

# Texas Budget Priorities that Will Keep Children Safe and Families Together

## Testimony to the Legislative Budget Board (LBB) Regarding the Department of Family and Protective Services (DFPS) Legislative Appropriations Request (LAR)

We share the DFPS's goal to keep more families safely together; give more children in foster care the healing experience of living with a well-prepared foster family or in a safe, supportive, and licensed facility; and ensure that more Texas youth are on a path to grow up healthy, succeed in school, and thrive as adults.

**Growing challenges must be met with decisive action and investments.** We offer six recommendations for LBB consideration as it develops the Texas budget to ensure more children can stay safely with their families (see Recommendations #1 and 2 below); more kinship caregivers are available to care for children in foster care (Recommendation #3); and more safe, quality foster families and facilities are available to help children heal and thrive (Recommendations #4, 5, and 6).

## Current Child Welfare Landscape

**Now is the time to invest in foster care and child abuse prevention.** Over the last biennium, fewer children entered foster care than any time in the previous decade. However, fewer families received family preservation services,<sup>1</sup> and a high number of Texas children did not have safe, appropriate placements in foster care. Most children without placement are older youth with acute, complex needs, and a disproportionately high rate of children without placement entered foster care because of unaddressed mental health challenges – not because of abuse or neglect.<sup>2</sup> For many children in foster care, their needs escalate amid continued trauma and instability in foster care, which then results in difficulty finding placements and too many children being without safe placements.<sup>3</sup>

# Keep Texas Children with their Families and Safely Out of Foster Care

## **Recommendation 1: Support the DFPS \$90.2 million Exceptional Item request to increase funding for Prevention and Child Well-being (PCW) programs**

We greatly appreciate DFPS making a significant request for Texas programs designed – and proven – to prevent child maltreatment and support positive youth development. PCW contracts with effective community-based programs to maximize the potential of children and families in communities across Texas. Programs support pregnant and parenting youth in foster care, keep youth safe at home and out of the juvenile justice system, and help families with infants and toddlers who want additional support. The Legislature should invest in these critical programs to support Texas families and keep more children safely at home.

## **Recommendation 2: Ensure Texas begins to use Family First Prevention Services Act (FFPSA) Title IV-E funds to support ongoing or new family preservation efforts**

Although PCW programs are vital to Texas children and families, FFPSA implementation is another key strategy to expand effective, evidence-based services to safely prevent children from entering foster care in Texas. Unfortunately, DFPS did not include FFPSA family preservation implementation in its LAR.

Currently, to implement FFPSA, DFPS has started Family Preservation Pilots pursuant to HB 3041 (87R). These pilots will end before the next fiscal biennium begins. Unfortunately, DFPS cannot draw down federal matching funds for family preservation because the legislature did not invest general revenue funds in evidence-based practices that qualify for FFPSA federal matching funds. Because no state funds were used to create these pilots, the pilots are ineligible for a federal match. By missing the federal match opportunity, Texas is less able to provide families with programs proven to keep families together safely by improving children’s behavioral and emotional functioning, reducing reports of abuse and neglect, stabilizing housing, and more.

As the state continues to learn from the HB 3041 Family Preservation Pilot Services, lawmakers should invest GR in additional strategies that could strengthen or supplement ongoing family preservation efforts. For example, GR and the federal FFPSA matching funds could potentially be used to explore the following strategies over the next two years:

- Allocating pass-through funding to evidence- and community-based children’s mental health services for children who are already identified as “at risk of entering foster care” and on the YES Waiver Inquiry List or the Residential Treatment Center Project Interest List;

- Investing in Court Ordered Services for caregivers following “Refusal to Accept Parental Responsibility” referrals from the juvenile justice system or psychiatric hospitals;
- Expanding evidence-based services offered through DFPS Prevention and Early Intervention (PEI)’s Helping through Intervention and Prevention (HIP) program that supports pregnant and parenting youth in foster care across the state;
- Covering services for families who have adopted children from foster care who are at risk of reentering the foster care system; and
- Allocating pass-through funding for substance use disorder treatment and recovery for pregnant women.

## Promote the Safety and Well-being of Children in Foster Care

### Recommendation 3: Support the Exceptional Item request for \$6.9 million to support “kinship caregivers” such as grandparents, aunts, and uncles – and increase the funding

The DFPS LAR Exceptional Item for Direct Delivery Program includes \$6.9 million to recruit and support kinship and relative placements by providing up to \$1,000 one time to meet immediate and concrete needs related to the child's placement; reimbursing up to \$750 for costs incurred during the licensure process; and enhancing Permanency Care Assistance (PCA) payment for long term supports for children with higher needs. Although we appreciate the requested increase, it is insufficient.

Placing children with grandparents, aunts, uncles, close family friends, or other “kinship care” providers not only will promote the safety and well-being of children in foster care, but it will also keep kids connected to their families when it may not be safe to stay with their mom or dad. ***Living with extended family members or close family friends is often the best option for children in the state’s care.*** When children are placed with kin, they are more likely to have better outcomes<sup>4</sup> than children in foster care or group facilities, including being more likely to reunify with their families and being less likely to experience trauma than children placed with foster parents who are strangers.

Currently, Texas statute only allows kinship caregivers under 300 percent of the federal poverty level to receive up to half the daily basic foster care rate. However, the Legislature should acknowledge the true value of placing children with kin by investing in pay parity for kinship caregivers. Under the statutory framework, grandparents or other potential kinship providers – who often have fewer financial resources than Texans who volunteer to serve as foster parents – may not receive enough funding to pay for the food, clothes, shoes, school supplies, child care, diapers, bedding, gas, and countless other expenses associated with taking care of children. As a result, many potential kinship care providers cannot afford to take in children, so kids are placed with strangers rather than family members.

Additionally, with Foster Care Rate Modernization (discussed below), the level system that the state's current kinship payments are tied to by statute may be eliminated. Given the future changes to foster care rate methodology, the Legislature should embrace the opportunity to invest more in family members or dear family friends who step up to help the children while the parents are struggling.

#### **Recommendation 4: Incorporate Foster Care Rate Modernization when it is added to the LAR**

The DFPS LAR includes an important placeholder for Foster Care Rate Modernization. Recommendations to improve the foster care rate methodology, still being finalized, are essential to strengthening foster care services. Rather than paying a set amount based on a level of care assigned by a third party who has never met the child, Foster Care Rate modernization moves Texas to a payment system that covers specific services for unique child needs through rate add-ons. Not only will Foster Care Rate Modernization ensure foster care payments are tailored to the needs of each child in foster care, but also it will ensure Texas pays for practices that improve the quality of care, such as aftercare services following residential treatment, which decrease readmissions to residential treatment, improve home stability, and promote success in school.

#### **Recommendation 5: Add funding to support SB 1575 Workgroup's recommendations to improve the quality of foster care facilities in Texas**

In 2021, Senator Lois Kolkhorst and Rep. Tom Oliverson passed SB 1575, which established a workgroup to develop recommendations for improving the quality of Residential Treatment Centers (RTCs) and the practices used by the state to place children in RTCs. RTCs are designed to support the mental health needs of children, especially children with more significant mental health concerns. Only a small number of children in foster care live in facilities: 4 percent are in General Residential Operations (GROs), and 5 percent are in Residential Treatment Centers (RTCs).<sup>5</sup> Although only 9 percent of children live in foster care facilities, the majority of children who experience additional abuse, neglect, or exploitation while in foster care do experience it in a facility.<sup>6</sup> These data reflect the need to improve the quality of care offered through RTCs. The Workgroup's recommendations will be published on October 1, 2022. Many of the recommendations will align with Foster Care Rate Modernization, but some may require additional investments that are not included in the DFPS LAR.

#### **Recommendation 6: Renew Rider 49 to continue studying foster care capacity.**

SB 1896 (87R) by Senator Kolkhorst replaced a statutory requirement to assess foster care capacity needs with a directive to develop certain types of specialized foster care placements for specific populations, such as trafficking survivors and pregnant youth in foster care. The Legislature also added Rider 49 to the FY 2022-23 DFPS budget to ensure the Department continued to study foster care capacity needs.

Every year, the needs assessment has offered valuable insight into the types of placements that Texas needs across the state to serve children and youth closer to their communities and better meet their needs. DFPS proposed to strike the Rider in its LAR “because there is no benefit to the agency of an ongoing study each biennium.” We strongly disagree. Texas is still actively working to stabilize and increase foster care capacity, and the data from the study are vital to guide lawmakers and ensure Texas focuses on recruiting and developing the right kinds of homes to meet the needs of kids in foster care.

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<sup>1</sup> Tex. Dep't of Family & Protective Servs. Families and Children in Family Preservation By Region and County of Client. (Monthly data since 2010). Retrieved Sept. 13, 2022, from

[https://databook.dfps.state.tx.us/views/cps\\_fam\\_05\\_dfps/report?:showAppBanner=false&display\\_count=n&showVizHome=n&origin=viz\\_share\\_link&isGuestRedirectFromVizportal=y&embed=y](https://databook.dfps.state.tx.us/views/cps_fam_05_dfps/report?:showAppBanner=false&display_count=n&showVizHome=n&origin=viz_share_link&isGuestRedirectFromVizportal=y&embed=y).

<sup>2</sup> Tex. Dep't of Family & Protective Servs., Tex. Ctr. for Child & Family Servs., & Casey Family Programs. (Sept. 2019-Jun. 2021). Understanding the Texas Foster Care Capacity Crisis. Foster Care Capacity Crisis. Retrieved Sept. 2, 2022, from <https://3e78rz4783rc1234r4bkmlml-wpengine.netdna-ssl.com/wp-content/uploads/2021/07/Capacity-Placematsv4-1.pdf>.

<sup>3</sup> *M.D. v. Abbott*. Case 2:11-cv-00084 Document 1171. (S.D. Tex.). Jan. 1, 2022. Retrieved Sept. 13, 2022 from <https://static1.squarespace.com/static/5728d34462cd94b84dc567ed/t/61df54c60fdc7a185df675e3/1642026186371/cwop-michigan-update.pdf>.

<sup>4</sup> Children's Bureau. Jan. 2020. Partnering With Relatives to Promote Reunification. Child Welfare Information Gateway. Admin. for Children & Families Retrieved Sept. 2, 2022, from [https://www.childwelfare.gov/pubPDFs/factsheets\\_families\\_partner\\_relatives.pdf](https://www.childwelfare.gov/pubPDFs/factsheets_families_partner_relatives.pdf).

<sup>5</sup> Tex. Dep't of Family & Protective Servs. (FY 2021). CPS Placements: Children in Substitute Care on August 31. Retrieved Jun. 1, 2022, from [https://www.dfps.state.tx.us/About\\_DFPS/Data\\_Book/Child\\_Protective\\_Services/Placements/Substitute\\_Care\\_on\\_Aug\\_31.asp](https://www.dfps.state.tx.us/About_DFPS/Data_Book/Child_Protective_Services/Placements/Substitute_Care_on_Aug_31.asp).

<sup>6</sup> Tex. Dep't. of Family & Protective Servs. (FY 2021). Residential Child Care Investigations (RCCI) Types of Abuse. Retrieved Sept. 13, 2022, from [https://www.dfps.state.tx.us/About\\_DFPS/Data\\_Book/Child\\_Protective\\_Investigations/Child\\_Care\\_Investigations/RCCI\\_Types\\_of\\_Abuse.asp](https://www.dfps.state.tx.us/About_DFPS/Data_Book/Child_Protective_Investigations/Child_Care_Investigations/RCCI_Types_of_Abuse.asp).