



TACFS SUNSET RECOMMENDATIONS

The Texas Department of Family and Protective Services (DFPS) and Health and Human Services Commission (HHSC) work to ensure that children and families in Texas receive essential services. These services throughout a variety of programs exist to equip families to prevent abuse and neglect, to heal victims after abuse or neglect occurs, to ensure the safety and wellbeing of children, and to sustain Texas families, whenever safe to do so. Private foster care providers are the cornerstone of the Texas child welfare system, managing more than 90% of foster care capacity and services. The Texas Alliance of Child and Family Services (“The Alliance”) is comprised of nearly 200 members, who deliver direct care to children and families statewide. The Alliance has members who focus on:

- Primary prevention, to prevent abuse and neglect from occurring by helping to equip families with the skills and basic needs to stay safely together;
- Family preservation, after abuse or neglect has occurred, to help heal families, provide education to parents, deliver critical evidence-based services (including mental and behavioral health services), and support families after they have reunified or found legal permanency;
- Foster care services, including traditional foster homes, residential treatment, adoption, kinship care, Community-Based care, and much more;
- Mental and Behavioral health services, including psychiatric care and other Medicaid-eligible services;
- Other support services, such as technology, healthcare, and more.

These member organizations represent innumerable years of experience in the Texas child welfare system and deliver the vast majority of frontline services for system-involved children and families. They are licensed professionals and caregivers who have dedicated their careers and lives to serving the most vulnerable Texans. In light of the incredible experience and institutional knowledge of its’ members, The Alliance is proud to offer the enclosed recommendations and information for consideration by the Texas Sunset Commission.

As the Sunset Commission examines both DFPS and HHSC and the roles these agencies play in serving children and families, it's important to keep in mind the external factors and vast evolution of the Texas child welfare system over the past several years. Among other changes:

- Texas has been in the process of implementing Community-Based Care (CBC) since 2017. This model utilizes Single-Source Continuum Contractors (SSCCs) located in regions around the state to provide local, community-based services for the placement and case management of children in the foster care system. CBC is also responsible for some family-preservation services, adoption services, and more. An estimated 75% of children in Texas foster care no longer have a DFPS caseworker but are served by SSCC workers and the statewide rollout is scheduled for expansion in 2026/2027. All current SSCCs who hold contracts are members of The Alliance.
- In 2023, the Texas Legislature approved the implementation of Texas Child Centered Care (T3C), which radically modernizes the service array, how Texas pays for foster care services and expectations for the outcomes associated with services. Texas providers have a deadline of August 31, 2027, to become credentialed to provide services under the new system. Readiness work is underway, nearly half of children in foster care placements are served by T3C credentialed providers. However, there is still significant work to be done as providers are now delivering services in this new array. State responsiveness to provider feedback during implementation of the new system will be important to the success of T3C. Additionally, continued support to those who have not yet become credentialed becomes increasingly important as the deadline for transition nears.
- Texas has been involved in a class action foster care lawsuit for the past 15 years. The effects of the lawsuit on the oversight and regulation of foster care services are profound and compliance with the court's orders, as well as decisions to go beyond the wording of the court's orders, has cost the state much-needed foster care capacity. While some providers no longer operate due to unsafe or inadequate service provision, many foster homes and residential providers have voluntarily shuttered their operations, some because of their frustration with the extreme amount of regulation required. Others that were forcibly closed likely could have been improved and remained open in a better functioning system. In fact, DFPS self-reported that since March 2020, Texas has experienced a 44 percent decline in active licensed foster homes, alongside a substantial decrease in available residential treatment center (RTC) and general residential operation (GRO) beds.



In light of the changes in our system and the needs of the children and families we serve, we would offer four major issues that the Sunset Commission should focus on as opportunities for improvement:

1. Improve the consistency of all investigations and rationalize regulation of licensed programs serving children in the child welfare system. This should include a focus on reducing duplication between programs and agencies, increasing efficiency of operations, and streamlining contracting practices.
2. Increase access to high-quality services in foster care, services to prevent entry or re-entry into foster care, and services to promote healthy permanent placements after exiting foster care, including robust services for older youth (or aged-out youth), supports for kinship caregivers, and improved adoption, post-adoption, and post permanency services.
3. Modernize the Community-Based Care structure to accurately reflect the intended flexibility inherent in the model, as well as the evolution of the model since its inception. This should specifically focus on a sustainable funding model for CBC, streamlining of contracting/oversight (including DFPS' evolution from service delivery to contract management), and expansion/accommodation for additional services added since the enacting legislation.
4. Expand available services and service providers to build and deliver high-quality Medicaid-eligible services to children in foster care, specifically mental health services.

Thank you for your consideration of these recommendations. We believe these changes will meet the needs of children and families in our state and become a model for the nation. We are available to answer any questions you may have or connect you with our members directly. Our board, staff and members represent the highest quality, most dedicated and passionate individuals in our state and their experience can provide valuable insight into the daily workings of our child welfare system.

Texas Alliance of Child and Family Services

MAJOR ISSUE #1

Improve the consistency of all investigations and rationalize regulation of licensed programs serving children in the child welfare system. This should include a focus on reducing duplication between programs and agencies, increasing efficiency of operations, and streamlining contracting practices.

Consistency of Child Abuse and Neglect Investigations

In the past several legislative sessions, Texas stakeholders have raised repeated concerns about the consistency of outcomes in child abuse/neglect investigations and the life-changing implications of these investigations and their results. While much of the focus remains on child protective investigations, which impacts family members and caregivers, DFPS acknowledged in their self-evaluation that Child Care Investigations of abuse/neglect allegations in paid foster care settings are equally inconsistent and have a high overturn rate (50 percent in recent years). These investigations have life-altering consequences, both for alleged victims and alleged perpetrators.

When an allegation of abuse or neglect occurs and an inappropriate, inaccurate, or even unnecessary investigative finding is made, children can be removed from safe, nurturing homes or placements. Human error and risk aversion destroy significant bonds for children who have already experienced the life-changing event of being removed from their parents. Instead of acting hastily and relying on a lengthy and expensive due process as the quality control, DFPS should work vigilantly to improve the accuracy and consistency of outcomes in childcare investigations at the outset. Equally as devastating as the unnecessary removal of a child from a placement are the personal and professional ramifications of being wrongfully designated as a perpetrator of abuse/neglect.

When providers, direct care staff, and foster parents attempt to fight wrongful findings (or if they can afford the time and cost to do so, often requiring the engagement of legal counsel), they wait for the sometimes years long results of Administrative Review of Findings (ARIF) and State Office of Administrative Hearings (SOAH) appeals, Texas loses vital foster care capacity for children experiencing foster care and licensed professionals lose their ability to earn a living in their profession. To be clear, Texas should have an investigative framework that gives confidence that actual perpetrators who have harmed children cannot have access to harm other children, either their own or others. However, inaccurate and inconsistent investigations only give an illusion of safety, while gutting the much-needed capacity to serve children who have experienced trauma.

Investigators must be trained to differentiate between true safety threats and the trauma-driven behaviors exhibited by children in care. Foster care providers are actively working to treat these behaviors, but the current risk-averse culture of regulation encourages “removal for safety” rather than “assessment for safety”, undermining the stability and well-being of children. Appropriate investigative and regulatory training must help reinforce identifying the intent in a situation and not just enforcement for the sake of enforcement. Common sense must prevail in findings and corrective actions. Quality supervision can and should help empower investigators to make the right decisions in a case, instead of reinforcing the extreme risk aversion that threatens to destabilize the treatment of children.

Regulatory Reform

In 2023, the Texas Legislature passed SB593 (Sparks), which directed HHSC and DFPS to conduct an independent assessment of rules, minimum standards, and contract requirements for residential child-care providers. The legislative intent was clear: Texas is over-regulating foster care providers and many of these regulations are duplicative, unnecessary, and do not improve child safety. The Texas Legislature acknowledged the punitive nature of the regulatory environment and the devastating effects of risk aversion in a system that is inherently risky. In order to serve children who have been abused or neglected, foster care providers must assume a high level of risk, inherent in the behaviors of many of these children.

A punitive system rife with unnecessary regulation only decreases available services and discourages the growth of quality providers. Children in Texas' regulated child care settings are no more safe because Texas has over 800 pages of minimum standards, rather providers must attempt to follow these overwhelming regulations without direct ties to true improvement or safety for the child. If Texas wants quality services and improved outcomes, we must begin with designing a modernized regulatory scheme, not only in minimum standards, but in contract requirements as well. If providers are constrained by checklists, duplication, and a mountain of regulation so that the state can have a faux sense of risk prevention, children will continue to be unable to access the critical services that they need.

Texas has worked to place children in more "home-like" settings and decrease the use of congregate care settings whenever possible. However, extreme regulation and oversight have contributed to the mass exodus of foster homes, closing their doors and refusing to continue serving Texas children. Foster parents cite the number of audits, visits by regulators, visits from the contract holders, and more as reasons they no longer serve children. These parents further discourage others from becoming foster parents because they paint a true and accurate picture of the real-life effects of overregulation. Foster parents feel disrespected by a regulatory scheme that assumes malintent and they easily become discouraged. Similarly, several providers have had to close their doors emergently and regulatory provides no flexibility to a provider that tries to step in and help save placements by absorbing families. They cite families for things that happened under the closing entity and attribute the citation to the absorbing entity even when that entity was disconnected from the incident. The current scheme portrays the system as far more dangerous than it is in reality. Reason to believe findings are often "stacked", meaning a single instance may result in multiple findings, depending on the number of children or caregivers present. This type of reckless regulation has serious real-world consequences for children and providers.

Further, the low bar and subjective nature of the state's "reason to believe" findings create a huge error rate in regulated child care settings. Texas' largest child placing agency, which manages more than 800 individual foster homes has seen a 60 percent overturn rate by DFPS at the Administrative Review of Findings (ARIF) process, and of the 40 percent that are upheld through ARIF, 100% are overturned at the State Office of Administrative Hearings (SOAH) process. This organization has never lost a hearing at SOAH. However, unlike many smaller organizations, this large organization continues to use the legal and financial resources necessary to appeal inaccurate findings, while many do not have the resources to do so.

Specifically, providers must appeal irrational and illogical findings that threaten their continued ability to serve children and families. With more than 800 pages of regulations to follow, providers could benefit from logical regulation instead of intentionally punitive practices. Instead of providing technical assistance or a chance to correct, providers are cited for:

- Incorrect temperatures in freezers or undated leftovers.
- Provider cited for an "unclean bathroom" because a hairbrush was left on the counter and a pair of pants was left on the floor. In this instance, the child was running late for school, and licensing arrived for an

unannounced visit.

- Foster family cited for an “unsafe physical environment” because licensing determined that the grass was too long and hadn’t been mowed.

These examples illustrate a pervasive problem: In the current regulatory environment, all deficiencies impact licensing compliance histories with little consideration for the safety risk caused by the deficiency - whether paperwork or documentation related or truly dangerous to children, resulting in the waste of system resources and the loss of valuable capacity. Failure to complete a training has the potential to be far more dangerous than a missing date or signature on a training completion form.

Most importantly, regulation needs to understand what is reasonable or even expected in good quality programs serving higher needs youth. Providers must take on the inherent risk of managing the behaviors of traumatized children in order to provide treatment and help them heal, but providers are less able to do so when regulation refuses to acknowledge factors completely outside of the control of the provider.

Contracts vs. Investigations vs. Regulatory

In 2017, the Texas Legislature decided to separate two internal divisions at DFPS to avoid a perceived conflict of interest. Child Protective Services (CPS) would maintain the responsibility for purchasing residential beds and the placement of children into foster care (along with the investigatory function), while the child care regulation responsibility would be transferred to HHSC. This would help alleviate concern at the time that placement might influence regulation. However, this split has had troubling unintended consequences.

- Previously, child care investigators were trained in minimum standards regulation. This decreased the need for multiple adults to interview potential child victims. Unfortunately, children are now interviewed by separate staff from separate agencies, and multiple functions at those agencies (investigations, regulatory, heightened monitoring, court monitors, law enforcement, legal representation, caseworkers, etc), which causes unnecessary trauma and duplication.
- Regulation was not only split between agencies, but it has also been duplicated many times over. DFPS has certain requirements that differ from federal requirements that differ from child care regulation that differ from contractual requirements that differ from community-based care requirements. This leads to duplicative and conflicting corrective action plans after an incident. There’s no “final” decider on what a provider needs to do to correct their practice, as two commissioners and multiple entities are required to take duplicative actions.
- Splitting the functions has led to a loss of understanding of two parallel functions. Contracts doesn’t understand what regulatory does or what investigations does and often, frontline workers interpret requirements differently. This has led to decreased agency accountability and increased hurdles to compliance.

Unfortunately, while two agencies attempt to duplicate efforts and fail to communicate with each other or with the provider community, necessary placement capacity is lost and children suffer the consequences.

Heightened Monitoring

Heightened Monitoring (HM) was initially ordered by the federal court in its’ Final Order of January 19, 2018. That order directed the relevant state agency/ies to: “identify, track and address concerns at facilities that show a pattern of contract or policy violations (Remedial Order 20).“ After the Court’s Remedial Orders took effect, the Court, through the Court Monitors, directed the state to develop definitions for what constitutes a “pattern” as well as a “detailed definition of heightened monitoring that moves beyond the existing oversight and enforcement framework.” The state was directed to implement a heightened monitoring system that

went above and beyond its prior enforcement and oversight mechanisms, which the Court determined had created an unreasonable risk of harm. The goal of the approach, then, was to prevent an unreasonable risk of harm by taking action against facilities that had been determined to have a pattern of violations.

The order has now been implemented for five years. In that time, many operations and beds have closed, and there has been an increase in enforcement actions. In data produced pursuant to the Texas Public Information Act, DFPS shared the following numbers for HM in the spring of 2025. As of 3/20/25:

78 operations were on HM	61 operations closed after being placed on HM	34 operations successfully exited HM
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There were also 30 additional operations that at one point met criteria for HM but were not included in the total numbers above—some voluntarily closed; some were mistakenly listed as eligible for HM; some were grouped with a related operation. Even leaving those operations out of the totals, there have been 173 operations placed on HM.

Thus, the overwhelming majority of operations placed on HM remain on it or have closed (139 or 80 percent) and only a small percentage (34 operations or 20 percent, comprised in large part of smaller organizations with comparatively low census) have successfully exited from this process. In addition, anecdotally at least, there seems to have been a systemwide drop in capacity and bandwidth. Those on HM often voluntarily drop census to focus on compliance, and placement on HM seems to trigger an overall drop in rates of placement. Beyond that, providers have witnessed longtime foster parents, staff, and even entire operations leave the system citing an increasingly punitive and unreasonable monitoring environment that is not aligned with providing quality trauma informed care and normalized experiences, especially for youth with higher levels of behavioral and mental health needs. This, collectively, impacts the system as a whole and its ability to continue to meet the needs of children in the state. Finally, provider attempts to comply with HM while working to expand needed capacity by serving lower acuity youth are being prevented by HM without consideration of potential positive impact to children in care. For example, if an organization seeks to expand services, but they have a facility that is on HM, the new services are put on HM due to having the same governance. This was not part of the original HM process and to extrapolate that brand new programs should be on HM from the day they open is crushing to capacity building.

“Felt Safety” and Trauma Responsive Practices

The environment surrounding kids in foster care is perhaps as important if not more important in some ways than many of the things providers may do behaviorally, clinically, or administratively. Providers often talk about the impact of “Felt Safety” for our kids and the impact of their environment on their ability to feel safe. Every child in foster care has experienced the significant trauma of being removed from their homes because of abuse and neglect, compounded by often multiple placements and the additional loss of relationships. In the abusive situations these children have endured, they had to develop internal defense mechanisms (specific behaviors, attitudes, actions, withdrawal strategies) to keep themselves safe – and in some cases alive. To anyone not involved in the chaos of the traumatic environment, these behaviors, attitudes, actions, or inactions may appear abnormal and at times, even “crazy”. But it is these internal strategies that literally allow kids (and adults) caught up in traumatic/abusive situations to survive.

The process of resolving this trauma in children is the very essence of the work for foster care providers. The first process in that work is building significant relationships by establishing safety, developing trust, and empowering kids to take back control of their lives in more “normal ways”. Providers are often able to establish this “felt safety” by developing trust and building relationships with many of the most traumatized kids.

When children are asked repeatedly by outside people – often people the kids do not know and are perceived as people with significant power - if they are being harmed or if anyone at the foster home or facility is doing anything they shouldn't, these children begin responding to the chaos and uncertainty in the same ways they learned to survive the chaos from which they are from. These kids are survivors! And if people from the outside (with demonstrated power) can come into what many of these kids feel like is their home (even if just temporary) and stir up such chaos, their “felt safety” is compromised and they go into protection mode. This insecurity promotes chaos and for kids coming from abuse, their response to secrets and chaos triggers their behavioral outbursts to gain a sense of control. (It's kind of like giving a soldier with PTSD a rifle, telling him to climb in a fox hole and then playing loud tapes of airplanes, bombs and guns going off.)

This is perhaps the most detrimental impact of over-regulation: the destabilization and misunderstanding of truly victimized children and a system that does not allow for their appropriate treatment. The misguided attempt of over-regulation has led to the further harm of children who have already experienced unimaginable and profound abuse and neglect. The outcomes for these children will continue to be bleak unless we radically refocus the purpose and impact of regulation.



Recommendations:

1. Return regulation of child care facilities that provide foster care services to DFPS.
 - The conditions for this initial split no longer exist because of the rollout of community-based care. Housing investigations, contracts, and regulation at a single agency with a single commissioner that could referee between any conflicting recommendations would not only be a more efficient use of state resources, but it would also help decrease the amount of effort it takes to comply with regulation.
2. Make child care investigations more consistent and improve the quality of investigations, limiting the need for foster care providers to appeal the outcome of investigations.
 - DFPS received resources and direction to improve the quality of traditional Child Protective Investigations but should do the same for Child Care Investigations.
3. Improve initial and ongoing training for investigators and supervisors and empower investigators and supervisors to work WITH providers to improve the quality of care instead of continuing a punitive approach to regulation.
 - Ensure that training includes a focus on being trauma-responsive and maintaining felt-safety for children in foster care.
4. Direct DFPS and HHSC to constrain resources for Heightened Monitoring to support only court required functions, rather than agency-directed optional compliance.
5. Continue the reevaluation of minimum standards in all settings, similar to kinship licensing redesign. Consider adopting a more reasonable framework and consider continuing the independent assessment of these standards/rules/contract requirements with a longer runway so that the resulting recommendations can be robust. Require improvements around the implementation of standards so that application is consistent and reasonable—and penalties are commensurate with the extent of violations, such as a Regulatory Compliance Scale.

MAJOR ISSUE #2

Increase access to high-quality services in foster care, services to prevent entry or re-entry into foster care, and services to promote healthy permanent placements after exiting foster care, including robust services for older youth (or aged-out youth), supports for kinship caregivers, and improved adoption, post-adoption, and post permanency services.

Texas child welfare providers don't simply provide room and board for children. They deliver high-quality treatment services to help children heal from the abuse and neglect that they have endured and hopefully find safe, permanent placements, through reunification, adoption, or legal permanency. Providers also deliver family preservation services, designed to prevent additional system involvement. Texas has begun to establish a family preservation "continuum of services", in an endeavor to meet the individual needs of families. These services are critical, whether a family has just been through a child abuse or neglect investigation, they're on the verge of having their children removed, they're considering the impossible decision of relinquishing their child to the state so that their child's extensive needs can be met, or they've already achieved permanency (through adoption or legal permanency) and that family is at risk of dissolving.

The investment of resources required to preserve a family provides a far better return on investment than resources designed to protect a child when they can no longer be with their own family. Family preservation should always be the primary approach, whenever safe and possible, so that children don't experience additional trauma from the removal from their families. These services have proven to be effective when families can easily access them and can do so by their own choice and without the added specter of continued state involvement.

Post-Investigation, Removal Avoidant Preservation Services

Texas currently provides family preservation services through a variety of programs and delivers services to families at a varying level of intervention, depending on the critical nature of risk to that family. While Texas has delivered Family-Based Safety Services (FBSS) post-investigation since the 1970s, FBSS traditionally provides community referrals and limited state purchasing for services to families who continue to exhibit risk after an investigation but not enough risk to warrant the removal of children from the home. These services are not intended to make a family linger in their involvement with the child welfare system but rather are designed to help a family stabilize post-investigation and ensure that family has access to the skills and resources they need to maintain a safe home environment.

The federal government expanded Texas' opportunity to preserve families through the passage of the Family First Prevention Services Act (FFPSA) in 2018, which redirected federal funds from foster care placement in congregate care settings to funds for high-quality, evidence-based family preservation services for families at imminent risk of removal. The Texas Family First Pilots were established with four of the SSCCs in 2021 (per House Bill 3041) and these pilots have seen great success, even though they have only been able to serve a very narrow population (court-ordered services for families who would experience a removal without these services).

While Texas has made major strides in increasing services to families, evidence-based family preservation services (in addition to traditional FBSS community referral services) are available in only 96 counties, while families in the rest of the state continue to have access only to traditional FBSS.

Post-Permanency, Re-Involvement Avoidant Services

Texas has prioritized positive permanency for children in the foster care system, which certainly includes relative and non-relative adoptions, as well as legal permanency when adoption may not be an option. In fact, the last Sunset Commission recommendations included a focus on reducing the time it takes to get a child to permanency and reducing the number of children who linger in the system. Many families struggle to address the complexity of behaviors that result from the trauma and loss their children have experienced prior to being adopted from the Texas child welfare system. However, the positive effort to getting more children in permanent homes has been met with a negative side effect of further stretched resources to meet the continuing needs of those children post permanency. In addition, the complexity of behavioral health challenges for children generally have markedly increased, making the demand for high quality services even more pronounced.

Texas has funded post-adoptive services since the early 1990s; however, available funding is often spent during the first few months of the fiscal year, and artificial barriers exist that prevent families from freely accessing these critical services. Barriers such as contractual requirements, inability to work with a family's provider of choice, and limited resources means that families often struggle to access services in time to prevent a return to the foster care system and most critically, the funding for these services pales in comparison to the need.

Texas also makes an unnecessary and arbitrary distinction between families who consummate adoptions and families who achieve legal permanency outside of adoption. These are both situations where children successfully find a permanent family outside of the foster care system, but families who are post-permanency outside of adoption have access to even fewer resources than families who access adoption.

It is especially important to focus on the future of post-adoptive/post-permanency resources in light of the evolution of the system through Community-Based Care. One of the outcomes that CBC is designed to improve is achieving and maintaining permanency for children and families. Texas should make all necessary efforts to actually prevent families from reentering the foster care system, most importantly because it causes immeasurable trauma and harm for a family to dissolve, but also because it costs the state far more resources than those required to stabilize a family that has already achieved permanency.

Kinship Supportive Services

Texas has led the way as an innovator within kinship care, particularly its shift to monthly payments and efforts to include children outside the formal system. Texas has also acknowledged the improved outcomes for children who are placed with kinship caregivers and has prioritized kinship placements as preferential whenever possible for children in the foster care system. This has allowed children to maintain family connections and often allows sibling groups to be placed together.

The Texas system has continued to focus on how to improve the stability of kinship placements and increase kin caregivers' ability to take care of children, particularly children with a higher level of need who might traditionally require a congregate care placement. To this end, we've seen a number of innovations to support these caregivers, including permission from the federal government (and response from HHSC) to allow kin caregivers to have a kin-specific licensed foster home, with decreased training and regulatory requirements. Texas providers are very hopeful that DFPS will greatly modify its' contract requirements to align with HHSC's changes and that DFPS Child Care Investigations will adjust how they would investigate allegations of abuse

or neglect in these specific settings to accommodate the uniqueness of the placements. As licensed foster homes, kinship placements will be able to qualify for Permanency Care Assistance (PCA), that can support them financially if they become a legal permanent placement for the children in their home. DFPS data has shown that kinship placements with the support of PCA are some of the most stable and lasting placements in the entire continuum, with an extraordinarily low dissolution rate. Accessing PCA allows a federal draw-down while markedly decreasing the likelihood of costly destabilization and dissolution.

Additionally, Texas has allowed for additional behavioral health services and supports through the SSCCs for kinship placements, in the hope that placements will be able to support higher needs children. Again, not only does this provide hope for better outcomes for these children, but it also comes with significant cost avoidance at the state level, as these children avoid costly placement days in congregate care settings.

Services to Support Older Youth In and Out of Foster Care

Candidly, like many states, Texas continues to struggle to adequately meet the needs of older youth in foster care and those who have aged out of care. Great steps have been taken to ensure that youth have life skills training, access to their personal documents, and healthcare, as well as extended foster care services. However, providers who work directly with these youth still report that they need access to additional services to fully meet their needs.

The Texas Legislature previously approved enhanced case management for youth in Supervised Independent Living (SIL) settings, however these services are only available for youth who need additional basic life skills assistance. Youth that have complex trauma could also benefit from additional case management, if they want access to the additional assistance. SIL rates have also not been updated in recent years, and Texas should consider updating the rates and methodology to reflect the needs of the youth to be served and to pay for the outcomes and quality Texas expects from these placements.

Youth also report that a longer runway and additional time for placement (if necessary and desired) would be a great benefit. Texas should consider expanding the age for extended foster care and transitional living like SIL to age 24 instead of age 21. Transition and Financial Support Services should similarly be increased to age 24. With the recent decrease in federal Chafee funds, these extensions won't be possible without a state investment in these youth. But this investment would provide critical care and greater opportunity for success for youth that have been unable to find a permanent placement.

Improved Adoption Access and Supports

Texas has prioritized adoptions for older youth through a variety of efforts, including partnering with the Heart Galleries of Texas and contracted work with the Dave Thomas Foundation for Adoption's Wendy's Wonderful Kids program. Unfortunately, even with targeted and individualized adoption efforts, older teens still struggle to find permanent homes. If youth age out of care, they have access to some limited financial resources. These youth note a loss of supportive resources such as the Transitional Living Allowance and the Transition and Financial Support Services (up to \$3,000 to help with room and board) as a reason they may hesitate to agree to an adoptive placement. While it may seem counterintuitive to choose a supportive resource over a permanent placement, it's important to remember that many of these youth have spent an extended time in foster care, many in multiple placements and fear the loss of financial support.

Youth also report concerns over a lack of available supports if their adoptive families or permanent placements are no longer able or willing to provide for the youth after they turn 18. These young adults cannot return to foster care and do not have access to the same services as their peers who age out of foster care.

Finally, similar to SIL, the Texas Legislature has previously approved some small modifications to the adoption subsidies that support families who choose adoption. However, these rates and associated methodology have also not been updated in recent years, and Texas should consider updating the rates and methodology to reflect the needs of the youth to be served and to pay for the outcomes and quality Texas expects from these placements. In addition to supporting the youth themselves, it's important to support both the providers who sustain adoptive placements and the homes that welcome a child into their family.



Recommendations:

1. Expand evidence-based family preservation services statewide and implement and fund the requirements of Senate Bill 1398 that require these services to be delivered by the SSCCs.
2. Transfer the functions and resources (including caseworker functions and positions) traditionally dedicated to FBSS to the SSCCs and allow them to deliver these services in conjunction with evidence-based family preservation services.
3. Allow the SSCCs to reimagine and reinvent how resources are utilized for FBSS and allow them to work flexibly with their communities to best meet the needs of families who require additional support, without the threat of continued state involvement.
4. Post-Adoption and Post-Permanency services should exist under a single “post-permanent placement” umbrella and remove the arbitrary distinction based on a child’s legal status.
5. Post-Adoption and Post-Permanency efforts should be consolidated or in the very least planfully coordinated to best utilize the limited resources available. Resources available for families that have achieved permanency should be increased to more closely meet the needs of children and families.
6. Increase access to high-quality behavioral health services to support kinship placements and allow children with high-needs to stay with their family and siblings.
7. Update Supervised Independent Living (SIL) rate methodology to support more older youth as they transition to adulthood.
8. Update Adoption rate methodology to remove any disincentives for youth to choose adoption and to support them as they become young adults.

MAJOR ISSUE #3

Modernize the Community-Based Care structure to accurately reflect the intended flexibility inherent in the model, as well as the evolution of the model since its inception. This should specifically focus on a sustainable funding model for CBC, streamlining of contracting/oversight (including DFPS' evolution from service delivery to contract management), and expansion/accommodation for additional services added since the enacting legislation.

In 2011, Senate Bill 218 authorized DFPS to implement recommendations made through the Public Private Partnership (PPP) to create a new foster care model through Foster Care Redesign (FCR). This new model for providing foster care services relied on a single contractor to implement and tasked them with finding foster homes or other living arrangements for children in state care and provide them.

The motivations for redesigning the Texas system were:

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| • Keep children and youth closer to home and connected to their communities and siblings; | • Improve the quality of care and outcomes for children and youth; and | • Reduce the number of times children move between foster homes. |
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In 2017, Senate Bill 11 built off the foundation of the FCR model and further advanced the system through the establishment of Community-Based Care (CBC), which added the responsibility of case management to the existing child placement piece of the CBC contract.

At its core, CBC asks foster care providers, many of whom have served Texas children and families for decades, to shift their focus and practice, not only to be more local in their service delivery but to also become sophisticated contractors that deliver improved outcomes for the children and youth in their care. The rollout has also seen evolution during each legislative session, with changes to the model made regularly. CBC has also experienced the same funding uncertainty that DFPS endures as a state agency; unfortunately, the effects are more severe for smaller, regional contracts that don't enjoy the flexibility and economies of scale of a large state agency.

Texas CBC can continue to be a national model for child welfare improvement, especially as paired with the efforts of T3C. However, for the model to be sustainable and achieve the intended outcomes, certain adjustments must be made.

SSCC Model Sustainability and Funding Methodology

The ever-changing nature of CBC is not the only serious implementation challenge for Texas. When the initial structure of CBC was added into the statute, it was not accompanied with by sufficient appropriations, which slowed the rollout, especially the transition to providing Case Management services (Often referred to as Stage II, where DFPS caseworkers transition to the Single Source Continuum Contractor (SSCC) to provide services). Unfortunately, while CBC is primarily funded through a blended rate (estimated based on the

needs and number of children forecasted to serve), resource transfer (based on inaccurate projections, or insufficient agency resources or incomplete transfer thereof), network support, and exceptional care rate (to serve children whose needs are above and beyond what could be managed adequately through the blended rate), there are a number of significant issues that plague the reimbursement strategy for CBC. DFPS and the SSCCs continue to discuss what a true rate methodology and funding model would include, which would provide significant predictability for the state and the SSCCs. Notably, the SSCCs have identified the following as critical pieces of a new methodology:

- It is critical that child forecasting be accurate and reliable no matter what the ultimate methodology is.
- Drivers must include relevant population measures. This could include child population of the catchment area, risk factors that bring children into foster care, poverty rate, hotline calls, removal rates, acuity of removal reasons.
- Cost reporting that includes reconciliation with actual audited costs, and separates fixed vs variable costs;
- Allow the SSCCs to build reserves or realize retained earnings to reinvest flexibly for innovation;
- Consider establishing a risk pool/rainy day fund for exigent circumstances (for example issues associated with the forecast or exigent circumstances);
- Abandon the use of proxy legacy system costs as a methodology for SSCC and instead, reflect the true costs of meeting the needs of children and distribute those funds fairly across the state.
- Consider a limit such that the allocation to an SSCC would not fluctuate more than a specific amount year to year and/or include a prior year funding floor. The SSCCs must have adequate time to make any financial adjustments, especially when a loss of funding means the firing of staff or decrease in available funds for services. Moreover, the cuts have historically been based on projections that proved inaccurate in light of actual numbers served so it is critical to preserve baseline capacity as well as recognize the fixed costs inherent in running a catchment area.

These conversations continue, but Texas lawmakers, budget writers, foster care system, and children and families served would greatly benefit from a system that is designed to meet their needs in a predictable and fiscally stable way.

SSCC Oversight, Regulation, and Contracts

The evolution of CBC necessitates a comparable evolution at DFPS to reflect their new role of oversight and contract management and their end as direct delivery service provider. But even more importantly, DFPS must redefine its role from direct service oversight to system-level leadership and quality assurance, aligned with best practices in state-run managed care systems. This type of role, while new for DFPS, is not new to Texas and there is significant opportunity for improvement.

If Texas wants to increase the number and types of services provided by the SSCCs and contracted foster care providers, a restructuring of the department that is consistent with the roles and needs of CBC must occur. DFPS has reported that this type of restructuring planning is underway, but steps must be taken to ensure an efficient and sustainable child welfare system. It is illogical to maintain large functions at DFPS while the state also pays non-profit child welfare providers to perform similar or comparable functions. Further, the delineation of functions is often confusing and leads to unintended consequences of replication of DFPS processes and the system. CBC has been forced to create another layer of red tape since DFPS continues to maintain some roles even in areas where CBC has been implemented or to expect SSCCs to recreate state practices and procedures even where flexibility is appropriate. At best, this is unnecessary confusion and duplication and at worst, it stymies children and families who are attempting to access critical services.

DFPS must also improve their contract management practices, specifically CBC contracts. DFPS often requires Continuous Quality Improvement plans that don't reflect child outcomes but focus on differing processes. Contract management feels like bureaucratic red tape instead of partnership meant to improve the system for vulnerable children and families. Each of the SSCCs contracts differ greatly and contract provisions seem to vary based on the individual contract manager. Some SSCCs are denied the ability to include clauses or flexibility that others have already been approved to use. This is not only frustrating for the SSCCs, but also unmanageable for the foster care providers that contract with multiple SSCCs, as the requirements for each can differ greatly. DFPS must improve their contract management to include 1) consistency where it is warranted, requested, and logical and 2) improved relationships with the contractors.

Perhaps most critical (because of the direct impact on child safety), DFPS and HHSC must improve their communication and cooperation with each other and with the SSCCs. HHSC's lack of communication with DFPS and SSCCs has caused actual negative effects on kids. When HHSC child care regulation begins to have a concern about a foster care provider/home/placement, they do not communicate directly with the SSCCs until they take action on the provider and placements must be immediately disrupted. This has an extremely negative impact on available capacity, as the SSCCs have no control over 1) the sufficiency of their provider network and 2) no ability to provide technical assistance to a provider that may be struggling. The worst outcome of this lack of clear and early communication is that children must be moved from placements, or more clearly, *these children must be removed from the places they consider their homes*, with less than 24 hours notice. This is extremely traumatizing to children, who experience more broken relationships without time to grieve the loss, and does not allow for a planful or thoughtful transition to a new placement. Communication must improve, if only for the sake of the children who must experience the foster care system.

Other SSCC Model Considerations

In the previous issue, the expansion of family preservation services was mentioned. This is so important to the future of CBC and the SSCCs' ability to meet the needs of the children and family that they have committed to serve. The SSCCs want to provide more robust family preservation services and have the flexibility to meet the individual needs of each family with the least intrusive approach.

Technology holds some great opportunities to streamline and improve the operation of the Texas system, but any technology changes must be implemented in a planful way. DFPS was directed (and funded) by the Legislature to begin designing a new electronic case management system to replace the antiquated IMPACT system. Currently, the SSCCs input information about the placement and services for children into IMPACT directly but also maintain separate technology systems that allow them to better manage the billing of their contracts, slice and dice data on their outcomes, and more. The SSCCs must be allowed to maintain their own systems, and the new case management system must be interoperable.

Finally, continuing with the evolution and use of technology, Texas has been part of some discussions at the federal level around the use of AI in child welfare service delivery and Texas should allow flexibility around the use of AI only in administrative functions, such as record keeping. Some SSCCs are allowed to utilize AI, and this flexibility should be afforded across the board, if necessary and appropriate.



Recommendations:

1. Direct DFPS and HHSC to update the Community-Based Care rate methodology to accommodate the concerns and considerations raised above.
 - Texans deserve a sustainable and efficient child welfare system, and predictability for CBC funding can ensure that children and families have access to critical services.
2. Direct DFPS to publish a plan, detailing the changes to be made to the DFPS to fully reflect the implementation of CBC.
 - Part of this plan should include a comprehensive review of any positions remaining at DFPS in areas that have implemented CBC and an explanation of why those positions and associated functions cannot be transferred to the SSCC.
3. Direct DFPS to review their contract management practices, especially focusing on inconsistencies between similar contracts.
 - Focus should include opportunities to allow for maximum flexibility.
4. Require DFPS and HHSC to communicate with the SSCCs any time they have a safety or performance issue with a provider.
 - The agencies can require non-disclosure agreements or any other requirement to keep this sensitive information confidential, however the SSCCs need the opportunity to help providers improve AND keep kids safe, instead of being forced to retraumatize children with emergency removals.
5. Require DFPS' new electronic case management system to be interoperable with existing SSCC technology systems and allow for the use of AI for administrative functions.

MAJOR ISSUE #4

Expand available services and service providers to build and deliver high-quality Medicaid-eligible services to children in foster care, specifically mental health services.

Service deserts and limited access to Medicaid services can not only impact the well-being and functioning of children involved in the CPS system and ultimately lead to worsened outcomes, trauma, and higher costs, it can directly impact the capacity of otherwise qualified residential child-care providers to build capacity to serve children in a stable 24/7 setting. While some residential providers contract out Medicaid services, many, particularly those who serve children and youth with the greatest needs, have integrated clinical staff. This will increasingly be required as the T3C funding model rolls out across the state, as the model compels certain clinical positions for service packages.

In addition, a sometimes-fractured approach to keeping children out of foster care or finding placements for those without a placement or in the process of disrupting from a placement, ultimately leads to inefficiencies, higher costs, and additional trauma.



Recommendations:

1. Increase the number of providers through supervision hours billing, even through a pilot for foster care.
 - Currently, organizations cannot bill for licensed professionals under supervision, such as LPC-Associates. Allowing organizations to bill for these professionals, even if only through a limited pilot, could break up service deserts and allow faster treatment for children who have been through trauma.
2. Continue to streamline the Medicaid enrollment and credentialing process.
 - Qualified mental health service providers cannot utilize newly hired clinicians, even when fully licensed, until navigating through an arduous, months-long process that is bureaucratically intensive but not a particularly effective monitor of actual quality. The 89th legislature enacted a rider, but additional oversight and work is needed.
3. Increase due process protections for mental health service providers from unfair audit practices.
 - Managed Care Organizations do not necessarily have to follow the same procedural steps as private insurance carriers when recouping dollars. While it is of course critical that MCOs have the authority to recoup dollars and steward state and federal resources, there should be checks and balances on the system if the MCO is not, e.g., following contractual requirements or improperly extrapolating errors across an entire billing history. There should also be an escalation process where errors must be factually sound, and agencies that are billing the MCO should in all but the most egregious of circumstances, receive the opportunity to ameliorate any identified problems.

4. Require that HHSC eliminate barriers to freedom of choice for families.
 - Families who are struggling to help a child in their home should be able to receive services from the provider of their choice. SB 58 (83rd) and SB 74 (85th) made it possible for community-based, comprehensive service providers to contract with MCOs and offer the suite of services offered by the LMHAs. Currently system limitations generally prevent more than one service provider from serving the same individual—unlike in the physical health arena where it is simply a given that a person may choose to see different providers to meet their needs. The same should be true for the mental health system.
5. Utilize community-based Comprehensive Service Providers and targeted programming to serve the population of families with a child at risk of entering foster care.
 - The primary MH service delivery system in Texas is the LMHAs. While the idea behind dividing the service provision and authority functions of the LMHAs (see, e.g. HB 2377, 74th R.S, authorizing delegation of state oversight authority to local LMHAs) seems to have been somewhat lost to the vagaries of time, the idea that the LMHA should not be the default service provider in every area should remain. Particularly in the arena of children who have experienced trauma, and families who themselves need training to avoid the specific outcome of foster care, there needs to be focused attention and specialization. The state should set a core set of competencies for relinquishment and foster care avoidance, and either LMHAs or CSPs should be permitted to bid for them. If competitive procurement at the state level is truly a barrier, then the state should require that the LMHA meet specific competencies or contract out with CSPs for them.
6. Standardize funding and programming for relinquishment avoidance.
 - There should be dedicated funding for this purpose, and the state should explore how existing funding streams could be braided in order to be utilized more effectively to focus attention on relinquishment avoidance. Relatedly, the system of working to prevent relinquishment is fractured and ad hoc. We also recommend increase in funding for the RTC project and establishment of relinquishment avoidance teams that could be staffed by state or LMHA personnel or contracted out to comprehensive service providers in the community. There should be parity across rates and availability of services with a high ROI such as intensive in-home services, respite care across programs (e.g., YES, RTC Project, Children’s Crisis Respite). Explore feasibility of a managed care plan specifically for high acuity children and youth.
7. Authorize presumptive eligibility for children in state custody to receive services from the LMHA.
 - Bureaucratic requirements should not delay needed services for children in foster care. There should be a streamlined and immediate process for children in state care to qualify, relying on the CANS 3.0 done at the state.

