

Texas Budget Priorities that Will Keep Children Safe and Families Together

Testimony to the House Appropriations Committee Regarding Foster Care Capacity and Children Without Placement

Understanding the Children Without Placement Crisis

In many cases, the state has failed to find safe, appropriate placements for many children with the most complex needs. Instead of providing homes or other specialized care, the Department of Family and Protective Services (DFPS) sometimes resorts to children sleeping on the floors of churches, in hotel rooms, or languishing in unregulated rentals supervised by under-trained staff.

Children may be without placement for many reasons, but most are older and have acute behavioral health concerns. ***Data show a disproportionately high number of children without placement entered foster care because they could not access needed mental health services, not because of abuse or neglect*** (35 percent of children without placement are in foster care because of unmet mental health needs compared to 5-7 percent of the overall foster care population).¹ However, data shared in the federal lawsuit against the Texas foster care system suggest most children without placement entered care without significant behavioral health challenges. Unfortunately, amid continued trauma and instability in foster care, their needs intensified to the point where fewer providers were willing to accept them – or to a point where a youth does not feel safe and refuses to accept a willing placement.

Although this crisis has worsened, it is not new. Unique challenges related to the pandemic and unsafe facility closure have exacerbated the crisis. However, Texas' lack of foster homes for older youth with high needs predates the 2017 session, when Governor Abbott made foster care an emergency item. Every Foster Care Needs Assessment published by DFPS since it became a requirement in 2017 reflects the ongoing need for placements for older youth or children and youth with high needs.

Policymakers' response to this crisis must include a renewed commitment to supporting children and families earlier. Texas should aim for fewer children entering foster care – and fewer of those in foster care reaching this crisis point.

- First, Texas should provide better support to families facing poverty or behavioral health challenges — for parents, children, or both — so fewer families experience crises that lead to a CPS report in the first place.
- Second, when families are reported to CPS, greater support is needed so that more children can stay safely with their families rather than being removed.
- Third, when CPS removes children from their families, we must ensure that the trauma and instability do not escalate, causing children to suffer and exacerbating their emotional and behavioral needs until it becomes difficult to find them a placement.

These three recommendations are interrelated because children in and out of the foster care system rely on the same network of services for support. Therefore, if Texas focuses on expanding services that keep children safe and supported with their biological families, those services will also be available to support children in foster care and other state systems, such as the juvenile justice system.

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

Recommendation: We urge the Legislature to invest in effective implementation of the Family First Prevention Services Act (FFPSA). Specifically, the Legislature should invest General Revenue (GR) funding to support evidence-based FFPSA-approved family preservation services that are proven to keep more children from entering foster care.

Currently, to implement FFPSA, the 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 to maximize the state's investment in family preservation because the Legislature did not invest any general revenue funds in evidence-based practices that qualify for FFPSA federal matching funds. In particular, the state only appropriated federal funds — rather than state funds — to scale up qualifying programs or services, listed on the Title IV Prevention Services Clearinghouse, that are proven to keep families together safely. As a result, because no state funds were used to create these pilots, the evidence-based programs or services the pilots are ineligible for a federal match. Thus, Texas is missing opportunities to leverage federal funds designed to expand proven programs to more families.

As the state continues to learn from the HB 3041 Family Preservation Pilot Services, lawmakers should invest GR in alternative 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 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; and
- Allocating pass-through funding for substance use treatment and recovery support for pregnant women.

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

Recommendation: The Legislature should increase funding and support for kinship caregivers such as grandparents or aunts and uncles.

Placing children with grandparents, aunts and 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 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 outcomes² than children in foster care or group facilities. For example, children placed with kin are more likely to reunify with their families and 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 other expenses associated with taking care of children. As a result, many potential kinship care providers cannot take in children, so kids are placed with strangers rather than family.

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: The Legislature should increase funding to support Foster Care Rate Modernization and tailor foster care payments to the needs of each child.

Foster Care Rate Modernization will individualize foster care payments. 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 it also 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 community settings like schools.

¹ 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 September 2, 2022, from <https://3e78rz4783rc1234r4bkmlml-wpengine.netdna-ssl.com/wp-content/uploads/2021/07/Capacity-Placematsv4-1.pdf>.

² Children's Bureau. Jan. 2020. *Partnering With Relatives to Promote Reunification*. Child Welfare Information Gateway. Administration for Children and Families Retrieved September 2, 2022, from https://www.childwelfare.gov/pubPDFs/factsheets_families_partner_relatives.pdf.