<sup>17</sup> <https://www.sunset.texas.gov/public/uploads/files/reports/DFPS%20Final%20Results.pdf#page=15>

These changes were accompanied by nearly \$400 million in additional funding to the Department in the state budget.

In 2016, after reports that the child protective investigators were not responding to reports of abuse or neglect in a timely fashion,<sup>18</sup> the Texas Senate Finance Committee convened hearings to address what was called "critical needs." The Legislative Budget Board approved a request by DFPS for nearly \$150 million to increase pay for investigators and to hire more than 800 additional staff to reduce caseloads.<sup>19</sup>

Following interim charge hearings during the 84th Legislative Session, in which the Legislature called for major reform to the CPS system, Senate Bill 11 was filed during the next legislative session to transition conservatorship services to local communities. Governor Abbott later declared "Child Protective Services" an Emergency Item for the 85th Regular Legislative Session. Senate Bill 11 was approved, as well as House Bill 5, which made DFPS a separate agency from HHSC with a direct line of authority to the governor. Most significantly, the Legislature appropriated over \$4 billion to DFPS, which included funding to continue agency pay raises, an increase in rates for providers, kinship payments, and services to at-risk families—a 17 percent increase overall according to the Legislative Budget Board.<sup>20</sup>

By 2019, the Legislature provided funding infusions, including \$300 million to reduce caseloads in Child Protective Services and \$500 million to continue foster care capacity building. In addition, there were several bills that passed to address reform efforts in other aspects of the system.

Most recently in 2021, with pressure from the COVID-19 pandemic and the increased scrutiny of federal court orders requiring strict monitoring of certain foster placements, the number of children sleeping in offices, hotels, and similar facilities began to skyrocket. In response, Senate Bill 1896, 87th Regular Legislative Session, was signed into law. Senate Bill 1896 is an omnibus measure that prohibited the state from allowing foster children that lack a placement to sleep in state offices and directed DFPS and HHSC to collaborate on developing more placement options for children with special mental health needs. In addition, Senate Bill 1896 created the independent Office of Community-Based Care Transition to help the Department implement the move to community-based child welfare services.

Several other measures approved by the Legislature also reformed the processes for investigating and removing children into foster care by requiring the department to notify parents of certain rights in an investigation and ensuring that families seeking mental health support are not inadvertently caught in child welfare investigations.

In summary, the Department is an agency that has been in transition for the last decade with no shortage of direction, support, and resources from the Legislature.

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<sup>18</sup> Greg Abbott, Dan Patrick, and Joe Straus, *Letter to Hank Whitman, Department of Family and Protective Services*, October 12, 2016, accessed August 25, 2022,

[https://gov.texas.gov/news/post/governor\\_abbott\\_lieutenant\\_governor\\_patrick\\_and\\_speaker\\_straus\\_direct\\_dfps](https://gov.texas.gov/news/post/governor_abbott_lieutenant_governor_patrick_and_speaker_straus_direct_dfps)

<sup>19</sup> Ursula Parks, *Letter to Hank Whitman, Department of Family and Protective Services*, December 1, 2016, TS.

<sup>20</sup> Texas Legislative Budget Board, Testimony before the Texas Senate Special Committee on Child Protective Services, March 17, 2022.

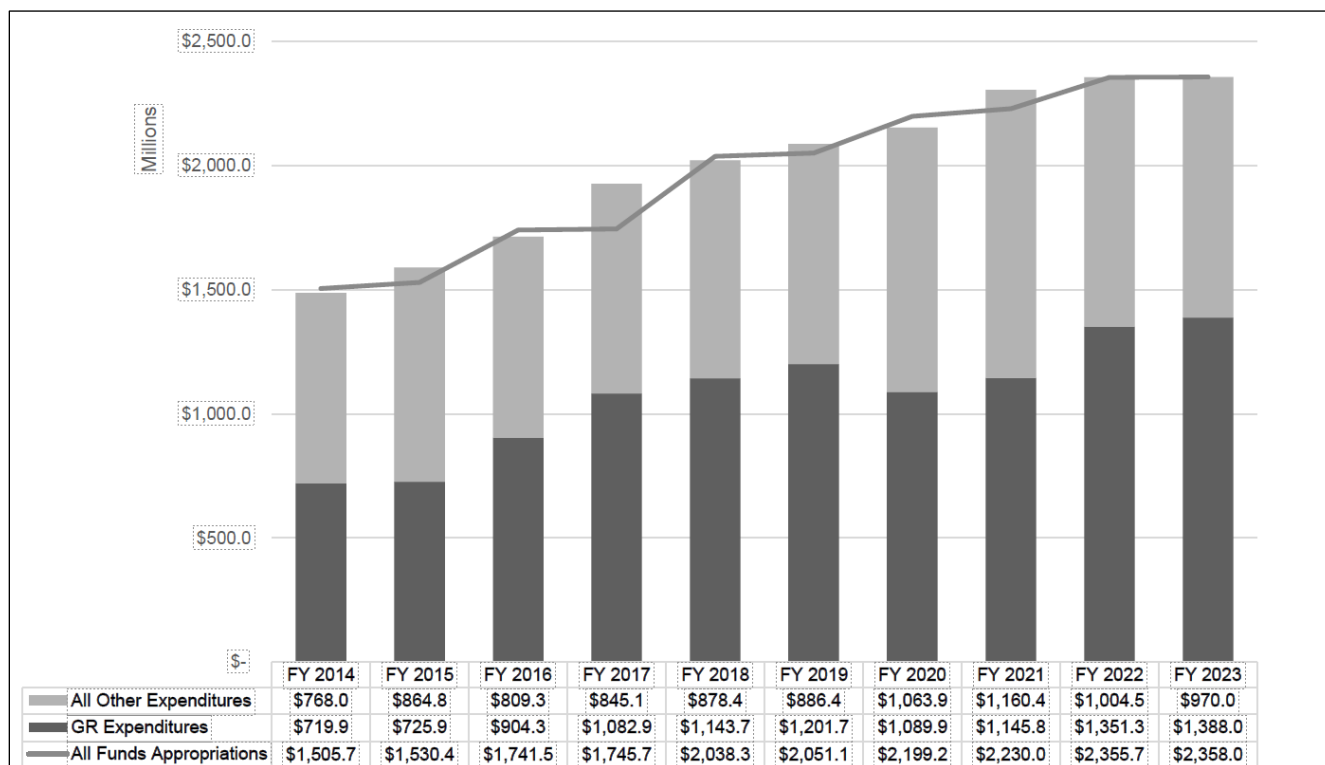
## Child Welfare Budget Summary

Over the last decade, the Texas Department of Family and Protective Services (DFPS) has experienced a significant increase in budgetary support, following each legislative session starting in FY 2014.

During its initial hearing on March 17, 2022, the Senate Special Committee on Child Protective Services heard testimony from the Texas Legislative Budget Board (LBB) regarding the level of financial support provided to the Department over the last decade. The Department's budget increased from \$1.5 billion (All Funds) in FY 2014 to \$2.4 billion (All Funds) in FY 2022, or 58.5 percent.<sup>21</sup>

Looking chiefly at the budget increases afforded through General Revenue (GR), the Department budget increase is staggering. In FY 2014, GR funding of the Department rose from \$719.9 million to \$1.4 billion in FY 2022, or a 92.8 percent increase.

**Figure 1. Agency Expenditures Compared to Appropriations**



Source: Department of Family and Protective Services

The Legislative Budget Board reported to the Special Committee on Child Protective Services that "[e]very CPS program has seen growth from [FY] 2014 to 2023, with the cumulative expenditures increasing by 60.2 percent over this time period."<sup>22</sup>

<sup>21</sup> Texas Legislative Budget Board, *Testimony before the Texas Senate Special Committee on Child Protective Services*, March 17, 2022.

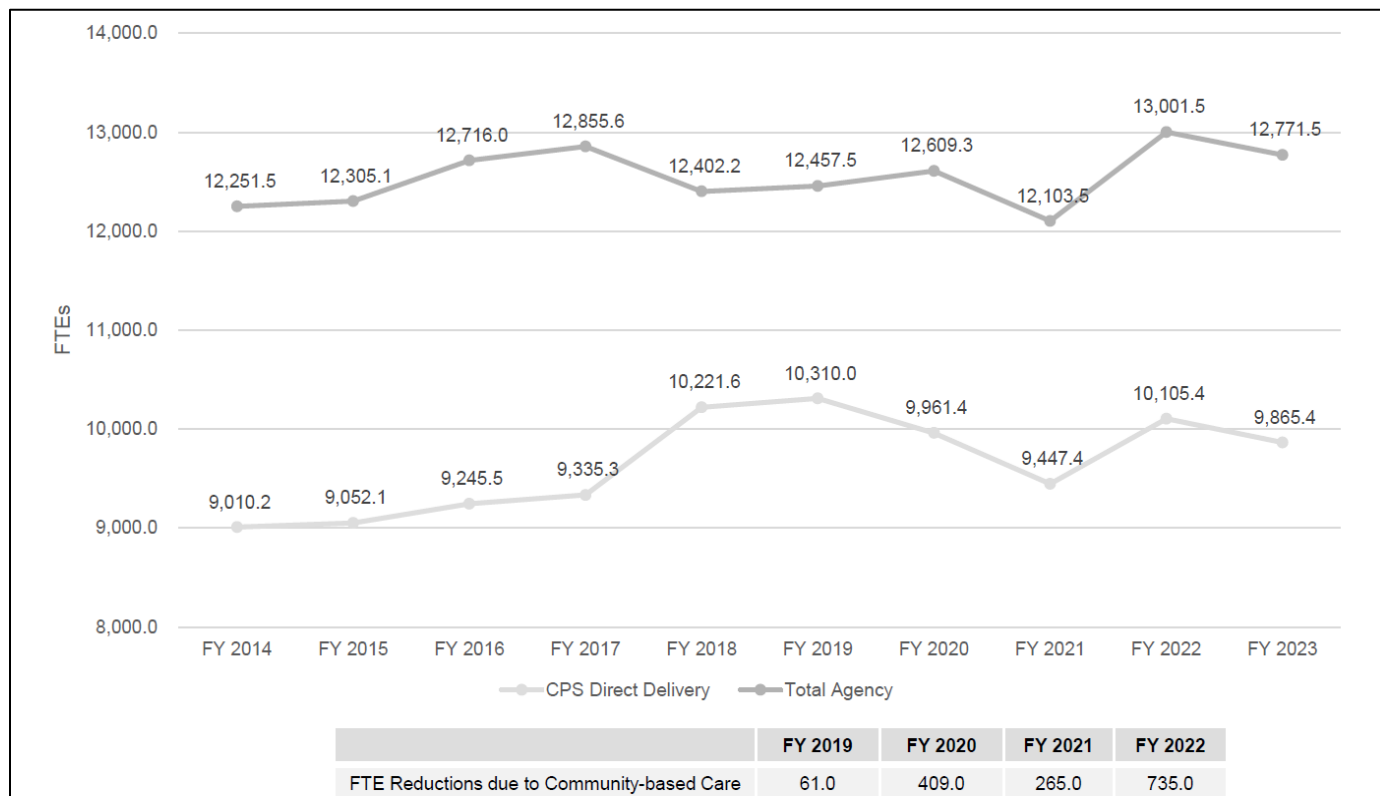
<sup>22</sup> *Ibid.*

Appropriations for Full-Time Equivalent (FTE) positions over the same time period have grown considerably as well. From 2014 to 2023, the Department's FTE count increased by 4.2 percent, while the FTE counts specifically within Child Protective Services grew by 9.5 percent.

Funding for direct delivery functions has risen from \$476M to \$842.6M, a 77 percent increase. Program support has increased from \$42M to \$74.8M—a 78.2 percent increase—during the same time period, largely driven by the increase in FTEs.

While appropriations have increased, there has been fluctuation in the year-over-year trends—primarily for two main reasons. First, the transfer of residential child care investigations to HHSC, pursuant to Senate Bill 200 in the 84th Legislative Session, resulted in the decrease of 887 FTEs. Second, the implementation of Community-Based Care (CBC) in 2019 resulted in a reduction in state CPS employees as these resources were transferred to contractors providing equivalent services.

**Figure 2: Historical Full-Time Equivalent Appropriations**



Source: Legislative Budget Board

Several non-child protective services functions within the department also experienced budget increases over the same period, including Statewide Intake (SWI), Adult Protective Services (APS), Prevention and Early Intervention (PEI), and administrative operations. For example, the funding increases for PEI grew from \$30 million in FY 2015 to \$112 million in FY 2023, a 267 percent increase. Administrative functions within the Department increased from \$49.9 million to \$92.9 million—an 84.9 percent increase—over the same time period. Administrative functions include all

business functions to support the delivery of services, such as finance, legal services, human resources, and information technology.

Despite budget increases, the unique number of children involved in investigations and conservatorship has remained stable. The exception is the number of children involved in the Family-Based Safety Services (FBSS) program, which decreased 25 percent in FY 2021 and 2022, largely due to the COVID-19 pandemic and policy changes within the Department.

"The unique number of children involved in the system over the past eight years has remained fairly constant," according to the LBB, "while the number of staff has nearly doubled."<sup>23</sup>

The Department also increased spending on various services to monitor families during the investigative process, including costs related to drug testing and protective day-care services.

Figure 3 provides a summary of major exceptional items that the Department has requested over the last several biennia. It outlines the specific appropriations for programs and staff the Department received over the years.

All told, the Department received significant resources over the years to support a system of care for at-risk families and for children in the conservatorship of the state.

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<sup>23</sup> Ibid.

### Figure 3: Historic Exceptional Budget Support for DFPS: FY 2017-2023

- \$113.2 million and 828.8 FTEs for critical needs funding beginning in FY 2017
- \$61.6 million for salary increases for existing Child Protective Services staff
- \$51.6 million to fund the additional staff
- \$292.8 million to build the critical funding needs into the agency's base appropriations in FY 2018-19
- \$88.0 million and 597.9 FTEs for additional caseworkers in FY 2018-19
- \$32.5 million for increased payments provided to Relative and Other Designated Caregivers in FY 2018-19
- \$30.5 million and 98.2 FTEs for additional staffing support in FY 2020-21, including:
  - \$2.7 million and 17.9 FTEs for Contract Oversight and Monitoring staff
  - \$3.6 million and 30.0 FTEs for additional Child Protective Services frontline staff
  - \$1.7 million and 13.0 FTEs for additional Child Care Investigations staff
  - \$1.1 million and 7.0 FTES for additional screener staff
- \$88.8 million and 478.0 FTEs to address the Foster Care Litigation in FY 2022-23
- \$6.4 million and 42.0 FTEs for Community-Based Care oversight staff in FY 2022-23
- \$124.8 million in General Revenue to address foster care capacity in FY 2022-23
- \$21.9 million in General Revenue for temporary emergency placements (TEP) in FY 2022-23

*Note: All amounts reflected are All Funds unless otherwise specified.*

*Source: Legislative Budget Board*



## Summary of Incidents at The Refuge

In its first public hearing, the Texas Senate Special Committee on Child Protective Services sought to better understand what had transpired related to potential abuse and neglect related to allegations of potential abuse and neglect by employees at The Refuge facility, following media reports.

The Texas Department of Public Safety (DPS) was invited to testify at the committee's first hearing on March 17, 2022, to provide information related to its findings from an investigation of the allegations of human trafficking at The Refuge.<sup>24</sup>

DPS provided a letter (*see Appendix 1*) that summarized the findings at the time of the hearing "that there is no evidence that any of the residents at The Refuge shelter have ever been sexually abused or trafficked while at the shelter."<sup>25</sup>

DPS asserted two major incidents had occurred. The first incident was reported on January 24, 2022, and involved a female Refuge shelter employee who obtained nude photographs of two residents for the alleged purpose of selling them for cash and/or drugs. The Refuge terminated the employee and reported the incident to DFPS and the Bastrop County Sheriff's Office (BCSO), which subsequently opened an investigation. DPS reported that no arrest had been made at the time of the hearing and that the DPS criminal investigation was ongoing.<sup>26</sup>

The second incident occurred on February 20, 2022, when two of the residents fled the facility. The Refuge shelter received an allegation that Refuge employees facilitated the escape from the facility. This incident was appropriately reported to DFPS and law enforcement, and four Refuge shelter employees were terminated.<sup>27</sup> DPS testified that the employee was arrested for providing false information to the Bastrop County Sheriff's Department.<sup>28</sup>

At the time of the initial hearing of the Special Committee on Child Protective Services, DPS presented its findings of continued criminal investigation into specific actions by employees of The Refuge. In the wake of the actions by the state, the leadership of The Refuge reported to its supporters in June 2022 that it laid off 75 percent of its staff and suspended all operations.<sup>29</sup>

The Health and Human Services Commission and the Department both provided testimony related to their investigations of the facility, indicating that there was evidence of exploitation pursuant to Texas Family Code and violations of minimum standards for residential child-care facilities. The Department

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<sup>24</sup> On March 10, 2022, Governor Greg Abbott ordered the Texas Rangers to investigate reports of child sex trafficking at The Refuge, a shelter in Bastrop contracted by the Texas Department of Family and Protective Services. The governor also directed the Texas Rangers to pursue all appropriate criminal charges against anyone who perpetrated abuse at the facility. See: <https://gov.texas.gov/news/post/governor-abbott-orders-texas-rangers-to-investigate-reported-trafficking-at-state-contracted-shelter-for-children>

<sup>25</sup> Steve McCraw, Texas Department of Public Safety, *Testimony before the Texas Senate Special Committee on Child Protective Services*, March 17, 2022.

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> KVUE News Staff, "The Refuge lays off 75% of its workforce, suspends operations," *KVUE NEWS*, June 7, 2022, accessed September 14, 2022, <https://www.kvue.com/article/news/local/the-refuge-bastrop-layoffs/269-fae2186b-bcc9-49aa-a729-9615cfcf0d76>.

suspended all placements at The Refuge, while HHSC suspended its operating license on March 11, 2022.<sup>30</sup>

Yet during testimony, the Department indicated that the timeliness of escalating the safety issues and priority of the investigation did not follow Department policy.<sup>31</sup> HHSC and the Department maintain a process for coordinating investigations called Facility Intervention Team Staffing (FITS). Only after the nature of the allegations and investigation findings at The Refuge were elevated up the chain-of-command beyond the program director overseeing the case did HHSC and DFPS engage in the FITS process, resulting the removal of the children from the facility.<sup>32</sup>

While DPS initially indicated that local law enforcement was involved in looking at criminal violations of staff from The Refuge after the facility reported it, questions were raised as to how the Department coordinates those types of investigations with local law enforcement. While the Department maintains special units to investigate complex cases, it may tap additional agencies including the Office of the Attorney General and DPS for assistance in an investigation.<sup>33</sup> DPS testified it was only tasked with investigating the incident on March 10, 2022. Prior to that DFPS did not make any request to DPS to assist in the investigation.

The Office of the Texas Attorney General testified that its Human Trafficking and Transnational/Organized Crime (HTTOC) Division can offer investigation support in specific cases of suspected trafficking or provide training to help local investigators identify signs of abuse and human trafficking. However, it is not authorized to assist in investigations until invited by the investigating authority. While the OAG reached out to Department and to local law enforcement in The Refuge case, it did not have role in the investigation.<sup>34</sup>

At the time of this writing, DPS submitted findings (*please see Appendix I*) to Governor Abbott outlining the outcomes of its investigation into the events at The Refuge.

"The Texas Ranger investigation did not identify any evidence that a Refuge employee engaged in criminal neglectful supervision, physical abuse, sexual abuse, promotion/possession of child pornography, or human trafficking of any child. All investigative information was presented to the Bastrop District Attorney's Office," according to the findings.

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<sup>30</sup> Texas Department of Family and Protective Services, *Testimony before the Texas Senate Special Committee on Child Protective Services*, March 17, 2022.

Texas Health and Human Services Coalition, *Testimony before the Texas Senate Special Committee on Child Protective Services*, March 17, 2022.

<sup>31</sup> Texas Department of Family and Protective Services, *Testimony before the Texas Senate Special Committee on Child Protective Services*, March 17, 2022.

<sup>32</sup> Ibid.

<sup>33</sup> Steve McCraw, Texas Department of Public Safety, *Testimony before the Texas Senate Special Committee on Child Protective Services*, March 17, 2022. Robert Richman, Texas Department of Family and Protective Services, *Testimony before the Texas Senate Special Committee on Child Protective Services*, March 17, 2022.

<sup>34</sup> Josh Reno, The Office of the Texas Attorney General, *Testimony before the Texas Senate Special Committee on Child Protective Services*, March 17, 2022.

Following a hearing on September 13, 2022, a Bastrop County Grand Jury assembled to consider the evidence presented on the allegations, including testimony from DPS, but declined to indict anyone for criminal activities at The Refuge.<sup>35</sup>

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<sup>35</sup> See Appendix I.

Sneha Dey, "Bastrop County grand jury declines to indict caretaker at center of The Refuge abuse scandal," *Texas Tribune*, September 29, 2022, accessed October 2, 2022, <https://www.texastribune.org/2022/09/29/refuge-grand-jury-indictment/#:~:text=Bastrop%20County%20grand%20jury%20declines,children%20at%20the%20Bastrop%20shelter>.

## Implementation of Major Legislative Reforms

The Special Committee on Child Protective Services held a hearing on May 3, 2022, to better understand the implementation status of legislative reforms that the Texas Legislature passed in previous legislative sessions.

The two key measures the committee examined, and that were specifically referenced by the lieutenant governor in his statement on the formation of the committee, are Senate Bill 11, passed in the 85th Legislature, and Senate Bill 1896, passed in the 87th Legislature.

### Background

As noted earlier in the report, staffing crises within the Child Protective Investigation (CPI) division led to emergency "critical needs" funding approval in December 2016 by the Legislative Budget Board.<sup>36</sup> That effort served as a precursor, along with the systemic lack of foster care placements, to Governor Greg Abbott declaring Child Protective Services an "emergency item" during the 85th Legislative Session in 2017.<sup>37</sup>

The Texas Constitution prohibits the House of Representatives and Senate from passing legislation during the first 60 days of a regular legislative session unless either chamber suspends the rule by a vote of four-fifths of its membership, or if the legislation is an appropriation or other matter declared by the governor to be an emergency. Anything the governor wants to be prioritized in that year's session, or any issue the governor wants to support may be declared an emergency item. If a bill is related to a governor's emergency item, members can decide to vote on it earlier in the session.

Among emergency legislation in the 85th Legislature was Senate Bill 11, which, among other initiatives, directed broader implementation of a DFPS-proposed pilot project known as Foster Care Redesign (FCR).<sup>38</sup>

The project was developed by DFPS in collaboration with a public-private partnership of child welfare and foster care providers and agency officials to address foster care capacity across the state.<sup>39</sup>

In 2014, the FCR pilot began in seven counties surrounding Fort Worth and initial results demonstrated promise with the model in placing children close to their homes and keeping placements in foster homes. According to *FY 2017 Rider 25 Report for Foster Care Redesign, Our Community Our Kids (OCOK)* outperformed the legacy model in placing children in foster homes and in keeping children

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<sup>36</sup> Ursula Parks, *Letter to Hank Whitman, Department of Family and Protective Services*, December 1, 2016.

<sup>37</sup> Brandi Grissom, "Gov. Greg Abbott announces four emergency items, including CPS reform and sanctuary city ban," *Dallas Morning News*, January 31, 2017, accessed September 2, 2022, <https://www.dallasnews.com/news/politics/2017/01/31/gov-greg-abbott-announces-four-emergency-items-including-cps-reform-and-sanctuary-city-ban/>; [http://www.lrl.state.tx.us/scanned/govdocs/Greg%20Abbott/2017/message01312017\\_cps\\_foster\\_care.pdf](http://www.lrl.state.tx.us/scanned/govdocs/Greg%20Abbott/2017/message01312017_cps_foster_care.pdf).

<sup>38</sup> Foster Care Redesign pursuant to Senate Bill 218, 82 Regular Session, 2011.

<sup>39</sup> Jim Schwab, et al., *Texas Foster Care Redesign: Initial Insights into Foster Care Reform* (University of Texas at Austin, August 2014), accessed on September 5, 2022. [https://www.dfps.state.tx.us/Child\\_Protection/Foster\\_Care/Community-Based\\_Care/documents/2014-08-29-UT\\_Process\\_Evaluation\\_Report.pdf](https://www.dfps.state.tx.us/Child_Protection/Foster_Care/Community-Based_Care/documents/2014-08-29-UT_Process_Evaluation_Report.pdf).

within 50 miles of their home as compared to the legacy system.<sup>40</sup> Other outcome measures revealed less distinction.

Subsequent legislative sessions continued the Senate Bill 11 implementation with state funding to expand regionally led placement and case management services of children in the conservatorship of the state. Figure 4 provides a summary of the funding for the Community-Based Care (CBC) expansion.

**Figure 4: Community-Based Care Regional Funding and Status**

<b>Legislative Session</b>	<b>Regions funded in Budget</b>	<b>Status of Implementation</b>
<b>85th Session- 2017</b>  <b>Total funded:</b> \$23 million/8 FTEs	<b>Five Regions funded:</b> Stage 1 & 2 <ul style="list-style-type: none"> <li>• Region 3B (Ft. Worth) OCOK</li> <li>• Region 2 (Abilene/Wichita Falls) 2Ingage</li> <li>• Region 8A (San Antonio) Family Tapestry</li> <li>• Two additional regions funded.</li> </ul>	<ul style="list-style-type: none"> <li>• Region 3B launched Stage 2 services.</li> <li>• Region 8A and Region 2 launched Stage 1 Services only.</li> </ul>
<b>86th Session - 2019</b>  <b>Total funded:</b> \$64.3 million (SSCCs) DFPS - \$5.5 million/44FTEs	<b>Five regions funded:</b> Stages 1 & 2 <ul style="list-style-type: none"> <li>• Region 3B (Ft. Worth)</li> <li>• Region 2 (Abilene/Wichita Falls)</li> <li>• Region 8A (San Antonio)</li> </ul> Stage 1 <ul style="list-style-type: none"> <li>• Region 1 (Lubbock)</li> <li>• Region 8B (Hill Country/Coast)</li> </ul>	<ul style="list-style-type: none"> <li>• Region 3B continued Stage 2 services.</li> <li>• Region 8A and 2 launched Stage 2 Services.</li> <li>• Region 1 launched Stage 1 services.</li> <li>• Region 8A services cancelled.</li> </ul>
<b>87th Session - 2021</b>  <b>Total funded:</b> \$44.2 million/30FTE FY 2022 and 42 FTEs FY 2023  Plus \$34.8 million capacity funding  Plus \$6.4 million for DFPS FTE for oversight	<b>Nine Regions funded:</b> Stages 1 & 2 <ul style="list-style-type: none"> <li>• Region 3W (Ft. Worth) (Existing)</li> <li>• Region 2 (Abilene/Wichita Falls) (Existing)</li> <li>• Region 1 (Lubbock) (Existing)</li> <li>• Region 8B (Hill Country/Gulf Coast)</li> </ul> Stage 1 <ul style="list-style-type: none"> <li>• Region 3E (Dallas)</li> <li>• Region 9 (Midland - Permian Basin)</li> <li>• Region 4 (Texarkana - Piney Woods)</li> <li>• Region 5 (Tyler - Deep East Texas)</li> </ul>	<ul style="list-style-type: none"> <li>• Region 3B continued Stage 2 services.</li> <li>• Region 2 continued Stage 2 services.</li> <li>• Region 1 launched Stage 2 services.</li> <li>• Region 8B launched Stage 1 services.</li> </ul>

Source: Legislative Budget Board

<sup>40</sup> Texas Department of Family and Protective Services, *Rider 25 Report for Foster Care Redesign* (August 2017), accessed September 5, 2022. [https://www.dfps.state.tx.us/About\\_DFPS/Reports\\_and\\_Presentations/Rider\\_Reports/documents/2017/2017-08-Rider\\_25\\_Foster\\_Care\\_Redesign\\_Report.pdf](https://www.dfps.state.tx.us/About_DFPS/Reports_and_Presentations/Rider_Reports/documents/2017/2017-08-Rider_25_Foster_Care_Redesign_Report.pdf). The report appendices noted that OCOK achieved 79.2% rate of foster home placement in FY 2016 for children in its care, compared to 63.3% by the state's legacy system. It also placed 70% of those children within 50 miles of their home in FY 2016, as compared to the statewide average of 60%.

CBC Rollout has historically been staged and sequential in areas that DFPS chooses based on:

- Geographic location and proximity to existing catchment area(s);
- Service capacity—continuum of care and services available in region and location of resource hubs;
- Child and family outcomes;
- Level of community/stakeholder investment—collaboration among stakeholders, number of child welfare boards, child protection courts, etc., located in the catchment area;
- Stability of DFPS workforce; and
- Funding availability and sufficient resources to support expansion.

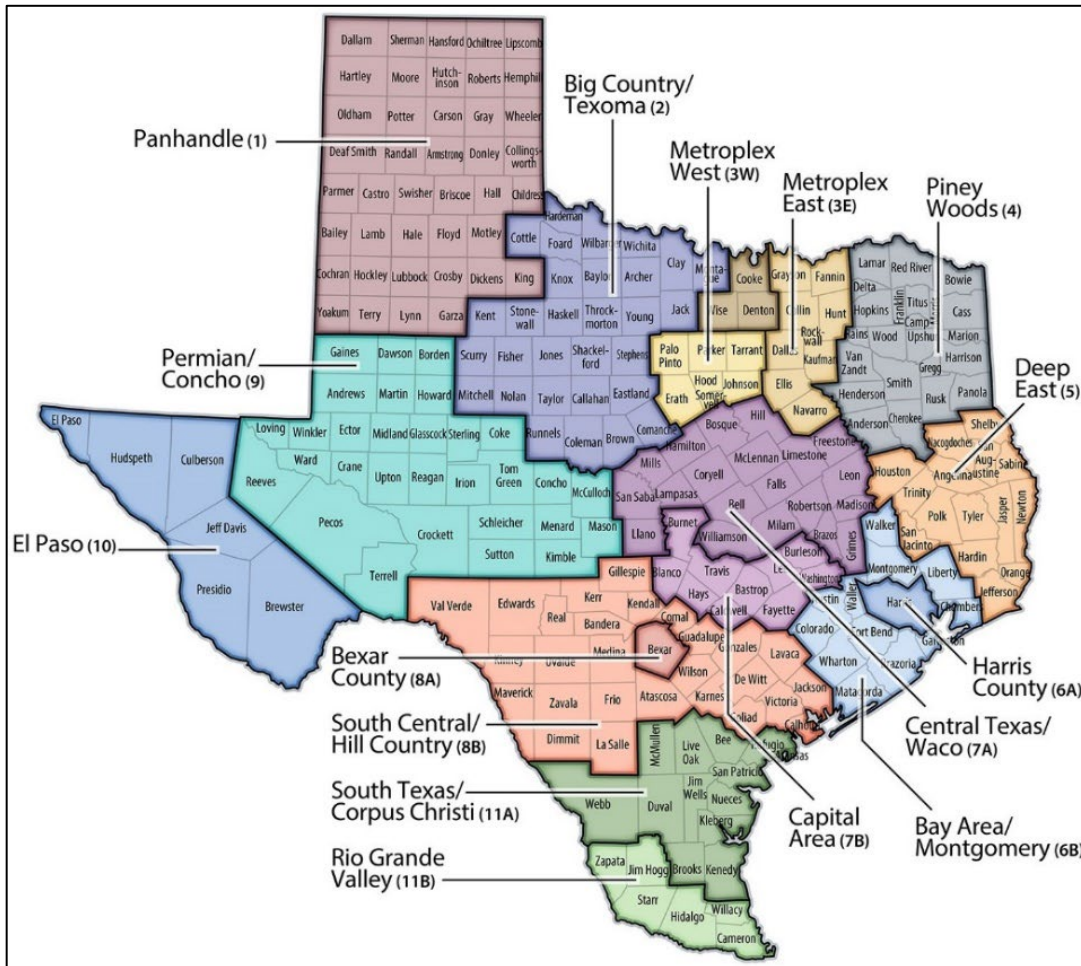
In prior years, DFPS has considered the following criteria in selecting catchment areas:

- Minimum of 500 new entries of children per year;
- Proximity to existing catchment area;
- Local community support;
- Regional readiness and stability;
- Placements in and out of catchment area;
- Challenges with capacity; and
- Affordability.

DFPS began implementing CBC in a staggered process around the state, beginning with a competitive procurement in a specific region or catchment area. Figure 5 provides a current map of the CBC regions. Once a Single Source Continuum Contractor (SSCC) is selected, the Department negotiates a contract and begins a transfer of responsibility in a three-stage implementation plan.

- **Stage I** involves building the infrastructure of the redesign and focuses on improving foster care quality and capacity. SSCC assumes responsibility for placement of children in paid foster care once they are in the custody of the state.
- **Stage II** focuses more on improving services to families of children and youth in care through the transfer of case management to the SSCC. This stage includes family reunification support and the purchase of services in order to coordinate service planning and improve the efficiency of service delivery. Progression from Stage I to Stage II depends on the SSCC's demonstrated readiness by passing a readiness plan administered by the state. All services and funding must be negotiated prior to the implementation of Stage II.
- **Stage III** maintains all responsibilities of the SSCC from Stages I and II but begins to apply financial incentives for timely achievement of permanency and penalties when outcomes fall below expectations.

**Figure 5: Map of Community-Based Care Regions**



Source: *The Office of Community-Based Care Transition*

Senate Bill 11 also contained several other provisions, including provisions that:

- Required timely medical exams for children in the care of the state;
- Created a pilot project for the provision of family preservations services;
- Transferred investigations of child abuse/neglect in foster care/childcare settings from the Health and Human Services Commission to DFPS;
- Required DFPS to review its records retention policy for IMPACT to ensure caseworkers have necessary information from past CPS history;
- Required the appointment of a *guardian ad litem* for a child at least 16 years of age and required the *guardian ad litem* to ensure the child has necessary identification documents such as a birth certificate and social security card; and
- Required DFPS to utilize risk data and geographic risk assessments to geographically target PEI services and dollars and expand partnerships with institutions of higher education to evaluate the effectiveness of PEI.

In response to concerns over the number of children lacking foster placements and sleeping in hotels and offices, Senator Lois Kolkhorst (SD-18) filed Senate Bill 1896 during the 87th Regular Legislative Session.

The omnibus measure chiefly sought to prohibit DFPS from housing children in need of placement within state offices, but the measure also required licensing flexibility to help ease the foster care capacity crisis and clarified existing statutes related to Community-Based Care with the goal of advancing implementation of that program. Senate Bill 1896 also contained other major provisions that sought to increase the quality of residential treatment care for children in the conservatorship of the state by requiring such facilities to achieve accreditation in order to become "qualified" under the federal Family First Prevention Services Act (FFPSA).

As to the continued implementation of CBC, Senate Bill 1896 made key changes to Texas law.

First, Senate Bill 1896 firmly established the definition of Community-Based Care in the Texas Family Code as follows: "'Community-based care' means the provision of child welfare services in accordance with state and federal child welfare goals by a community-based nonprofit or a local governmental entity under a contract that includes direct case management to: (A) prevent entry into foster care; (B) reunify and preserve families; (C) ensure child safety, permanency, and well-being; and (D) reduce future referrals of children or parents to the department."<sup>41</sup>

Second, it added new provisions to clarify the way CBC would be implemented. Among those changes, the bill altered eligibility requirements to become a Single Source Continuum Contractor and revised statutes to allow community organizations or governmental entities to submit unsolicited proposals to the Department to enable CBC expansion.

Senate Bill 1896 directed the creation of the Office of Community-Based Care Transition (OCBCT), an independent state office administratively attached to the Department of Family and Protective Services, but with a director independently appointed by the Office of the Governor. The bill assigned 10 specific tasks to the new OCBCT including oversight of contracts for CBC and development authority of financing models for CBC.

As a corollary to that effort, the bill also created the Joint Legislative Oversight Committee on Community-Based Care Transition, composed of members of the Texas House of Representatives and the Texas Senate, who periodically conduct oversight and evaluate the Department's efforts to transition to CBC.

### **Current Status: Senate Bill 11, Senate Bill 1986, and Community-Based Care**

During testimony, the Department provided a summary of the implementation of various aspects of Senate Bill 11, Senate Bill 1896, and their chief subject of Community-Based Care. Figures 6 and 7 provide a summary of the implementation provided by DFPS.

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<sup>41</sup> Texas Family Code § 264.152(4).



The Department of Family and Protective Services testified that numerous policy changes have been executed in response to legislative changes, and that Department staff are being trained on the new policies.<sup>42</sup> The figures below provide a status summary of the Community-Based Care provisions for each bill. Pursuant to Senate Bill 1896, the OCBCT was created as an independent agency with a goal to implement CBC "quickly and successfully."<sup>43</sup>

**Figure 6: Senate Bill 11 (85R) Community-Based Care Provisions Implementation Summary**

Bill Section	Summary
Section 18	<p>Created Community-Based Care subchapter and provided direction to contract with community-based nonprofits or local governmental entities to provide the continuum of child welfare services.</p> <p>Statutory goals as stated in Texas Family Code, Section 264.151:</p> <ul style="list-style-type: none"> <li>• The safety of children in placements;</li> <li>• The placement of children in each child's home community;</li> <li>• The provision of services to children in the least restrictive environment possible and, if possible, in a family home environment;</li> <li>• Minimal placement changes for children;</li> <li>• The maintenance of contact between children and their families and other important persons;</li> <li>• The placement of children with siblings;</li> <li>• The provision of services that respect each child's culture;</li> <li>• The preparation of children and youth in foster care for adulthood;</li> <li>• The provision of opportunities, experiences, and activities for children and youth in foster care that are available to children and youth who are not in foster care;</li> <li>• The participation by children and youth in making decisions relating to their own lives;</li> <li>• The reunification of children with the biological parents of the children when possible; and</li> </ul>

<sup>42</sup> Texas Department of Family and Protective Services, *Testimony before the Texas Special Committee on Child Protective Services*, May 3, 2022.

<sup>43</sup> Theresa Thomas, Office of Community-Based Care Transition, *Testimony before the Texas Special Committee on Child Protective Services*, May 3, 2022.

Bill Section	Summary
	<ul style="list-style-type: none"> <li>The promotion of the placement of children with relative or kinship caregivers if reunification is not possible.</li> </ul>
Section 22	<ul style="list-style-type: none"> <li>Requires SSCC to conduct a comprehensive assessment once every 90 days for a contractor that provides therapeutic foster care services to a child. Ongoing.</li> </ul>

Source: Texas Department of Family and Protective Services

**Figure 7: Senate Bill 1896 (87R) Community-Based Care Provisions Implementation Summary**

Section	Summary
Section 5	Requires OCBCT to submit quarterly Foster Care Capacity Needs Plan. OCBCT - Ongoing.
Section 6	Defines Community-Based Care. OCBCT - Complete.
Section 7	Requires majority of SSCC board members to reside in Texas. OCBCT - Complete.
Section 8	Allows an SSCC to apply to DFPS for a waiver from any statutory and regulatory requirement. Ongoing.
Section 9	Clarifies OCBCT role in defining community-based catchment areas. OCBCT - Ongoing.
Section 10	SSCCs may implement their own procedures to execute DFPS's statutory duties. OCBCT and DFPS continue to work with the SSCCs to identify policies that will be different and those that will remain consistent across regions, depending on their specific practice models. Ongoing.
Section 11	Requires the Data Access and Governance Council to develop protocols for the access, management, and security of data. OCBCT - Complete.
Section 12	Creates Joint Legislative Committee on CBC Transition. <i>Members of the committee named. Senate: Kolkhorst, Powell, Schwertner / House: Frank, Noble, Rose<sup>44</sup></i>

<sup>44</sup> See: <https://senate.texas.gov/cmte.php?c=800>

Section	Summary
Section 34	Requires the Governor to appoint the Office of Community-Based Care Transition Director. Complete.

Source: Texas Department of Family and Protective Services

The Department also indicated that it is committed to working towards rollout of CBC and plans to ask for specific items in its Legislative Appropriations Request to expand CBC along with funding to support interoperable IT systems.<sup>45</sup>

Changes in the roles and responsibilities of both the Department and OCBCT related to the implementation of CBC, and the specific functions assigned to OCBCT in Senate Bill 1896, were transitioned back to DFPS to ensure compliance with applicable state and federal laws. Specifically, federal regulations related to Title IV-E of the Social Security Act.<sup>46</sup>

Despite the funding allocated within the General Appropriations Act over the last several budget cycles, *only Stages I and II of CBC are implemented* in four areas of the state. The current schedule projects full CBC implementation in 2029.<sup>47</sup>

On April 29, OCBCT released new "requests for proposals" to add four additional areas of the state to CBC.<sup>48</sup> That process closed on June 20, 2022.

The Department will continue to roll out Community-Based Care and, despite changes to roles and responsibilities, the Department and OCBCT are working together.<sup>49</sup>

Other provisions of Senate Bill 11 and Senate Bill 1896 are in the process of being implemented, according to Department officials. For example, Senate Bill 1896 contained provisions to direct the Department to develop "qualified" residential treatment placements for foster children with significant needs. DFPS published on April 1, 2022, an open enrollment opportunity for licensed residential operations to transition to "qualified" status.<sup>50</sup>

The Department also provided a summary of non-CBC provisions and their implementation status. (See Appendix 3).

The Department testified that many provisions of Senate Bill 11—including requirements that children in conservatorship receive a medical exam within three days of coming into care—have been

<sup>45</sup> Texas Department of Family and Protective Services, *Testimony before the Texas Special Committee on Child Protective Services*, May 3, 2022.

<sup>46</sup> Ibid.

<sup>47</sup> Office of Community-Based Care Transition, *Implementation Plan for the Texas Community-Based Care System* (December 2021): 23, accessed on September 8, 2022, [https://www.dfps.state.tx.us/Child\\_Protection/Foster\\_Care/Community-Based\\_Care/documents/2021-12-31\\_CBC\\_Implementation\\_Plan.pdf](https://www.dfps.state.tx.us/Child_Protection/Foster_Care/Community-Based_Care/documents/2021-12-31_CBC_Implementation_Plan.pdf).

<sup>48</sup> Texas Health and Human Services, *DFPS Community-Based Care Single Source Continuum-Contractor, Region 3E, 4, 5 and 9* (April 29, 2022), accessed on September 8, 2022, <https://apps.hhs.texas.gov/PCS/HHS0011832/>.

<sup>49</sup> Texas Department of Family and Protective Services, *Testimony before the Texas Senate Special Committee on Child Protective Services*, May, 3, 2022.

<sup>50</sup> Ibid.

implemented. The Department's policy handbook has been changed, and caseworkers are trained on the new procedures in accordance with the law. Approximately 70 percent of children involved in an investigation are receiving the three-day exam and caseworkers are updating related data systems to ensure physician providers are notified of changes in foster placements.<sup>51</sup>

Committee members asked what system the Department has established to ensure child welfare workers are putting the intent of legislation and statutory changes into practice. The Department changes its policy handbook to reflect changes in law, and there are personnel actions that take place if a worker is not doing his or her job, according to the Department.<sup>52</sup> However there is a lack of independent verification process to ensure that each worker within the Department is following policies or procedures, and little to no mechanism exists to measure how often workers deviate from required procedures during investigations or in any other stage service.

DFPS officials confirmed that *no* more children are sleeping in CPS offices, pursuant to the prohibition in Senate Bill 1896.

Dr. Eugene Wang, associate professor in Community, Family, and Addiction Sciences at Texas Tech University, provided testimony to the Special Committee on May 3, 2022.

Pursuant to Rider 21 (85R) and Rider 29 (86R), DFPS contracted with Texas Tech to conduct a process evaluation regarding the implementation of the first two stages of CBC in Texas. Dr. Wang conducted the study beginning in 2018 and delivered an "interim process evaluation" report in October 2020. It was made publicly available in February 2021. Texas Tech conducted three types of surveys using both quantitative and qualitative measures on specific questions related to the process employed by the Department to implement CBC, particularly in the transition to Stage 2 (Case Management).

Among the findings, the Texas Tech report asserts the implementation of CBC has been an iterative process with an "aspirational" scope of work style and contracts that did not adequately define the roles and responsibilities between DFPS and CBC contracted providers.

It also asserts that there is no clearly defined financial model—such as an "alternative payment" or "shared risk" structure common in other human services categories—and no uniform, evidence-based determination of "readiness" when expanding CBC to new regions.

While the Department indicated it is moving forward with the implementation of CBC, Wang's evaluation asserts that key changes are necessary to ensure Community-Based Care does not fail due to the lack of a stable financial model and management structure underpinning it.

The Department also provided an overview of financing and funding of child welfare services, indicating much of the child welfare rates are based on cost reporting from providers. Yet, the Department confirmed that the funding it made available to providers in the most recent request for applications for CBC were, in fact, lower than what the legislature appropriated.<sup>53</sup>

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<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Texas Department of Family and Protective Services, *Testimony before the Texas Senate Special Committee on Child Protective Services*, May 3, 2022.

## Best Practices In System Reform

Within the last several years, the Department of Family and Protective Services (DFPS) has received numerous recommendations for changing and reforming its system. The Texas Sunset Advisory Commission process provided a platform of major change, while an internal review process was initiated by former DFPS Commissioner John Specia and conducted by The Stephen Group in 2014.

Meanwhile, DFPS contracted with several external institutions over the last decade to study and develop guidance to improve CBC implementation and other departmental operations, including the University of Texas at Austin School of Social Work, Public Consulting Group, Chapin Hall at the University of Chicago, and Texas Tech University (*See Appendix 4 for a summary of and links to major external reports*).

The committee invited several witnesses—including representatives of child welfare services providers, attorneys, state agencies, and former Department consultants—to seek a better understanding of the history of system changes with DFPS and within the broader child welfare system.

## System Reforms in Texas Sunset Review

Jennifer Jones, executive director of the Texas Sunset Advisory Commission, provided invited testimony summarizing the major findings and recommendations of the last review of DFPS by the commission. Between 2014 and 2015, the Sunset Commission conducted its review and issued a final report on recommended changes to the agency. It identified categories of issues that imperiled the performance and operations of DFPS, including a pervasive "crisis culture" that distracted the agency from properly managing its critical functions.

"The overall theme itself was that DFPS needed to get back to the basics and focus on managing the agency and its operation," Jones said. "In particular, better managing its staff, listening to them, but holding them accountable and streamlining operations."<sup>54</sup>

In her testimony, Jones stated many recommendations and statutory changes adopted under the Sunset legislation—Senate Bills 206 and 200, 84th Legislature—sought to increase flexibility for the agency to perform its primary mission, while correcting poor management practices and improving operational functionality in areas such as planning, policy implementation, data analysis, and performance management.<sup>55</sup>

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<sup>54</sup> Texas Sunset Advisory Commission, *Testimony before the Texas Senate Special Committee on Child Protective Services*, May 16, 2022.

<sup>55</sup> *Ibid.*

Jones noted some of the Sunset recommendations were directed at mitigating risks to the pilot programs in Foster Care Redesign, now Community-Based Care. In particular, improving agency data collection was identified to help inform a successful, long-term roll-out of the new system.<sup>56</sup>

In 2017 the Sunset Commission conducted compliance and implementation review of the recommendations. Of the 22 statutory changes recommended by the Sunset Commission for DFPS related activities, 15 were implemented, and seven are "in progress." Of the 31 management recommendations for DFPS, 16 were implemented and 11 are in progress. Three of those management recommendations were partially implemented and only one was not implemented. One such recommendation included requiring a criminal history check and preliminary evaluation of designated caregiver homes before placement, or to begin a home study within 48 hours of placement.

The Sunset Advisory Commission has had no further interaction with DFPS following its last compliance report in 2017.

Jones also noted that major structural changes often occur in times of crisis, or as a result of federal government intervention. "Typically you see [structural] changes in times of crisis or it's gotten to a point where the agency is not performing duties to the level that either the Legislature or Governor or those it serves do not think appropriate."

She noted another tool that has been used in past situations with troubled state agencies, referred to as "conservatorship," whereby a new leader is appointed to oversee the agency. For example, in 2007, the Texas Youth Commission was placed into "conservatorship" and a temporary executive commissioner was installed to drive systemic reforms at the troubled agency.

Similarly, the Stephen Group, which was hired as an external consultant to DFPS beginning in 2013, assessed all aspects of child welfare, including protective and family-based services, children's Medicaid, and foster care services, that provided nearly 150 specific recommendations on changes to programs and processes within CPS.

The organization's founder and managing partner, John Stephen, testified before the committee to explain past reform efforts at DFPS based on these assessments.

Among major recommendations in the Stephen Group's operational review of DFPS was the use of "structured decision making" to drive consistent decisions in investigations and recommendations for community pilot programs to serve "High Needs Kids" and families within the "Family-Based Safety Services (FBSS) stage of service at DFPS." The Department initiated the FBSS pilot program in El Paso in 2017 where it contracted with a provider—Pathways Youth & Family Services—to provide family preservation support services as an alternative to substitute foster care. The Department unilaterally ended the FBSS pilot in 2018 with an analysis to discontinue contracting for FBSS services. Stephen noted that the recommended pilot service to serve high-needs kids was never implemented.<sup>57</sup>

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<sup>56</sup> Texas Sunset Advisory Commission, *Testimony before the Texas Senate Special Committee on Child Protective Services*, May 16, 2022.

<sup>57</sup> John Stephen, *Testimony before the Texas Senate Special Committee on Child Protective Services*, May 16, 2022.

He also highlighted structural challenges that the 2014 operational review identified as hindering reform progress at DFPS.<sup>58</sup> Those challenges include high staff turnover that drives a reactive institutional culture, insufficient technology and data systems to inform child welfare investigations and services, and deficient amount of time that direct delivery staff spends with families in the system. Stephen said the legislature and the Department have the "roadmap" for change, which included transitioning to a community-based system, but it just needs to be implemented.<sup>59</sup>

## **Models for Child Welfare Services**

While Texas has been slow to implement Senate Bill 11 and the Community-Based Care model, witnesses identified other states that have decentralized child welfare systems to allow more community-driven innovation and solutions.

Nine states have what is known as county-administered child welfare models, where both investigations into allegations of child abuse and delivery of conservatorship services are managed by local counties.<sup>60</sup> Kansas and Florida have implemented models similar to CBC, where the state agency contracts for conservatorship services with local organizations, but the state retains investigation authority into abuse and neglect reports.

John Stephen drew the distinction between the two models, describing a "community-based system" as one where a single organization is responsible for the care and treatment of children and families once they are in the child welfare system. Models where conservatorship and family preservation services are locally delivered tend to be more innovative and flexible, Stephen noted. He admonished that the current processes DFPS is using to transition to a community program need to be more streamlined.

"Flexibility is necessary" for local communities to build a "system of care," he said, noting the agency requires strong leadership and management to transition to this new delivery model. But Stephen warned that without strong legislative oversight, a full transition to community services will not happen in Texas.<sup>61</sup>

John Cooper, a former Assistant Secretary of the Florida Department of Children and Families and current CEO of Kids Central Inc., provided testimony to the committee on May 16, 2022, regarding Florida's implementation of its own community systems to deliver child welfare services, and he offered recommendations for improving the transition to community-based child services.

In 1998, Florida's legislature passed measures to direct the state's child welfare agency to move all foster care and related services to communities. Those community entities, called "Lead Agencies,"

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<sup>58</sup> The Stephen Group, "DFPS CPS Operational Review Phase 1: Assessment/Findings Final Report," April 28, 2014, Revised June 12, 2014, accessed October 31, 2022, <https://www.stephengroupinc.com/download/assessment-findings/?wpdmdl=332&refresh=63614401e10601667318785>

<sup>59</sup> John Stephen, *Testimony before the Texas Senate Special Committee on Child Protective Services*, May 16, 2022.

<sup>60</sup> U.S. Department of Health and Human Services, Children's Bureau, Child Welfare Information Gateway, "State vs. county administration of child welfare services," Washington, DC, 2018. <https://www.childwelfare.gov/pubPDFs/services.pdf>

<sup>61</sup> *Ibid.*

are responsible for coordinating, integrating and managing all foster care, adoption, and related services. Under that mantle, the providers must ensure continuity of care from entry to exit for all foster children. They must accept accountability for achieving federal and state outcomes, performance standards for safety, permanency, and well-being. Finally, they must maintain a capability to serve all children referred from protective investigations and court systems.

The Florida Department of Children and Families continues to operate the statewide hotline for reporting abuse and neglect, and it conducts a majority of child abuse investigations (with investigations conducted by local sheriff's departments in some Florida counties), provides legal representation services for children, maintains data management for children in care, and approves licensing for foster care providers. Each region in Florida moved directly into all services simultaneously, with the transition taking approximately 30-90 days in each area, depending on the size of the region.

The full transition to this new model in Florida was completed in 2006, in just under 10 years. Cooper noted there was difficulty and animosity from Florida agency personnel over the transition in Florida's new system.<sup>62</sup>

### **Judicial Role and Reform**

The Special Committee also invited witnesses representing the judicial side of the child welfare system. The Supreme Court Children's Commission, a former district judge, and several attorneys provided testimony on May 3, 2022, on ways to improve the CPS system in Texas by strengthening the legal preservation of families.

Dylan Moench, a staff attorney with the Supreme Court Children's Commission presented the findings from the Children's Commission's Task Force on Court-Appointed Legal Representation. The task force's May 2021 report<sup>63</sup> recommended improving the methods for providing indigent legal services to foster children as well as to their parents during a child protective investigation.

Cindy Dyar, a former prosecutor and an attorney that works with families in child welfare investigations, noted that while the duties of a judge and attorneys in child welfare cases are articulated in the Texas Family Code, those duties are not routinely executed. A specific point of issue for Dyar was the compensation in court-appointed systems as counties are solely responsible for paying the costs of court-appointed lawyers.<sup>64</sup> The resulting disparities in payment by counties for these services can adversely impact the quality of attorney representation.<sup>65</sup>

Additionally, former Harris County Associate Judge Paula Vlahakos recommended increased training for judges presiding over child welfare cases and for the lawyers who represent parents and children

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<sup>62</sup> John Cooper, *Testimony before the Texas Senate Special Committee on Child Protective Services*, May 16, 2022.

<sup>63</sup> Supreme Court of Texas Children's Commission, "Task Force on Court-Appointed Legal Representation: Final Report," May 2021, accessed on October 21, 2022, <http://texaschildrenscommission.gov/media/84738/tfcalr-final-report.pdf>

<sup>64</sup> Cynthia Dyar, *Testimony before the Texas Senate Special Committee on Child Protective Services*, May 3, 2022.

<sup>65</sup> *Ibid.*



in those cases to ensure all parties apply the basic tenets of civil procedure. She noted that when everyone applies the same rules, consistency in case outcomes can improve, while ensuring due process.<sup>66</sup>

### **CBC Implementation Evaluation and Recommended System Changes**

Public Consulting Group provided the initial report in 2014 outlining the methodology for a transfer of resources from the department providing the basis for full funding of SSCCs within the CBC model. Chief among its recommendations was to "blend" appropriated foster care rates in areas implementing FCR/CBC. Additionally, Chapin Hall provided input on the development of outcome measures for CBC services. Figure 8 provides both performance measures in CBC and the measures developed by the Legislative Budget Board. (*Appendix 4 provides a summary of the major studies conducted over the last decade intended to reform and refine the CBC delivery model as well as general child welfare services*).

**Figure 8: CBC Performance Measures**

<b>LBB Performance Measure</b>	<b>CBC Performance Measure</b>
% New CPS Intervention within 12 Months of Family Reunification	% children who do not experience abuse/neglect, or exploitation while in Foster Care
% Children Achieving Legal Resolution within 12 Months	# of SSCC Foster Care placements per child
% of Children who Achieved Permanency in Less Than 12 months	% of paid Foster Care days in Family Foster Homes
% of Children who Achieved Permanency in 12 to 18 months	% children placed within 50 miles of removal location (on last day of performance period)
% of Children who Achieved Permanency after 18 months	% cases where all siblings are placed together (on last day of performance period)
% in FPS Conservatorship until the Age of Majority	% youth turning 18 who have completed PAL Life Skills Training
% of children with TPR (ALL) adopted within 12 mos.	% of Placement Days in Least Restrictive Placement (CVS)
Average Time to Permanency in Months	% youth turning 18 who have completed PAL Life Skills Training (CVS)
# of Placement Moves per 1,000 Days in Sub Care (updated)	% Children and Youth in Kinship Placements on 60th Day After Removal (CVS)
CPS FBSS Turnover Rate (non-SSCC)	
CPS CVS Turnover Rate (non-SSCC)	

Source: *Community-Based Care Implementation Plan June 2022.*

<sup>66</sup> Paula Vlahakos, *Testimony before the Texas Special Senate Committee on Child Protective Services*, May 3, 2022.

During his testimony, Dr. Wang of Texas Tech University stated there are several specific factors hindering successful implementation of CBC, including lack of a robust data systems to inform key analytics and lack of hierarchal outcomes measures.<sup>67</sup>

During testimony before the Special Committee in May 2022, representatives of child placing agencies and operators of residential treatment centers echoed the findings of the Texas Tech report. They noted that misaligned rates to pay costs for children in substitute care are straining the system.

The costs for providers to hire trained staff, purchase insurance, and maintain their facilities have increased with inflation. Adding to this complexity, responsibility and funding for various services required for children in the foster care system are divided between state agencies that do not always collaborate effectively.<sup>68</sup>

Specifically, the regulatory environment (both DFPS and HHSC functions) is disjointed and siloed and must be more consistent.<sup>69</sup> Scott Lundy of Arrow Child and Family Ministries noted that his organization ended its residential care for victims of human trafficking victims as a consequence of the manner in which DFPS conducted an investigation. While the allegations of abuse and neglect and exploitation were ruled out, the Department still removed all the children residing in the Arrow facility, resulting in needless disruptions to the stable placements of those children.<sup>70</sup>

Additionally, witnesses told committee members that there are difficulties with accessing certain background information on workers that may have prior abuse, neglect, or exploitation findings and that improvements around data sharing could help mitigate future events similar to those that occurred at The Refuge.<sup>71</sup> Lack of access to the full FBI background check hampers the ability of child welfare residential providers from accessing key information that could better inform hiring decisions, particularly for workers that would engage with vulnerable foster children.<sup>72</sup>

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<sup>67</sup> Eugene Wang, *Testimony before the Texas Senate Special Committee on Child Protective Services*, May 3, 2022.

<sup>68</sup> Allicia Frye, Jonathan's Place, *Testimony before the Texas Special Senate Committee on Child Protective Services*, May 3, 2022.

<sup>69</sup> Scott Lundy, Arrow Child and Family Ministries, *Testimony before the Texas Special Senate Committee on Child Protective Services*, May 3, 2022.

<sup>70</sup> Ibid.

<sup>71</sup> Allicia Frye, Jonathan's Place, *Testimony before the Texas Special Senate Committee on Child Protective Services*, May 3, 2022.

<sup>72</sup> Scott Lundy, Arrow Child and Family Ministries, *Testimony before the Texas Special Senate Committee on Child Protective Services*, May 3, 2022.

## Conclusion and Recommendations

Invited witnesses and public written comments to the Senate Special Committee on Child Protective Services contributed to the development of a series of committee recommendations with regard to continuing the efforts to change the model of foster care in Texas and embrace ongoing systemic reforms that began nearly a decade ago within the Department of Family and Protective Services.

Major themes that emerged from the public hearings include the need for better management and operational efficiency within the Department, as well as a commitment to establishing and implementing local models for delivery services and measuring the results.

Several witnesses urged continued implementation of the Community-Based Care model. As Texas communities are so different in terms of population and availability of foster care services, the CBC model has been heralded as a more flexible model for social work in the child welfare space.

- 1. Focus the agency on mission critical functions. Ensure that nonessential services at the agency are reduced or eliminated to redirect the Department's resources towards improving outcomes for children and families and its investigation processes and conservatorship services.**

Several witnesses provided suggestions on ways to focus the Department on its mission critical functions and performing those functions to a better standard. Original recommendations offered by the Sunset Advisory Commission, as well as The Stephen Group, previously highlighted the need for DFPS to reduce activities that do not directly serve the needs of children in foster care and increase the quality of its investigations.

- 2. Form a working group between the Department of Family and Protective Services, the Health and Human Services Commission, Department of Public Safety, Office of the Attorney General and local law enforcement to develop policies and recommendations for improving the processes for investigating allegations relating to criminal activities. The working group should also study ways to increase effective training and resources to improving the quality, accuracy and timeliness of all child abuse, neglect and exploitation investigations.**

Testimony revealed a lack of coordination in the investigation process between HHSC and DFPS as it related to the Refuge, and a lack of well-defined process for coordinating investigation with law enforcement when criminal allegations are made. The Department acknowledged the failure of its own investigators to properly escalate high-risk allegations in the case of The Refuge, which raises concerns over what processes are followed when investigating serious allegations at facilities that serve vulnerable populations.

Additionally, several public written comments submitted to the committee suggested ways the Department can improve its critical functions for investigations, including expediting investigations, ensuring more training for investigators to increase the accuracy and timeliness of investigations, and reducing practices that evade statutory checks and balances passed in

previous legislative sessions to protect the rights of parents and children during the investigation process.

**3. Improve data sharing between Department systems and processes that record and track reports of abuse, neglect, and exploitation by workers in child welfare with other state agencies that manage workforce in other social services systems. Require interagency cooperation through a formal system for sharing data related to investigations in a predictable and timely manner.**

A key issue at play in residential child-care services is the quality and availability of quality workers. Individuals that may have been the subject of allegations of abuse or neglect in other categories—including juvenile or criminal justice, or education—may not always be available through current systems of licensing and background checks administered by the Department or the Texas Health and Human Services Commission. In addition, HHSC and DFPS share responsibility for investigating child care agencies. Providing better data sharing and timely access to information between agencies can ensure that information on such workers are known and prevent them from hopping to different positions that come into contact with vulnerable populations.

**4. Ensure providers of foster care and other child welfare services have adequate access to employee background checks and other tools to protect children from potential abuse, neglect and exploitation while in the care of the state.**

Several witnesses expressed concern that providers of residential services (foster homes, general residential operations, specialized treatment centers and emergency shelters) lack access to quality background check information for potential employees. Consolidating and directing a unified process and system that enables employers who serve vulnerable populations to access comprehensive background check information could mitigate risks to children in foster care. Additional licensing screenings for potential employees in residential child-care settings also could enhance such a system.

Moreover, increasing reliance on background check systems will require better quality investigations into allegations. Numerous members of the public submitted written testimony to the committee detailing cases in which allegations of abuse or neglect against residential employees, foster parents, or even ordinary parents were poorly investigated and resulted in false findings or findings that were later overturned.<sup>73</sup> Administrative hearings, which allow a party to appeal the findings of an investigation by the Department, are a tool for ensuring due process. The legislature should explore increasing resources to decrease backlogs in administrative hearings.

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<sup>73</sup> Carrie Wilcoxson, *Written Testimony to the Texas Senate Special Committee on Child Protective Services*, May 16, 2022. See *Appendix 5*.

**5. Develop mechanisms to ensure uniform application of standards for legal representation and judicial oversight in child welfare cases.**

Testimony before the Special Committee reinforced the need for strong judicial oversight and quality legal representation for families in the Texas child welfare system. The Texas Supreme Court Children's Commission issued an extensive report in May 2021 detailing the need for consistent and higher quality legal representation for foster children and parents.<sup>74</sup> The legislature should explore ways to define and standardize the responsibilities of those providing legal representation to children and families involved in the foster care system. Additionally, the state should establish standards and increase training for judges to ensure that the rules of civil procedures are consistently applied in child welfare cases whether adjudicated in district courts or in specialty courts, including options to remove judges that do not follow civil procedure in specialty courts.

**6. Reorient Texas towards a data-driven model of in-home, family preservation services as an alternative to foster care when appropriate. Transition "Family-Based Safety Services" to this model and enable communities to provide these services in coordination with current foster care service programs.**

Florida is currently serving children and families through prevention and family preservation programs in their community-based model, which can help reduce the need for substitute care.<sup>75</sup> Witnesses emphasized the need for a strategic and community-driven system to serve children in their homes with robust programs that can be funded with a combination of state and federal dollars.<sup>76</sup> The 87th Legislature passed House Bill 3041 to fund pilot projects to support these efforts and should continue to make preservation programs and alternatives to foster care with a well-developed data-driven model that can be flexibly adapted in communities.

**7. Ensure the delivery conservatorship and family preservation services from a local community level, whether through the Community-Based Care Model or by exploring other local or regional government models within Texas. Increase accountability mechanisms to ensure the Department implements a community-driven model in flexible manner to support its success.**

Currently, several aspects of the child welfare system—including adjudication of abuse and neglect allegations—are administered at the county jurisdictional level. Several witnesses testified to the increase in flexibility that can happen when conservatorship and prevention services to children and families are directed from a community level,<sup>77</sup> which can aid in the

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<sup>74</sup> Supreme Court of Texas Children's Commission, *Task Force on Court-Appointed Legal Representation: Final Report* (May 2021), accessed on September 2, 2022, <http://texaschildrenscommission.gov/media/84738/tfcalr-final-report.pdf>.

<sup>75</sup> John Cooper, KidsCentral Inc. *Testimony before the Texas Senate Special Committee on Child Protective Services*, May 16, 2022. Cooper noted in his materials that "Out-of-Home care" declined in Florida by 38% between 2004 and 2014.


<sup>76</sup> Ibid. John Stephen, *Testimony before the Texas Senate Special Committee on Child Protective Services*, May 16, 2022.

<sup>77</sup> John Stephen, *Testimony before the Texas Senate Special Committee on Child Protective Services*, May 16, 2022.


recruitment of foster care capacity and increase quality outcomes for children in care. Additionally, several experts offered testimony about the challenges in the current implementation of CBC, and specifically the lack of accountability in the Department's roll-out of the model. John Stephen and John Cooper noted that Department culture can be a barrier to transitioning to a new model. Dr. Wang outlined specific changes that are needed within the current CBC to support success in a community-driven system, including better data sharing between the Department and child welfare providers and a more defined system for measuring success in outcomes.

# APPENDIX 1: Texas Department of Public Safety Communications

## Letter to Governor Abbott from Steven McCraw, Director, Texas Department of Public Safety, on March 16, 2022



**TEXAS DEPARTMENT OF PUBLIC SAFETY**  
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STEVE W. STODDARD  
DALE WINNRIGHT

March 16, 2022

The Honorable Greg Abbott  
Governor of Texas  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

Dear Governor Abbott,


This letter provides a summary of the initial findings of our investigation into reports of sex trafficking at The Refuge, a shelter in Bastrop County contracted by the Texas Department of Family and Protective Services (DFPS). There is no evidence that any of the residents at the Refuge shelter have ever been sexually abused or trafficked while at the shelter.

A review of the March 10, 2022 DFPS letter to the federal court monitor identified material inaccuracies and contained information that had not been properly verified. A team of Texas Rangers conducted interviews of Refuge shelter residents, shelter employees and DFPS employees. All related allegations, Office of Inspector General investigative reports and internal DFPS files were reviewed and follow up discussions were conducted with the Bastrop County Sheriff's Office (BCSO). There were allegations of two major incidents of employee misconduct at the Refuge shelter.

The first was reported on January 24, 2022 and involved a female Refuge shelter employee who obtained nude photographs of two girls for the alleged purpose of selling them for cash and/or drugs. The Refuge terminated the employee and reported the incident to DFPS and the BCSO. No arrest has been made at this time and the criminal investigation of the former employee continues by the BCSO.

The second incident occurred on February 20, 2022 when two of the residents fled the facility. The Refuge shelter received an allegation that Refuge employees facilitated the escape from the facility. This was reported to DFPS and the BCSO and four Refuge shelter employees were terminated. The BCSO is conducting a criminal investigation on these former employees, and one has been arrested for making a false statement to the Federal Bureau of Investigation. There were no allegations or evidence that these residents were sexually abused or assaulted by anyone.

Sincerely,




Steven C. McCraw  
Colonel/Director


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**Letter to Governor Abbott from Steven McCraw, Director, Texas Department of Public Safety, on October 4, 2022**

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COMMISSION  
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STEVE H. STODGHILL  
DALE WAINWRIGHT

October 4, 2022

The Honorable Greg Abbott  
Governor of Texas  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

Dear Governor Abbott,

This past March you directed the Texas Rangers to investigate reports of child sex trafficking at The Refuge, a shelter in Bastrop County contracted by the Texas Department of Family and Protective Services (DFPS).

On March 10, 2022, DFPS sent a letter to federal court monitors reporting several allegations of misconduct at the Refuge to include possible sexual abuse, neglectful supervision, physical abuse, medical neglect, exploitation for licensing, and human trafficking by an employee of the Refuge. The Ranger investigation quickly determined that the information in the DFPS letter was based upon a draft memo containing unvetted allegations and inaccuracies. The author of the memo was unaware that the information in her draft memo would be erroneously reported to federal court monitors as corroborated allegations.

Texas Rangers reviewed numerous reports from two DFPS reporting systems: Impact 2.2 and CLASS. They also reviewed all related allegations contained in DFPS' statewide intake reporting system. These reviews determined that all eight related intake reports referred to the same single allegation made by two female juveniles residing at the Refuge. There was no evidence that the suspects were involved in human trafficking, sexual abuse, or sexual assault crimes; however, the Texas Rangers did identify two serious incidents requiring further investigation.

The first was an allegation made by two female juvenile residents on January 24, 2022, alleging that a female shelter employee obtained nude photographs of the residents for the purpose of selling the photos for cash and/or drugs. The Refuge terminated the employee and reported the allegation to DFPS and the Bastrop County Sheriff's Office (BCSO). The subsequent investigation

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determined the employee had not taken or procured lewd photographs of the juveniles and furthermore did not obtain a pecuniary benefit. Texas Rangers identified all female juveniles staying at the Refuge while the employee suspect worked at the shelter. Twenty-seven interviews were conducted and of those, the only two individuals alleging criminal misconduct were two juveniles who took nude photos of themselves while claiming that an employee aided them in selling the photos online in October/November of 2021 (they reported the incident in January of 2022). The only residents who were not interviewed were four females who had run away from home and were still listed as missing and one resident who died suddenly in a vehicle crash while she was on release; moreover, there is no record these five individuals alleged abuse while at the Refuge.

The second incident occurred on February 20, 2022, when two residents fled the facility. The Refuge received an allegation that Refuge employees facilitated the escape. This was reported to DFPS and BCSO and the Refuge terminated two employees who were alleged to have facilitated the girls leaving the shelter. It is important to note that the Refuge is not a detention facility. It has neither barriers to keep residents within the shelter nor guards posted to maintain custody of the residents. Individuals can walk away without resistance at any time. There were two shelter residents reported as missing/runaway juveniles in February 2022. One resident was returned the same night by BCSO. The other resident was located by the Austin Police Department at a bus station ten days later. Of the five employees alleged to have participated in the runaway attempt: one was arrested for making a false statement to police during the initial investigation, one was terminated for administrative violations, one resigned, and two were cleared of wrongdoing.

In April of 2022, the Texas Rangers met with FBI Special Agents assigned to the FBI San Antonio Field Office and provided them a full briefing of the investigation. The FBI Special Agents advised that there was no evidence of a federal offense being committed at the Refuge and recommended a meeting with the U.S. Attorney's Office for the Western District of Texas.

On June 28, 2022, Texas Rangers met with Assistant U.S. Attorneys from Austin and Waco – along with FBI Special Agents from the Austin Resident Agency – to discuss an investigative partnership with the FBI. A complete copy of the investigative file was provided to the FBI.

The FBI and Texas Rangers interviewed the federal court monitors to ensure there were no outstanding investigative leads. The federal monitors reported they had no independent knowledge of the allegations and they had not conducted any interviews. They could not provide any information to corroborate any of the allegations that were discussed in previous hearings or in the DFPS letter. Their statements were based upon the third-party information provided to them in the March 10, 2022 DFPS letter.

The Honorable Greg Abbott  
Page 3

The Texas Ranger investigation did not identify any evidence that a Refuge employee engaged in criminal neglectful supervision, physical abuse, sexual abuse, promotion/possession of child pornography, or human trafficking of any child. All investigative information was presented to the Bastrop District Attorney's Office.

At the request of the District Attorney, Texas Rangers testified on August 9, 2022, and September 13, 2022, before a Bastrop County Grand Jury which declined to indict anyone.

Sincerely,



Steven C. McCraw  
Colonel/Director

cc: ✓ Chair Lois Kolkhorst, Senate Committee on Child Protective Services  
Vice Chair Charles Perry, Senate Committee on Child Protective Services  
Senator Brandon Creighton, Member, Senate Committee on Child Protective Services  
Senator Joan Huffman, Member, Senate Committee on Child Protective Services  
Senator Jose Menendez Member, Senate Committee on Child Protective Services  
Senator Borris Miles, Member, Senate Committee on Child Protective Services  
Senator Angela Paxton, Member, Senate Committee on Child Protective Services  
Chair James B. Frank, House Committee on Human Resources  
Vice Chair Gina Hinojosa, House Committee on Human Resources  
Representative Lacey Hull, Member, House Committee on Human Resources  
Representative Stephanie Klick, Member, House Committee on Human Resources  
Representative Thresa "Terry" Meza, Member, House Committee on Human Resources  
Representative Victoria Neave, Member, House Committee on Human Resources  
Representative Candy Noble, Member, House Committee on Human Resources  
Representative Toni Rose, Member, House Committee on Human Resources  
Representative Matt Shaheen, Member, House Committee on Human Resources  
Lieutenant Governor Dan Patrick  
Speaker Dade Phelan, Texas House of Representatives

## **APPENDIX 2: Links to Texas Agency Presentations**

### **March 17, 2022 Public Hearing**

- [Julie Lindsey, Manager, Health and Human Services, Texas Legislative Budget Board](#)
- [Jaime Masters, Commissioner, Texas Department of Family and Protective Services](#)
- [Cecile Young, Executive Commissioner, Texas Health and Human Services Commission and Jordan Dixon, Chief Policy and Regulatory Officer, Texas Health and Human Services Commission](#)

### **May 3, 2022 Public Hearing**

- [Jaime Masters, Commissioner, Texas Department of Family and Protective Services](#)
- [Theresa Thomas, Director, Texas Office of Community Based Care Transition](#)
- [Cecile Young, Executive Commissioner, Texas Health and Human Services Commission and Jordan Dixon, Chief Policy and Regulatory Officer, Texas Health and Human Services Commission](#)
- [Tamela Griffin, Acting Chief Financial Officer, Department of Family and Protective Services](#)
- [Trey Wood, Chief Financial Officer, Texas Health and Human Services Commission](#)

### **May 16, 2022 Public Hearing**

- [Jennifer Jones, Executive Director, Sunset Advisory Commission](#)
- [Dylan Moench, Director of Legal Representation, Supreme Court of Texas Children's Commission](#)

## APPENDIX 3: DFPS Implementation Summary

### Department of Family and Protective Services Implementation Summary of Senate Bill 11 (85R) – Additional Provisions

See: [https://www.dfps.state.tx.us/About\\_DFPS/Reports\\_and\\_Presentations/CPS/documents/2022/2022-05-03\\_Presentation\\_to\\_Senate\\_CPS\\_Committee.pdf](https://www.dfps.state.tx.us/About_DFPS/Reports_and_Presentations/CPS/documents/2022/2022-05-03_Presentation_to_Senate_CPS_Committee.pdf)

Section	Summary
Sections 1, 7	Adds "forcing or coercing a child to enter into a marriage" to the definition of child abuse. Policy updated.
Sections 2, 3	Requires guardian ad litem and attorney ad litem to ascertain that youth 16+ receive documents such as a birth certificate and a social security card. No updates to DFPS policy required.
Section 4	Requires DFPS to provide Health, Social, Educational, and Genetic History (HSEGH) report to each Child Placing Agency (CPA) and SSCC. Policy updated.
Section 5	Entitles a prospective adoptive parent to examine HSEGH report. Policy updated.
Section 6	DFPS must include in the HSEGH report that the birth mother consumed alcohol during pregnancy. Policy updated.
Section 8	Requires DFPS to collect and monitor data regarding repeating reports of abuse or neglect involving the same child in different households, different alleged perpetrators in the same household, or same perpetrator in different households. Completed.
Section 9	Adds allegations of exploitation in facilities to be investigated by Child Care Investigations (CCI). Completed.
Section 10	Clarifies that DFPS is responsible for investigations in child care facilities and Health and Human Services Commission (HHSC) is responsible for licensing. Policy updated.
Section 11	Requires the Texas Juvenile Justice Department to investigate abuse, exploitation, and neglect at their facilities. Policy updated.
Section 12	Requires automatic dismissal of a Suit Affecting Parental Child Relationship (SAPCR) be dismissed after one year, with a six-month extension for extraordinary circumstances. Policy updated.

Section	Summary
Section 13	Prohibits parties to a suit from extending the deadlines set by the court by agreement. No updates to DFPS policy required.
Section 14	Requires DFPS and SSCCs to notify STAR Health of a child placement change within 24 hours and requires STAR Health to notify the primary physician. Policy updated.
Section 15	Requires a child removed as a result of sexual assault or who has a chronic medical condition to receive a medical exam within three business days after the child is removed. Policy updated to require all children removed to receive a medical exam within three business days.
Section 16	Requires DFPS to conduct a Foster Parent Recruitment Study. Submitted and published to the DFPS public website on September 1, 2019.
Section 17	Requires DFPS to annually develop a Foster Care Capacity Needs Assessment. The last report was submitted and published to the DFPS public website on November 23, 2021.
Section 19	Grants for Faith-based Community Collaborative Programs. Administered by the Office of the Governor. No updates to DFPS policy required.
Section 20	Requires DFPS to collaborate with an institution of higher education to determine the effectiveness of Prevention and Early Intervention (PEI) services. Completed.
Section 21	Add requirements to the PEI Strategic Plan. Last report submitted and published on DFPS public website in September 1, 2021.
Section 23	<p>Functions of HHSC and DFPS:</p> <ul style="list-style-type: none"> <li>• Transfers Adult Protective Services (APS) provider investigations and child-care licensing and regulatory functions to HHSC.</li> <li>• Child Care Investigations remain at DFPS.</li> <li>• DFPS and HHSC perform the functions outlined in this section. Completed.</li> </ul>
Section 24	STAR Health Screening Requirement for Enrollee Under STAR Health Program HHSC and STAR Health MCO. No updates to DFPS policy required.
Section 25	<p>STAR Health Program: Notification of Placement Change.</p> <p>HHSC and STAR Health MCO. No updates to DFPS policy required.</p>

Section	Summary
Section 26	<p>Requires DFPS to:</p> <ul style="list-style-type: none"> <li>• Review its records retention policy;</li> <li>• Create the case management services vendor quality oversight and assurance division;</li> <li>• Create the Office of Data Analytics;</li> <li>• Adopt the definitions of abuse, neglect, and exploitation for CCI investigations; and</li> <li>• Provide ongoing Child Care Regulatory (CCR) Minimum Standards training to CCI investigators.</li> </ul> <p>Policies updated.</p>
Section 27	Requires DFPS to include incentives and penalties to residential contracts. Completed.
Section 28	Requires HHSC and DFPS to develop performance quality metrics for Family-Based Safety Services (FBSS) and post-adoption services. Policy updated.
Sections 29, 31, 32	Repeals references to DFPS Child Care Licensing (CCL) definitions. Policy updated.
Section 30	Requires a Child Placing Agency (CPA) to ensure that children in DFPS conservatorship receive a complete Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) screening. Policy updated.

### APPENDIX 3: DFPS Implementation Summary

#### Department of Family and Protective Services Implementation Summary of Senate Bill 1896 (87R) – Additional Provisions (non-Community-Based Care provisions).

Section	Summary
Section 1	Requires the court to verify a kinship placement was offered the opportunity to become verified by a licensed placement agency to qualify for permanency care assistance before entering a final order. Policy updated.
Section 2	Allows SSCC employees to supervise children in Children Without Placement (CWOP) status. Change in practice implemented and policy revision to support practice is underway.
Section 3	Prohibits DFPS from allowing a child to stay overnight in a DFPS office. Ongoing.  Lessens employment restrictions to allow single parents to participate in treatment foster care, expands eligible population to include children age 10 years old and older, and requires a transition plan from treatment foster care to be developed within 30 days. Policy updated.
Section 4	Mentors for Foster Children. Internal and external stakeholders are meeting to draft the report regarding the feasibility of a volunteer mentor program. Due December 31, 2022.
Section 13	Requires HHSC to annually evaluate the use of benefits under the STAR Health Program. No updates to DFPS policy required.
Section 14	Deletes requirements for child-specific contracts for CWOP to be reported to the Office of the Comptroller through the vendor reporting system. Policy updated.
Section 15	For certain procurements, DFPS is considered a health and human services agency. Complete.
Section 16	Requires DFPS to eliminate paper files by September 2023.  IT is working with CPS to prioritize business needs. APS, CPI, CCI/RCCI in compliance.
Section 17	State Auditor Review of Contracts. Complete.
Section 18	Qualified Residential Treatment Program (QRTP) Pilot <ul style="list-style-type: none"> <li>On April 1, 2022, DFPS published an open enrollment opportunity for licensed GROs to become contracted QRTP Providers.</li> </ul>

Section	Summary
Section 19	CLASS Access for DFPS staff. DFPS staff have access to CLASS and HHSC staff have access to IMPACT.
Sections 20, 23, 28	Requires HHSC to adopt a model suicide prevention, intervention, and post-prevention policy. No updates to DFPS policy required.
Section 21	<p>Identifying At-Risk Providers</p> <ul style="list-style-type: none"> <li>• The DFPS Data and Analytics team created a Residential Foster Care Risk Tool which generates a risk score for residential foster care operations based primarily related to child safety.</li> </ul>
Section 22	Prohibits disciplinary actions on a facility that makes substantial efforts to hire a qualified administrator. No updates to DFPS policy required.
Section 24:	Requires DFPS to a strategic plan improving education outcomes for children in a GRO. Data sharing template between the Texas Education Agency (TEA) and DFPS was created April 2022.
Sections 25, 32	Allows HHSC to issue Provisional Child Care Licenses. No updates to DFPS policy required.
Section 27	Requires HHSC, in collaboration with DFPS, to review Centers for Medicare and Medicaid Services' Integrated Care for Kids Model. No updates to DFPS policy required.
Section 29	Requires DFPS to review options of conducting independent reviews of investigations of licensed residential child care facilities, and independent appeals for determinations for those investigations. Administrative Review of RCC Facilities. CCI will move their interval review team to the Office of Accountability and Internal Affairs by May 30, 2022.
Section 30	Requires DFPS to conduct a study to extend Permanency Care Assistance. In progress. Report due on December 31, 2022.
Section 31	<p>Transition FBSS to evidence-based programs.</p> <ul style="list-style-type: none"> <li>• Waiting for information from the pilots in HB 3041 (87R) and the study in SB 910 (87R) to help inform available options for transitioning FBSS to evidence-based programs.</li> </ul>
Section 33	Maximizing Federal Chaffee Funds



Section	Summary
	<ul style="list-style-type: none"> <li>• DFPS contracted with the Texas Alliance of Child and Family Services and Monarch Family Services to roll-out funding for current and former foster youth aged 18-27.</li> <li>• Utilizing Preparation for Adult Living (PAL) Aftercare Case Management contractors to roll out funding to out-of-care young adults aged 18-21.</li> <li>• Rolling out a job training and internship program with transition centers in Regions 7 and 10. This may include Memorandum of Understanding (MOU) with the Texas Workforce Commission.</li> <li>• Work with Texas State University to establish a paid internship and leadership development program.</li> <li>• DFPS met with Children's Health Reese-Jones Clinic in Dallas, to discuss possible supports and programs targeting foster youth mental and physical health needs.</li> <li>• DFPS instructed Transition Support Contractors to provide \$750 Pandemic Relief Payments to young adults enrolled in Post-Transition Support Services.</li> </ul>

## APPENDIX 4: Summary of Major External Reports

### Summary of Previous External Reviews of DFPS and Community-Based Care

Date	Report	Key Findings/Recommendations
April 2014	<a href="#">Stephen Group – DFPS CPS Operational Review</a>	<ul style="list-style-type: none"> <li>- Staff spends only 26% of time with children/families</li> <li>- Cases remain open too long</li> <li>- Culture: staff working under stress and fear of penalties, metrics used to discipline workers, staff not empowered to make decisions</li> <li>- Safety and risk assessment tools are mere formalities</li> <li>- IT is inefficient and demands considerable time and resources away from core functions</li> <li>- High turnover</li> <li>- Insufficient staff training</li> <li>- Agency budgeting is "ad hoc and not transparent"</li> </ul>
April 2014	<a href="#">University of Texas and Casey Family Programs Foster Care Redesign Report</a>	<ul style="list-style-type: none"> <li>- Give redesign ample time to work; change in outcomes takes time</li> <li>- Financial solvency is crucial – "if agencies are not fairly compensated, there is a risk of losing agencies and agencies losing foster parents" (p. 55)</li> <li>- IT issues hindered implementation; SSCC inability to access IMPACT was a major problem</li> <li>- Lack of sufficient service capacity in redesign regions</li> <li>- Lack of sense of partnership; relationship was that of a contractor and grantee with a perception among stakeholders that DFPS had difficulty yielding control to communities—led to a lack of trust</li> </ul>
September 2014	<a href="#">Public Consulting Group Cost Analysis Report</a>	<ul style="list-style-type: none"> <li>- DFPS and SSCCs have different understandings of costs covered by resource transfers</li> <li>- Overlap of administrative and operational tasks between DFPS and SSCCs</li> <li>- Lack of clarity of expectations for SSCCs</li> </ul>
2015	PDF Group LLC - Process evaluation of FCR Region 3B - <a href="#">referenced in Rider 29 (2015) FCR report</a>	<ul style="list-style-type: none"> <li>- <u>Funding Model</u>: DFPS limited transfer of resources—added new functions Legacy system was not performing without funding</li> <li>- <u>Cultural Change</u>: DFPS needs a "large cultural shift" in how service delivery is supported including on access to the case management system (IMPACT) and residential childcare licensing information system (CLASS), data transfers between DFPS and SSCC data systems, categorization of paid services, and communications between Licensing and the SSCC areas.</li> <li>- <u>Reform Data Access</u>: IMPACT cited as barrier to implementation: Inadequate provider access and search</li> </ul>

Date	Report	Key Findings/Recommendations
		capabilities; permissions required to add data to system; and inadequate technology to automate data entry.
February 2015	<a href="#">Sunset Advisory Commission Review</a>	<ul style="list-style-type: none"> <li>- High turnover</li> <li>- DFPS characterized by a "crisis culture"</li> <li>- Staff spends only 26% of time with children and families</li> <li>- Lack of "long-range foster care redesign implementation plan to guide the agency's transition efforts"</li> <li>- Lack of sufficient data to accurately assess risk and quality of services provided</li> <li>- Better focus on prevention</li> </ul>
April 2016	<a href="#">Perryman Group – Economic Implications of Foster Care Redesign</a>	<ul style="list-style-type: none"> <li>- Redesign initially costly, but estimated long-term benefits of \$3.44 in revenue generated for every \$1 spent by the state</li> <li>- Reduction of maltreatment and better care for kids connected to improvement in development, productivity, and lifetime earnings for children in foster care</li> <li>- Region 3B exceeded performance measures at time report was published</li> </ul>
January 2019	<a href="#">Chapin Hall Stage II Start-up Costs Report</a>	<ul style="list-style-type: none"> <li>- Analyzed and estimated actual costs for starting up a new region under CBC</li> <li>- Total estimated start-up budget for Region 3B was \$3,611,188.42 or \$7.20 per care day</li> </ul>
March 2019	<a href="#">Chapin Hall Blended Rate Report</a>	<ul style="list-style-type: none"> <li>- Lack of service levels in CBC model make it difficult to apply the historic blended rate to each catchment area</li> <li>- Blended rate allows system to move closer to value-based purchasing strategies similar to what is seen in health care</li> <li>- Difficult to apply statewide blended rate to catchment areas—result will fall above or below actual cost of care for catchment</li> <li>- Building a catchment-area specific blended rate is challenging because "the state no longer requires the use of or tracks service levels for children through IMPACT"</li> <li>- shift away from service levels was done to better align SSCC performance with improvements in child well-being, but takes away the ability for DFPS to identify and compensate for service levels used</li> <li>- "Deep structural change requires time, patience, and a learn-as-you-go approach" (p. 12)</li> </ul>
April 2019	<a href="#">Meadows Mental Health Policy Institute &amp; Texas Center for Child and Family Studies Foster Care Rate Analysis and</a>	<ul style="list-style-type: none"> <li>- Provide more transparency to stakeholders around the rate setting process for legacy and CBC rates</li> <li>- Change level of need categories; incorporate this into the rate setting process</li> <li>- Monitor actual foster care organization costs compared to rates and increase cost reporting</li> <li>- Implement an enhanced risk corridor for the SSCC blended</li> </ul>

Date	Report	Key Findings/Recommendations
	<a href="#">Rate Setting Leading Practices</a>	<ul style="list-style-type: none"> <li>rate</li> <li>- Enhance implementation of legacy foster care financial incentives and penalties</li> <li>- Credential as many child-placing agencies as possible as providers of Medicaid rehabilitation, targeted case management, and YES waiver services</li> <li>- Rates for case management should reflect all costs and are sensitive to risk-related factors</li> </ul>
November 2020	<a href="#">Texas Tech – Community-Based Care Process Evaluation</a>	<ul style="list-style-type: none"> <li>- CBC effort is "Central-Office-centric;" should be driven by local communities</li> <li>- Lack of clarity and specificity regarding contract expectations and responsibilities</li> <li>- Funding model lacks necessary data and understanding of actual costs of care; funding model should account for risk sharing</li> <li>- Evaluation process lacks transparency and accountability</li> </ul>
February 2021	<a href="#">Public Consulting Group Foster Care Rate Methodology Report</a>	<ul style="list-style-type: none"> <li>- Current rates do not clearly align to cost of care</li> <li>- Rate level system that fluctuates based on service level creates fiscal challenges; does not incentivize/reward providers for improving outcomes</li> <li>- Rate development process is primarily retrospective</li> <li>- CBC rate calculations mix retrospective costs of legacy system with forecasted payments</li> <li>- Overreliance on fundraising by providers to support contract requirements</li> <li>- Lack of financial incentives and accountability in rates</li> <li>- Recommendations: <ul style="list-style-type: none"> <li>o Involve stakeholders/communities in all stages of the process</li> <li>o Identify defined foster care program models to implement</li> <li>o Develop an appropriate assessment tool for programs</li> <li>o Amend or develop new contracting requirements</li> <li>o Update or amend current billing infrastructure/practices</li> </ul> </li> </ul>
<b>June 2021 ONGOING</b>	<a href="#">HHSC/ DFPS Foster Care Rate Modernization</a> University of Texas-Texas Institute for Child & Family Wellbeing	<ul style="list-style-type: none"> <li>- 2022-23 General Appropriations Act, Senate Bill 1, 87th Legislature, Regular Session, 2021 (Article II Special Provisions Relating to All Health and Human Services Agencies, Section 26)</li> <li>- Ongoing Development of new Foster Care Rates for DFPS Legacy System</li> </ul>

Date	Report	Key Findings/Recommendations
January 10, 2022	<a href="#"><i>M.D. v. Abbott</i></a> <a href="#">Expert Panel Report</a>	<ul style="list-style-type: none"> <li>- Lack of clear, guiding principles for work of agency</li> <li>- Prolonged implementation timeline for CBC</li> <li>- Culture: providers and foster families feel relationship with DFPS is unnecessarily burdensome and punitive</li> <li>- Contracting system focused on process rather than outcomes and quality</li> <li>- Outdated funding model</li> <li>- Lack of sufficient services for children, esp. mental health</li> <li>- Underutilization and lack of support for kin caregivers</li> <li>- Services focused on symptoms rather than needs (reactionary culture)</li> </ul>

## APPENDIX 5: Selected Public Written Testimony

Below is public written testimony submitted to the Texas Senate Special Committee on Child Protective Services referenced in the report footnotes.

**From:** [Carrie D. Wilcoxson](#)  
**To:** [Kimberly Robertson\\_SC](#)  
**Cc:** [Carrie D. Wilcoxson](#)  
**Subject:** Senate Committee Hearing on Child Protective Services  
**Date:** Monday, May 16, 2022 3:29:00 PM  
**Attachments:** [DFPS ARIF 2010-2020\[230111\].pdf](#)  
[Senate Committee Hearing on Child Protective Services Questions.docx](#)

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Dear Ms. Robertson,

I am a former CPS night investigator (P1 and child deaths). For the past twelve years I have dedicated my time to cps reform efforts and helping to educate families on critical cps policies and procedures and system navigation as well as drafted a number of legislative bills, now law and cps polices and procedures that the department refuses to follow. Additionally, I own a CPS Case Consultation business in where I consult on cps cases for both....parents and attorneys throughout Texas. I consult on cps cases on the daily for over a decade.

I have attached critical data that is the only data available that helps us to really know how many times we are getting an investigative finding wrong. This is significant because this is the same workforce and workmanship effecting child removals. We are getting it wrong nearly 50 percent of the time. That is a problem at the cost of taxpayers dollars and at the cost of a child and family well-being. This is not data available in the datebook. It was obtained from the department via public inquiry and frankly, an individual would have to truly understand the flow of cases and the system to even know to request it.

If you have questions about it, please let me know. My cell, [REDACTED]

I have also attached sheet with questions for members.

Please let me know if you have any questions.

Thank you for your time and service.

Respectfully,

Carrie Wilcoxson

*Written Testimony attached to correspondence from Carrie Wilcoxson, including external data provided by the Department of Family and Protective Services to Ms. Wilcoxson.*

## Senate Committee Hearing

May 3, 2022

I am providing your office with the DFPS ARIF data 2020 which was obtained last session via public inquiry. Your office may wish to request it again if you feel you need to. However, what I have provided is significant because it is the only data, we have that helps us to know how many cases and children and families are involved in the system legitimately, meaning based on statutory criteria and state policy. Ultimately, it changes the expectations of SB11 and future state child welfare needs assessments and budget requests. Most are unaware of it and most do not wish to acknowledge due to its implications we have been over funding the state system from start to end along with provider funding. However, one way to view this data is it allows us to make adjustments, drive down case capacity in all stages, and be able to provide real, quality services to children and families in all stages of the system.

With SB 11 we were unaware of the error rate around CPS investigations contained in the Administrative Review of Investigative Findings Data 2020, when we passed SB 11. We essentially created a force-feeding system around removals with contracted foster care agencies who then have no legal pathway to address concerns they may have over the legitimacy of the Removal versus the department who at least has the authority to reassess and potentially locate family members much later, in fact years later. \*Legitimacy- meaning was the removal statutorily correct. When Tapestry (Region 8) was open, I received communication from executive leadership that they thought some removals should **not** have occurred and/or at very least family placement was not fully exhausted or utilized especially around older youths.

Is the department aware of such data? I sent to Commissioner Masters via email about a year ago.

Do committee members understand the value of this Data and the its impact?

Does the department under the value and impact of such data?

What is the department doing to address the statistically significant error rate of their Investigation Findings in where the same workforce and workmanship is used to effect child removals? (If you study the data, you will notice two levels for a parent to appeal findings: at first level an average of 32.2% are overturned and at the second level an average of 30% so we might be able to state over 50% of the CPS Investigation Findings are overturned. Until folks understand this and care, we are wrecking families and potentially placing anywhere from 5,500 to 10,200 children in care wrongfully each year. That is huge!

The question to ask about the data is 'of the second level of appeals' looking at the Office of Consumer Relations (chart 5 of data), how many of those requested appeals in second level are from those original requests that were not overturned? Because if so, then the error rate is closer to 50%.

Also, all individuals who receive a validation of abuse or neglect are eligible for an informal appeal, so that is nearly 35,000 a year however, we only see an average of 900 for past decade. Why? Your office passed legislation last session that enhanced the notification process. Is this being done? The number of written notification forms should match the number of investigative interviews, if not.....they are not following law and again we have a system that is overburden with unwarranted investigations leading to potentially wrongful/unwarranted placements.

What is the current authority of contracted foster care agencies around identified placement legitimacy or issues? By legitimacy I mean statutorily warranted child removals.

SB 1896—made it illegal to place children in hotel rooms however, this is still happening. Why is the department not being held accountable through sanctions?

How can a parent who is later reunified seek sanctions for harm of their child while in foster care?

Why isn't the department being sanctioned within the judicial process when infractions are identified?

The department utilizes a Risk Assessment Tool to assess a child's risk. Why hasn't the department figured out how to identify, support, and utilize older youths' protective capabilities to avoid removals and potential CWOPS. Using the Department's own risk assessment tool an older youth will rank lower generally speaking on risk concerns due to age and capacity to self protect. Why are we removing children who are able to protect themselves better than a toddler or much younger child or at very least not placing with a family/friend? Speaks to CWOPS.

Additionally, what is the Department's current breakdown for 2017's legislative changes to 264.754 for low-risk criminal offenses and non-violent criminal offenses for potential kinship caregivers? We changed legislation in 2017 around criteria for caregiver/kinship placements. DFPS policy interprets the new legal changes in its Policy # 6624 and appendix 4524, chart 3. Is it reasonable or too rigid? As a consultant for families with CPS cases, these efforts are utilized enough to avoid placing a child in care versus a home.

How many family-based safety services cases result in removals? What is the length of time those cases are open on average before the Removal? I often see the family-based Safety Services cases delay in linking resources by 3-4 months and eventually the family tires with the safety plan and matters will begin to frustrate and escalate leading to safety plan break downs and removals.

Why aren't investigators trained on local community resources and why aren't resources being linked immediately when identified so to avoid delay in services needed and prevention of case failure leading to removals?

Is the department able to produce data that would show the length of time between initial contact with a family and initial resource referral?

On the judicial level, since the data for investigations findings overturn rate is at an average rate of 32.2 percent potentially much higher, with only 2.6 percent of eligible persons taking advantage of the



appeal process, how are we ensuring the judicial level is also not making such mistakes and permitting child removals wrongfully perhaps through practices of giving deference to the department over evidential standards?

How much time does a parent have with a court appointed attorney to prep prior to the 262, Full Adversarial Hearing?

How are we ensuring parents are being heard through the current legal process if court appointed attorneys are not meeting with client and prepping for 262 appropriately? My experience is parents meet with attorney for minutes to prep for the initial child abuse removal hearing, 262 Hearing.

Children have a CASA volunteer atop of their attorney, why doesn't the parent have similarly beyond the court appointed attorney like what I do for instance? I am able to inform parents of the critical policies and procedures around a case as well as assist in creating evidential outlines.

Sanctions. How often is the department and its caseworkers sanctioned for not following state law?

A good question to ask is..... Senator Miles helped passed notifications of right to record and right to appeal both verbally and in writing. The written form is to be filed in the case file... how many of those have been done and filed versus how many investigations have taken place since new law went into effect. Are the numbers matching? If not, why?

How do we make the department follow the law? Lacking checks and balances and accountability.

How many judges are verifying that federal law and state law around a parent's Family Plan of Service (legal document) are being followed? Both federal and state law mandates the department **must confer** with a parent to develop the legal family plan of services for their legal case. As a consultant for parents, I know this not to be happening. Rather, the department is prescribing service tasks with very specific resource entities that they are contracted with therefore, removing the individual's personal investment and creating contention from the onset that often times leads to failure of services and ultimately, termination of parental rights and judges never ask the parent if they had a say in the development of their own legal family plan of services.

Does the department and its representatives (caseworkers) view themselves as public servants to the children and families of this state?

Is the department and its frontline caseworkers aware their salaries are paid by taxpayers?

As public servants, do they follow an uphold Texas state laws around their work?

Are they aware of instances where the department and its representatives (caseworkers) violate state laws?

Are there caseworkers trained on state laws that govern their work?

Are they implementing new state laws on notifications of right to record and write to appeal both verbally and written? If so, do the number of written forms that they have obtained match the number of investigation interviews? As a consultant on these cases throughout the state I can tell you that this is not happening.

Are they aware of the overturn rates of investigative findings throughout the state? I will share with you personally that I emailed commissioner Masters a year ago with the data and an email offering to meet to discuss and review the data so that adjustments in training could be made, no response.

What is their understanding of that ARIF data and its implications around child removals and placements?

Would it be fair to say that over the past decade foster care leaders and representatives have been overreaching in their budget requests based on ARIF data? If so, that means that such funding can then make its way upstream to prevention and family preservation services where we can help Texas families stay together and prevent abuse and neglect where needed.

1) An ARIF before a release is a review (tab 1) and is done on a case that is slated before the State Office of Administrative Hearings (SOAH). In preparation for that SOAH, the attorney may reach out and ask the Department of Family and Protective Services (DFPS) to review the case if they feel the findings are not correct. It's called a Legal Factual and Sufficiency Review. It is handled as a desk review of the case record. There is no meeting with the client.

2) An investigation ARIF (tab 2) is an appeal request made directly from the client who has the Reason To Believe (RTB) findings against them. At the close of their investigations, they are sent a Notice of Findings. Attached with the notice is a form to request an appeal if they have RTB findings. This is a review that involves a meeting with the client where they are able to present subsequent evidence as to why they feel the findings are wrong. At the end of this review, if DFPS decides to uphold the findings, the client then has the opportunity should they choose for a second appeal through the Office of Consumer Relations (OCR) who will also conduct a review of the case and make a decision whether or not to uphold or overturn the findings.

3) The preponderance review (tab 3) is a review where the request comes from the Centralized Background Check Unit (CBCU) and only applies to clients who have had a formal background check (i.e. for employment in a licensed facility, adoption, they want to be a field trip supervisor for their child's school etc.) and the client has an RTB finding from prior to 1999 when the preponderance standards for an RTB were different. DFPS conducts a desk review of the case to determine if the evidence documented meets the standard at the time. The client is not involved in this review and the results are sent back to the CBCU. Depending on the type of background check it was, the client may then be offered a SOAH but not always.

The Release Process category is selected in an ARIF (Administrative Review of Investigation Findings) stage after a client has had a SOAH (State Office Administrative Hearing) and a decision regarding whether to uphold/sustain or overturn the investigation findings is made by an Administrative Law Judge. There are specific criteria from CBCU (Centralized Background Check Unit) as to what types of background checks prompt offers for a SOAH to a client. If a client is offered a SOAH, and requests that a hearing proceed, it could take up to a year before that case is heard in court. Once a hearing is completed, a judge has 30 days to render a formal decision and then DFPS or the client, depending on the outcome, has 30 days to file an appeal. Once all of that time has expired, an ARIF stage is opened to enter that legal decision under the category "Release Process". If the findings were upheld by the judge, the client's status changes to "Sustained Perpetrator", and the information can then be release publicly if requested through future background checks. When the information from the SOAH process is entered into IMPACT, the ARIF stage is typically opened and closed on the same day.

An OCR (Office of Consumer Relations) review is a second appeal option available to clients who have gone through the ARIF process (not SOAH), conducted by a Resolution Specialist, where the decision was made to uphold the original findings. The client has 30 days to make that request from the time they receive their notice of the Administrative Review results. If the findings are upheld, a closed stage addendum contact is entered in the case, noting that a second review was done by OCR and the findings remained upheld. If the findings are overturned, an ARI stage is opened in IMPACT in order to enter that information and make the appropriate changes in the case. This is also done by the Resolution Specialist, and the ARIF stage is opened and closed on the same day.

Breakdown of Administrative Review Cases\* Statewide by Type of Review - Calendar Years 2010 - 2020

Calendar Year	ARIF Before Release Hearing	FPS Position Upheld	Waived / Withdrawn	Not Entitled	FPS Position Changed	Position Changed %	Overtuned to Ruled Out <sup>1</sup>	Overtuned to Undetermined <sup>2</sup>	Administratively Closed	Dispositions Not Updated <sup>3</sup>
2010	57	17	1	7	32	56.1	19	13	1	0
2011	73	27	1	0	45	61.6	12	36	0	0
2012	334	86	5	1	242	72.5	95	203	4	0
2013	295	66	8	1	220	74.6	75	196	4	0
2014	279	63	8	1	207	74.2	83	169	8	1
2015	280	42	9	3	226	80.7	84	192	5	0
2016	221	41	3	1	176	79.6	66	131	4	0
2017	207	18	2	1	186	89.9	70	152	7	1
2018	257	29	1	0	227	88.3	93	182	6	1
2019	128	10	0	0	118	92.2	47	91	4	0
2020	158	14	4	3	137	86.7	71	96	2	1

\*Counts are by stages, as some cases could have multiple ARIFs associated.

Note: Administrative reviews are specific to a combination of perpetrator, victim, and allegation. The DFPS position can change on one allegation and not another as a result of the review. Therefore the overall disposition of an investigation can remain Reason to Believe if any allegation in the investigation remains with a finding of Reason to Believe.

FPS Position Changed (Column F) is defined as "All Reason To Believe Allegations against the Perpetrator were Overtuned"

- 1 - Overtuned to Ruled Out means that one of the FPS Position Changed disposition of allegations against a perpetrator were overtuned from RTB to R/O
- 2 - Overtuned to Undetermined means that one of the FPS Position Changed disposition of allegations against a perpetrator were overtuned from RTB to UTD
- 3 - ARIF Result is "FPS Position Changed", however, the disposition for the overtuned allegation stage has not been updated in the system.

Calendar Year 2020 as of August 26, 2020

Breakdown of Administrative Review Cases' Statewide by Type of Review - Calendar Years 2010 - 2020

Calendar Year	Investigation	FPS Position Upheld	Waived / Withdrawn	Not Entitled	FPS Position Changed	Position Changed %	Overtuned to Ruled Out <sup>1</sup>	Overtuned to Undetermined <sup>2</sup>	Administratively Closed	Dispositions Not Updated <sup>3</sup>
2010	563	258	34	119	152	27.0	73	116	1	0
2011	719	320	59	157	243	31.2	123	172	7	4
2012	792	273	113	178	228	28.8	99	187	4	1
2013	975	317	155	242	261	26.8	106	202	5	4
2014	1,012	265	175	250	322	31.8	122	263	7	3
2015	1,112	327	160	273	352	31.7	164	264	10	3
2016	1,146	335	141	246	424	37.0	250	245	8	1
2017	1,149	325	224	257	343	29.9	185	234	12	1
2018	1,362	340	276	307	439	32.2	204	315	9	2
2019	1,339	335	385	209	410	30.6	235	244	10	3
2020	796	189	239	111	257	32.3	127	159	14	6

<sup>1</sup>Counts are by stages, as some cases could have multiple ARIF's associated

Note: Administrative reviews are specific to a combination of perpetrator, victim, and allegation. The DFPS position can change on one allegation and not another as a result of the review. Therefore the overall disposition of an investigation can remain Reason to Believe if any allegation in the investigation remains with a finding of Reason to Believe.

FPS Position Changed (Column F) is defined as "All Reason To Believe Allegations against the Perpetrator were Overtuned"

- 1 - Overtuned to Ruled Out means that one of the FPS Position Changed disposition of allegations against a perpetrator were overtuned from RTB to R/O
- 2 - Overtuned to Undetermined means that one of the FPS Position Changed disposition of allegations against a perpetrator were overtuned from RTB to UTD
- As such, a FPS Position Changed can have multiple RTB allegations against a perpetrator(s) that can be overtuned to R/O and/or UTD in the same Review
- 3 - ARIF Result is "FPS Position Changed", however, the disposition for the overtuned allegation stage has not been updated in the system

Calendar Year 2020 as of August 26, 2020

Breakdown of Administrative Review Cases` Statewide by Type of Review - Calendar Years 2010 - 2020

Calendar Year	Preponderance Review	FPS Position Upheld	Waived / Withdrawn	Not Entitled	FPS Position Changed	Position Changed %	Overturned to Ruled Out <sup>1</sup>	Overturned to Undetermined <sup>2</sup>	Administratively Closed	Dispositions Not Updated <sup>3</sup>
2010	241	158	2	5	76	31.5	23	48	0	10
2011	246	163	3	1	79	32.1	22	49	0	14
2012	254	110	2	3	139	54.7	43	101	1	17
2013	255	98	5	3	149	58.4	60	85	2	20
2014	211	80	7	2	122	57.8	45	75	3	23
2015	206	81	7	0	118	57.3	43	66	1	20
2016	189	69	3	1	96	56.8	37	62	3	10
2017	193	56	14	0	123	63.7	40	76	1	15
2018	172	89	4	2	77	44.8	29	36	3	14
2019	166	65	2	1	98	59.0	63	29	1	11
2020	59	15	2	1	41	69.5	20	20	1	2

\*Counts are by stages, as some cases could have multiple ARIF's associated.

Note: Administrative reviews are specific to a combination of perpetrator, victim, and allegation. The DFPS position can change on one allegation and not another as a result of the review.

Therefore the overall disposition of an investigation can remain Reason to Believe if any allegation in the investigation remains with a finding of Reason to Believe.

FPS Position Changed (Column F) is defined as "All Reason To Believe Allegations against the Perpetrator were Overturned"

- 1 - Overturned to Ruled Out means that one of the FPS Position Changed disposition of allegations against a perpetrator were overturned from RTB to R/O
- 2 - Overturned to Undetermined means that one of the FPS Position Changed Disposition of allegations against a perpetrator were overturned from RTB to UTD
- As such, a FPS Position Changed can have multiple RTB allegations against a perpetrator(s) that can be overturned to R/O and/or UTD in the same Review
- 3 - ARIF Result is "FPS Position Changed", however, the disposition for the overturned allegation stage has not been updated in the system.

Calendar Year 2020 as of August 26, 2020

Breakdown of Administrative Review Cases\* Statewide by Type of Review - Calendar Years 2010 - 2021

Calendar Year	Release Process	FPS Position Upheld	Waived / Withdrawn	Not Entitled	FPS Position Changed	Position Changed %	Overturned to Ruled Out <sup>1</sup>	Overturned to Undetermined <sup>2</sup>	Administratively Closed	Dispositions Not Updated <sup>3</sup>
2010	139	113	5	0	21	15.1	14	10	0	1
2011	247	187	13	0	47	19.0	35	17	0	0
2012	455	322	20	1	112	24.6	98	30	1	0
2013	441	329	6	0	106	24.0	86	30	0	0
2014	332	256	10	0	66	19.9	57	19	3	1
2015	237	173	7	0	57	24.1	54	9	0	0
2016	196	134	18	1	43	21.9	37	17	1	0
2017	143	108	10	0	25	17.5	23	4	0	0
2018	103	80	5	0	18	17.5	13	7	0	0
2019	69	53	3	1	12	17.4	8	6	0	0
2020	19	12	1	0	6	31.6	4	2	0	0

\*Counts are by stages, as some cases could have multiple ARIFs associated.

Note: Administrative reviews are specific to a combination of perpetrator, victim, and allegation. The DFPS position can change on one allegation and not another as a result of the review.

Therefore the overall disposition of an investigation can remain Reason to Believe if any allegation in the investigation remains with a finding of Reason to Believe.

FPS Position Changed (Column F) is defined as "All Reason To Believe Allegations against the Perpetrator were Overturned"

1 - Overturned to Ruled Out means that one of the FPS Position Changed disposition of allegations against a perpetrator were overturned from RTB to R/O

2 - Overturned to Undetermined means that one of the FPS Position Changed Disposition of allegations against a perpetrator were overturned from RTB to UTD

As such, a FPS Position Changed can have multiple RTB allegations against a perpetrator(s) that can be overturned to R/O and/or UTD in the same Review

3 - ARIF Result is "FPS Position Changed", however, the disposition for the overturned allegation stage has not been updated in the system.

Calendar Year 2020 as of August 26, 2020

Breakdown of Administrative Review Cases\* Statewide by Type of Review - Calendar Years 2010 - 2020

Calendar Year	Office of Consumer Relations	FPS Position Upheld	Waived / Withdrawn	Not Entitled	FPS Position Changed	Position Changed %	Overturned to Ruled Out <sup>1</sup>	Overturned to Undetermined <sup>2</sup>	Administratively Closed	Dispositions Not Updated <sup>3</sup>
2010	16	8	0	0	8	50.0	5	8	0	0
2011	22	13	0	0	9	40.9	7	8	0	0
2012	18	12	0	0	6	33.3	4	4	0	0
2013	26	17	0	0	9	34.6	5	9	0	0
2014	37	28	0	1	8	21.6	3	6	0	0
2015	33	26	0	0	7	21.2	4	5	0	0
2016	33	28	0	0	5	15.2	3	1	1	0
2017	31	21	0	0	10	32.3	5	6	0	0
2018	31	18	0	0	13	41.9	12	13	0	0
2019	31	26	0	0	5	16.1	2	4	0	0
2020	28	20	0	0	8	28.6	5	6	0	0

\*Counts are by stages, as some cases could have multiple ARIF's associated.

Note: Administrative reviews are specific to a combination of perpetrator, victim, and allegation. The DFPS position can change on one allegation and not another as a result of the review.

Therefore the overall disposition of an investigation can remain Reason to Believe if any allegation in the investigation remains with a finding of Reason to Believe.

FPS Position Changed (Column F) is defined as "All Reason To Believe Allegations against the Perpetrator were Overturned"

- 1 - Overturned to Ruled Out means that one of the FPS Position Changed disposition of allegations against a perpetrator were overturned from RTB to R/O
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- As such, a FPS Position Changed can have multiple RTB allegations against a perpetrator(s) that can be overturned to R/O and/or UTD in the same Review
- 3 - ARIF Result is "FPS Position Changed", however, the disposition for the overturned allegation stage has not been updated in the system.

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**For Office of Consumer Relation (OCR) Reviews,  
the Average Amount of Time Between When the  
OCR Review Was Requested and When the OCR  
Review Process Was Concluded.**

<b>Calendar Year</b>	<b>OCR Reviews</b>	<b>Average Days</b>
2010	16	14.3
2011	22	20.2
2012	18	2.7
2013	26	0.7
2014	37	0.0
2015	33	1.5
2016	33	0.0
2017	31	0.3
2018	31	0.9
2019	31	0.6
2020	28	0.0

Calendar Year 2020 as of August 26, 2020

For Office of Consumer Relation (OCR) reviews, the date the review is requested and the date the review is concluded are often on the same day.