

Recommendations to Sunset Staff Regarding DFPS

Strengthening Due Process and Access to Services for Texas Families

As part of the Texas Sunset Advisory Commission review, the Texas Department of Family and Protective Services (DFPS) has identified key challenges related to enhancing the quality and consistency of investigations and improving timely access to due process and case records, implementing Community-Based Care, struggling due to limited availability of services for children with complex needs, and recruiting and retaining a high-quality workforce.

These challenges have real consequences for Texas families. Families may navigate CPS investigations without access to legal representation, which limits their ability to understand their rights or to meaningfully participate in the process. At the same time, families often struggle to access appropriate services for children with complex needs, even when those services exist in their community, and may experience varying levels of support depending on where they live.

We are submitting the following six recommendations to the Sunset Commission, focused on practical steps to improve due process protections and improve access to needed services for families.

Increase Access to Needed Services

Texas Family First

In 2018, Congress passed the Family First Prevention Services Act as part of the Bipartisan Budget Act. One of the main goals of this bill was to incentivize states to invest in high-quality, research-based services to keep children safe at home rather than entering foster care. The services can support children with mental health or substance use needs and caregivers with mental health, substance use, or parenting education and support needs. In 2021, using a short-term federal transition grant, Texas began implementing Texas Family First through prevention pilots in regions that were implementing Community-Based Care. In 2025, the Legislature invested state funds, making the Texas Family First pilots permanent programs and reinforcing the state's commitment to helping children remain safely with their families instead of entering foster care. However, there are key steps the state can take to make the program more efficient and effective.

1. Texas Family First Programs should be allowed to connect clients to approved services that they do not provide but are available in their region.

The state's Family First contractors serve families at high risk of having their children removed and placed in foster care by providing time-limited, effective services that address underlying safety concerns, including mental health needs, substance use, and parenting challenges. These services must meet rigorous standards through the federal Title IV-E Prevention Services Clearinghouse, ensuring that families receive high-quality, research-backed interventions to improve safety and stability.

However, the current structure requires contractors to fulfill three roles simultaneously: service delivery, case management, and billing. While this integrated model can streamline coordination, it also creates unintended

limitations. In practice, contractors can only refer families to services they directly provide. This structure restricts access when an appropriate, approved service exists in the community but is delivered by a different provider.

As a result, families may not receive the most appropriate or timely intervention available in their region, despite the presence of qualified providers. This limitation undermines both program effectiveness and the state's broader goal of keeping more children safe at home with their parents.

The Sunset Commission should recommend that DFPS modify the Family First service delivery structure to allow contractors to connect families with approved services delivered by other qualified providers while maintaining responsibility for case management and billing. This change would better align the program with its intent by:

- Expanding access to the full array of approved, effective services available within each community;
- Allowing contractors to focus on coordinating care based on family need rather than service availability within their own organization; and
- Reducing service gaps that can delay or prevent families from receiving the right intervention at the right time.

Addressing this structural barrier would strengthen program implementation, improve service matching, and help ensure that more children can remain safely with their families.

2. Ensure Statewide Access to Texas Family First

The Texas Family First (TFF) Program currently operates in a limited number of regions, leaving a majority of families involved with CPS without access to its services based on geography alone. Currently, Family First is available in:¹

- DFPS Region 1 - Panhandle, TFF Provider Saint Francis Ministries
- DFPS Region 2 - Big Country and Texoma (DFPS Region 2), TFF Provider 2INGage
- 9 counties in DFPS Region 3W - Metroplex West, TFF Provider Our Community Our Kids (OCOK)
- Harris County in DFPS Region 6, TFF Provider The Harris Center
- Bexar County in DFPS Region 8, TFF Provider The Center for Health Care Services
- 17 counties in DFPS Region 8b, TFF Provider Belong

Only about 40 percent of Child Protective Investigations and foster care entries occur in counties that offer the Family First Program.^{2,3} This means 60 percent of kids and families involved with CPS are geographically excluded from these programs in Texas.

The Sunset Commission should recommend that DFPS evaluate and address gaps in geographic access to TFF Services. DFPS should:

- Analyze where CPS involvement and foster care entries are highest relative to current program coverage;
- Identify underserved areas lacking access to evidence-based prevention services;
- Develop a plan to ensure more consistent access across regions, whether through expansion or alternative service delivery; and
- Establish measurable goals and timelines to track progress.

This change would promote more consistent access to prevention services statewide and strengthen the program's ability to reduce foster care entries.

¹ Texas Department of Family and Protective Services. (n.d.). *Texas Family First (TFF)*. <https://www.dfps.texas.gov/Investigations/TFF/default.asp>

² Texas Department of Family and Protective Services. (FY 2025). *Child protective services (CPS) conservatorship: Removals*.

https://www.dfps.texas.gov/About_DFPS/Data_Book/Child_Protective_Services/Conservatorship/Removals.asp

³ Texas Department of Family and Protective Services. (FY 2025). *Child protective investigations (CPI) completed investigations: Activity*.

https://www.dfps.texas.gov/About_DFPS/Data_Book/Child_Protective_Investigations/Investigations/Activity.asp

3. Recommend that DFPS refer Pregnant and Parenting Youth to the Texas Family First Programs as Already Authorized By Statute

Pregnant and parenting youth are categorically eligible for Texas Family First Services under both state and federal law. However, several Texas Family First providers have reported to us that they have not received any referrals for pregnant and parenting youth, even though hundreds of pregnant and parenting youth are in foster care each year.

⁴ While this feedback is limited, it suggests a potential gap between policy and practice that warrants further review.

The Sunset Commission should recommend that DFPS assess whether eligible pregnant and parenting youth are being appropriately referred to and served by Texas Family First. Some first steps could include analyzing available data on referrals and service utilization for these services and identifying barriers within CPS or contractor processes that may limit access. This review would help determine whether eligible pregnant and parenting youth are effectively connected to prevention services and enable the state to address any identified gaps.

Certified Family Partners

4. Ensure Caregivers of Children with Complex Mental Health Needs Have System Navigation Support and Mentorship

According to DFPS data, about 5-6 percent of children who enter foster care each year do so because of an unmet mental health need – not because their parents abused or neglected them.⁵ This number reflects the official removal reason of children who enter substitute care in the DFPS monthly data. Most of these youth enter care due to “Refusal to Accept Parental Responsibility,” which occurs when parents choose not to pick up their child from a hospital, residential treatment, or the juvenile justice system. Other children included in the 5-6 percent calculation enter care due to a “Lack of Mental Health/Intellectual or Developmental Disability Services” or “Solely to Obtain Mental Health Services.” Beyond this 5-6 percent, even more parents agree to share custody of their child with the state in a desperate attempt to access the care their child needs, referred to as “Joint Managing Conservatorship.”

These families need help navigating the children’s behavioral health system and would benefit from support and mentorship from someone who personally understands what they are going through. Certified Family Partners provide exactly those kinds of support. Unfortunately, they are not consistently available to caregivers involved with the child welfare system.

The Sunset Commission should recommend that DFPS, in coordination with HHSC, connect families to Certified Family Partners at key stages of a CPS case. These partners can support children with complex mental health needs and help stabilize challenges before they escalate. In particular, certified family partners should be available when:

- A child is at risk of entering foster care, including during investigations, Child Protective Investigations of cases of Refusal to Accept Parental Responsibility, cases of Joint Managing Conservatorship, and when a family is considering relinquishment solely to obtain mental health services;
- Youth mental health needs are the primary safety concern in a Family-Based Safety Services or Texas Family First Case;
- Kinship Caregivers are supporting children during a Parental Child Safety Placement or Conservatorship; and

⁴ See, e.g., Texas Department of Family and Protective Services. (2025, January 31). *Youth parents and pregnant girls in DFPS conservatorship: Fiscal year 2024*.

https://www.dfps.texas.gov/About_DFPS/Reports_and_Presentations/CPS/documents/2025/2025-01-31_Youth_Parents_and_Pregnant_Girls_Report_FY24.pdf

⁵ Texas Department of Family and Protective Services. (n.d.). *Child protective investigations: Age and reason summary*. DFPS Data Book. https://databook.dfps.texas.gov/views/cps_sa_19_dfps/fyagereasonsummary

- Families are receiving post-adoption or reunification services, and the child has complex behavioral health needs.

Strengthening access to Certified Family Partners at these critical stages would help families better navigate the system, improve children's stability, and support more effective use of services.

Improve Due Process for Families

DFPS identified improving due process protections for families as a major issue in its Sunset Self-Evaluation Report, noting that “[d]ue process in DFPS investigations is essential to protecting the rights of children, families, and caregivers while maintaining the integrity of the state’s system for protecting children and vulnerable adults.”⁶ One of the most effective ways to strengthen due process protections for families is to ensure access to high-quality legal representation.

5. Evaluate and Strengthen Legal Representation During CPS Investigations

DFPS investigated over 130,000 incidents of alleged child abuse and neglect in FY 2025.⁷ Families rarely have access to legal representation during CPS investigations, despite evidence that early legal support can help resolve safety concerns, protect rights, and reduce unnecessary foster care placements. This lack of legal representation raises a structural concern: critical decisions about child safety and removal occur during a stage when families typically lack independent legal support, limiting external accountability over CPS decision-making.

In a recent survey published by the Supreme Court of Texas Children’s Commission, only 19 percent of respondents reported that legal representation during a CPS investigation was available in their community, while 29 percent were unsure whether any such services existed.⁸ Together, these findings suggest that access is not only limited but often unclear to those working in the system.

The Sunset Commission should evaluate access to legal representation during CPS investigations. This analysis should examine where legal representation is available and how it is being used. Based on this review, the Sunset Commission should recommend strategies to ensure that families have meaningful access to independent legal support during a critical stage of a CPS case, also ensuring that the system operates with appropriate oversight and consistency.

6. Improve Transparency and Consistency in Legal Representation for CPS Cases

Access to legal representation in CPS cases varies significantly across counties, driven in part by differences in attorney availability, compensation practices, and local administration.⁹ Fifty-one percent of Texas counties report declining attorney availability for CPS cases, and one in four counties have six or fewer attorneys handling CPS court appointments.¹⁰ The Children’s Commission survey reinforces this concern: roughly two-thirds of respondents reported fewer than 10 lawyers in their community who had the knowledge and capacity to provide legal services during a CPS investigation.¹¹

⁶ Texas Department of Family and Protective Services. (2025, August). *DFPS Sunset review self-evaluation report*. https://www.dfps.texas.gov/About_DFPS/Reports_and_Presentations/Agencywide/documents/2025/DFPS_SunsetReview_2025.pdf

⁷ Texas Department of Family and Protective Services. (n.d.). *Child protective investigations: Investigations activity*. https://www.dfps.texas.gov/About_DFPS/Data_Book/Child_Protective_Investigations/Investigations/Activity.asp.

⁸ Supreme Court of Texas Children’s Commission. (2026). *Pre-petition legal representation survey report*. https://www.texaschildrenscommission.gov/media/whwlfqgv/pre-petition-legal-representation-survey-report_final.pdf

⁹ Texas Indigent Defense Commission. (2025). *Family Protection Representation FY24 data publication*. <https://www.tidc.texas.gov/media/s03bhbg0/fpr-fy24-data-publication.pdf>.

¹⁰ Texas Indigent Defense Commission. (2024). Legislative Appropriations Request for Fiscal Years 2026 and 2027. Submitted to the Office of the Governor, Budget Division, and the Legislative Budget Board, August 16, 2024. https://www.tidc.texas.gov/media/2lmd5v3j/tidc-2026-7_lar-final.pdf.

¹¹ Supreme Court of Texas Children’s Commission. (2026). *Pre-petition legal representation survey report*. https://www.texaschildrenscommission.gov/media/whwlfqgv/pre-petition-legal-representation-survey-report_final.pdf

Limited transparency around these rate-setting and compensation practices contributes to challenges in recruiting and retaining qualified attorneys to represent parents and children in CPS cases. This variation raises concerns about whether families have reliable access to quality counsel across the state. In contrast, the criminal justice system requires counties to publicly post fee schedules, creating clearer expectations for compensation and supporting oversight of local practices.

The Sunset Commission should recommend that DFPS, in coordination with TIDC and the Children’s Commission, promote comparable transparency requirements as best practice for courts handling CPS cases.

Aligning CPS court appointments with existing transparency standards would support more consistent administration, improve attorney recruitment and retention, and help ensure families have reliable access to counsel across the state.